Compilation of School Discipline Laws and Regulations for the 50 States, Washington, D.C. and Puerto Rico

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Safe Supportive Learning
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Introduction

This document combines 52 separate documents – one each for the 50 states, Washington D.C., and Puerto Rico. Each document is a compilation of school discipline-related state statutes, school discipline-related regulations, and, where available, links to state-sponsored websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSLE). For example, one major category encompasses all state laws or regulations mandating specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of state legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in each state.

Discipline categories were not mutually exclusive. Statutes and regulations often appeared across multiple categories. For states with more extensive statutes covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. State laws, ordered by chapter and section number, appear first within each category followed by state regulations. All statutes and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists statutes by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to state-sponsored websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of May 2013, with the exception of the state laws related to seclusion and restraint, which are complete and current as of December 2012. Readers should also note that the information in this document was compiled from individual state sources that are created by each state and which are maintained and updated with varying frequencies. Readers should consult the source information provided for each state directly in order to check for updates to this state's laws and regulations or conduct further research.

For further information, including definitions of the different policy categories, please refer to the Discipline Laws and Regulations Compendium posted on the Center's website.

List of states in order of appearance in this volume

1. Alabama
2. Alaska
3. Arizona
4. Arkansas
5. California
6. Colorado
7. Connecticut
8. Delaware
9. Florida
10. Georgia
11. Hawaii
12. Idaho
13. Illinois
14. Indiana
15. Iowa
16. Kansas
17. Kentucky
18. Louisiana
19. Maine
20. Maryland
21. Massachusetts
22. Michigan
23. Minnesota
24. Mississippi
25. Missouri
26. Montana
27. Nebraska
28. Nevada
29. New Hampshire
30. New Jersey
31. New Mexico
32. New York
33. North Carolina
34. North Dakota
35. Ohio
36. Oklahoma
37. Oregon
38. Pennsylvania
39. Puerto Rico *
40. Rhode Island
41. South Carolina
42. South Dakota
43. Tennessee
44. Texas
45. Utah
46. Vermont
47. Virginia
48. Washington
49. Washington, D.C.
50. West Virginia
51. Wisconsin
52. Wyoming

* A Spanish version of the Puerto Rico compilation is available via the online Discipline Laws and Regulations Compendium.

Alabama
Compilation of School Discipline Laws and Regulations

Prepared: August 12, 2013

Introduction

This compilation presents school discipline-related state statutes, school discipline-related regulations, and, where available, links to state-sponsored websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSLE). For example, one major category encompasses all state laws or regulations mandating specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of state legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in each state.

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Table of Contents

Alabama State Codes Cited **1**

General Provisions **3**

Authority to develop and establish rules of conduct 3
Scope 6
Communication of policy 7

In-School Discipline **9**

Use of multi-tiered discipline approaches 9
Teacher authority to remove students from classrooms 9
Alternatives to suspension 9
Use of corporal punishment 12
Use of student and locker searches 12
Other in-school disciplinary approaches 12

Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements **16**

Grounds for possible suspension or expulsion 16
Grounds for mandatory suspension or expulsion 17
Limitations, conditions, or exclusions for use of suspension and expulsion 18
Administrative procedures related to suspension and expulsion 18
In-school suspension 21
Return to school following removal 21
Use of restraint and seclusion 21
Alternative placements 26

Disciplinary Approaches Addressing Specific Infractions and Conditions **31**

Firearms (as required by the Guns-Free Schools Act) 31
Other weapons 35
Students with chronic disciplinary issues 38
Attendance and truancy 39
Substance use 45
Bullying, harassment, or hazing 49
Other special infractions or conditions 53

Prevention and Behavioral Interventions (Non-Punitive) **54**

Prevention 54
Behavioral interventions and student support services 58
Professional development 65

Monitoring and Accountability **67**

Formal incident reporting of conduct violations 67
Parental notification 73
Reporting and referrals between schools and law enforcement 75
Disclosure of school records 79
Data collection, review, and reporting of disciplinary policies and actions 79

School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers 82
Authority and power to implement school arrest 82
Certification or training 82
MOUs, authorization, and/or funding 82
State Education Agency Support 83
State model policies and implementation support 83
Funding appropriations 84
Other/Uncategorized 89
Professional immunity or liability 89
Community input or involvement 90
Other/Uncategorized 91
State-Sponsored, Publicly Available Websites or Other Resources on School Discipline 92

Alabama State Codes Cited

Alabama Revised Statutes

Title 16. Education

Chapter 1. General Provisions

16-1-10.	Selling, etc., alcoholic beverages to school children; keeping on school premises
16-1-14.	Removal, isolation, or separation of pupils creating disciplinary problems; state approval necessary for rules implementing such measures; deprivation of right to equal and adequate education may not result
16-1-23.	Hazing prohibited; penalty
16-1-24.	Reporting of property damage and physical assaults on students and school personnel; legislative intent; penalties
16-1-24.1.	Safe school and drug-free school policy; treatment of policy violators; promulgation and distribution of discipline policy; liability limited for discipline actions; local boards may adopt more stringent guidelines
16-1-24.2.	Department of Education to develop statewide violence prevention program
16-1-24.3.	Local boards of education to implement policies requiring expulsion of students who possess firearms in school areas
16-1-27.	Use of electronic communication devices on school property

Chapter 6B. Education Accountability Plan

16-6B-3.	Assistance programs
16-6B-5.	Local boards; safety and discipline accountability
16-6B-7.	Accountability reports to the public

Chapter 10. Boards of School Trustees

16-10-5.	Dismissal of pupils

Chapter 28. School Attendance

16-28-2.1.	Adoption of standards for mandatory attendance policy; parents held accountable; enforcement
16-28-3.1.	Guidelines and procedures for withdrawal from school; dropout prevention program.
16-28-12.	Person in loco parentis responsible for child's school attendance and behavior; noncompliance; local boards to promulgate written behavior policy, contents, annual distribution, receipt to be documented; school officials required to report noncompliance; failure to report suspected violation; district attorneys vigorously to enforce provisions
16-28-14.	Habitual truant
16-28-15.	Absence must be explained
16-28-16.	Cases of nonenrollment and nonattendance; withdrawal of enrollment
16-28-17.	When child may be taken into custody
16-28-20.	Compensation of attendance officers
16-28-40.	License applicant under 19 to provide documentation of school enrollment, etc.; duties of school attendance official; withdrawal from school; conviction for certain pistol offenses

Chapter 28A. School Discipline

16-28A-1.	Legislative findings

16-28A-2. Exemption of teachers and other employees from application of Title 26
16-28A-3. Local boards of education required to develop and disseminate student discipline and behavior policies
16-28A-4. Immunity for teachers or administrators who report suspected drug abuse
16-28A-5. Immunity for other authorized school personnel

Chapter 28B. Student Harassment Prevention Act

16-28B-1. Short title
16-28B-2. Legislative intent
16-28B-3. Definitions
16-28B-4. Prohibited behavior; complaints; school plans or programs
16-28B-5. Model policy
16-28B-6. Duties of schools
16-28B-7. Freedoms of speech and expression
16-28B-8. Implementation of standards and policies
16-28B-9. Adoption of local policies

Chapter 40A. Responsible Sexual Behavior and Prevention of Illegal Drug Use

16-40A-1. Legislative findings; purpose of chapter
16-40A-3. Minimum contents to be included in drug education program or curriculum
16-40A-4. Illegal conduct not to be encouraged or proposed to public school children

Chapter 41. Drug Abuse Education

16-41-1. Short title
16-41-2. "Drug" defined
16-41-3. Purpose; legislative intent
16-41-4. Administration of chapter by State Superintendent of Education; priorities for implementation
16-41-5. Exclusion of teacher or administrator employed by nonpublic school from participation in institutes or programs
16-41-6. Exemption by parents
16-41-7. Adoption of regulations by state board; scheduling of drug abuse education courses
16-41-9. Combining of funds from various sources
16-41-10. Report of status of program by State Superintendent of Education

Title 41. State Government

Chapter 15B. Children First

41-15B-2.2. Allocation of trust fund revenues

Alabama Administrative Code

Title 290. Alabama State Board of Education

Chapter 290-3-1. Public School Governance

290-3-1-.02. Regulations Governing Public Schools
290-3-1-.02-.01(f). Permissible Use of Seclusion and Restraint

General Provisions

Authority to develop and establish rules of conduct

STATUTES

16-1-14. Removal, isolation, or separation of pupils creating disciplinary problems; state approval necessary for rules implementing such measures; deprivation of right to equal and adequate education may not result.

Any city, county, or other local public school board shall, consistent with Section 16-28-12, prescribe rules and regulations with respect to behavior and discipline of pupils enrolled in the schools under its jurisdiction and, in order to enforce such rules and regulations, may remove, isolate, or separate pupils who create disciplinary problems in any classroom or other school activity and whose presence in the class may be detrimental to the best interest and welfare of the pupils of such class as a whole. Any rules and regulations adopted pursuant to this section shall be approved by the State Board of Education. Any such removal, isolation, or separation may not deprive such pupils of their full right to an equal and adequate education.

16-1-24.1. Safe school and drug-free school policy; treatment of policy violators; promulgation and distribution of discipline policy; liability limited for discipline actions; local boards may adopt more stringent guidelines.

(a) The Legislature finds a compelling public interest in ensuring that schools are made safe and drug-free for all students and school employees. The Legislature finds the need for a comprehensive safe school and drug-free school policy to be adopted by the State Board of Education. This policy should establish minimum standards for classes of offenses and prescribe uniform minimum procedures and penalties for those who violate the policies. It is the intent of the Legislature that our schools remain safe and drug-free for all students and school employees. The State Board of Education shall adopt and all local boards of education shall uniformly enforce policies that protect all students and school employees. The State Board of Education shall require local school systems to modify their policies, practices or procedures so as to ensure a safe school environment free of illegal drugs, alcohol, or weapons. Any rules and regulations adopted by the State Board of Education pursuant to this section shall be exempt from Section 41-22-3(3). These modifications shall include the formulation of a discipline plan setting forth policies, practices, and procedures dealing with students or other persons who bring illegal drugs, alcohol, or weapons on a school campus. The discipline plan shall also include uniform drug-free school policies with uniform penalties.

(e)(1) ... The school board shall have its official discipline plan reviewed on an annual basis to ensure that its policies and procedures are currently in compliance with applicable statutes, case law, and state and federal constitutional provisions.

(h). Nothing in this section shall be construed to prevent a local board of education from promulgating more stringent rules and regulations than those adopted on the state level, in order to foster and maintain a safe and drug-free environment in the public schools.

16-1-24.3. Local boards of education to implement policies requiring expulsion of students who possess firearms in school areas.

(a) All city and county boards of education shall develop and implement local policies and procedures requiring the expulsion of students, for a period of one year, who are determined to have brought to

school or have in their possession a firearm in a school building, on school grounds, on school buses, or at other school-sponsored functions.

16-1-27. Use of electronic communication devices on school property.

(c) Each local board of education may adopt a local policy that pertains to pocket pagers, cellular telephones, and other electronic communication devices.

16-28-2.1. Adoption of standards for mandatory attendance policy; parents held accountable; enforcement.

The Legislature finds that mandatory attendance policies for schools differ from school system to school system throughout the State of Alabama. The State Board of Education shall adopt standards for a mandatory and enforceable attendance policy for all students in public schools in the State of Alabama. Parents shall be held accountable in accordance with Sections 16-28-12 and 16-28-7, for the failure of the child who is of compulsory attendance age to attend either public, private or church-school. Enforcement of this section shall lie with the local board of education and the juvenile court system.

16-6B-5. Local boards; safety and discipline accountability.

In addition to providing quality instruction in classrooms and fiscal soundness, all local boards of education shall be accountable for compliance with statutes and regulations regarding school safety and discipline. The State Department of Education shall send to all local boards of education and all local superintendents of education, on or before August 1 of each year, a manual containing all acts of the Legislature and all regulations promulgated by the State Board of Education which pertain to school safety and discipline. Within thirty (30) days of receipt of this manual, each local board of education shall provide to the State Board of Education a report, in the form prescribed by the State Department of Education, describing its compliance with these acts and regulations. If a local board of education is determined by the State Board of Education to have failed to comply in any material respect with these acts and regulations, the State Department of Education shall provide assistance to obtain compliance. If after one year, the State Board of Education determines that a local board of education refuses or fails to come into compliance with these acts and regulations, the State Superintendent of Education shall intervene in and assume the direct management and day-to-day operation of the local board of education for such period of time as the State Board of Education deems necessary to bring that local board of education into compliance with these acts and regulations.

16-28-12. Person in loco parentis responsible for child's school attendance and behavior; noncompliance; local boards to promulgate written behavior policy, contents, annual distribution, receipt to be documented; school officials required to report noncompliance; failure to report suspected violation; district attorneys vigorously to enforce provisions.

(a) Each parent, guardian, or other person having control or custody of any child required to attend school or receive regular instruction by a private tutor who fails to have the child enrolled in school or who fails to send the child to school, or have him or her instructed by a private tutor during the time the child is required to attend a public school, private school, church school, denominational school, or parochial school, or be instructed by a private tutor, or fails to require the child to regularly attend the school or tutor, or fails to compel the child to properly conduct himself or herself as a pupil in any public school in accordance with the written policy on school behavior adopted by the local board of education pursuant to this section and documented by the appropriate school official which conduct may result in the suspension of the pupil, shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than one hundred dollars ($100) and may also be sentenced to hard labor for the county for not more than 90 days. The absence of a child without the consent of the principal teacher of the public school he

or she attends or should attend, or of the tutor who instructs or should instruct the child, shall be prima facie evidence of the violation of this section.

(c) Any parent, guardian, or other person having control or custody of any child enrolled in public school who fails to require the child to regularly attend the school or tutor, or fails to compel the child to properly conduct himself or herself as a pupil in accordance with the written policy on school behavior adopted by the local board of education and documented by the appropriate school official which conduct may result in the suspension of the pupil, shall be reported by the principal to the superintendent of education of the school system in which the suspected violation occurred. The superintendent of education or his or her designee shall report suspected violations to the district attorney within 10 days. Any principal or superintendent of education or his or her designee intentionally failing to report a suspected violation shall be guilty of a Class C misdemeanor. The district attorney shall vigorously enforce this section to ensure proper conduct and required attendance by any child enrolled in public school.

16-28A-1. Legislative findings.

It is the finding of the Alabama Legislature that the people of Alabama have two basic expectations of their public schools: (1) that students be allowed to learn in a safe classroom setting where order and discipline are maintained; and (2) that students learn at the level of their capabilities and achieve accordingly. The Legislature finds further that every child in Alabama is entitled to have access to a program of instruction which gives him or her the right to learn in a non-disruptive environment. No student has a right to be unruly in his or her classroom to the extent that such disruption denies fellow students of their right to learn. The teacher in each classroom is expected to maintain order and discipline. Teachers are hereby given the authority and responsibility to use appropriate means of discipline up to and including corporal punishment as may be prescribed by the local board of education. So long as teachers follow approved policy in the exercise of their responsibility to maintain discipline in their classroom, such teacher shall be immune from civil or criminal liability. It shall be the responsibility of the local boards of education and the administrators employed by them to provide legal support to each teacher exercising his or her authority and responsibility to maintain order and discipline in his or her classroom as long as the teacher follows the local board of education's policy. Such support for the teacher shall include, but not be limited to, providing appropriate legal representation to defend the teacher against charges, filing of a written report pursuant to Section 16-1-24, seeking the issuance of a warrant or warrants for any person or persons threatening or assaulting a teacher, and the timely assistance and cooperation with the appropriate authorities in the prosecution of any person or persons threatening or assaulting a teacher. Local school board authorities and school administrators providing such support shall be absolutely immune from civil and criminal liability for actions authorized or required by this section.

16-28A-3. Local boards of education required to develop and disseminate student discipline and behavior policies.

To fully implement the provisions of this chapter, the State Board of Education shall require each local board of education to develop a written policy on student discipline and behavior and to broadly disseminate them following its adoption. Copies of the student discipline and behavior policy shall be given to all teachers, staff, parents and students.

16-28B-2. Legislative intent.

It is the intent of the Legislature to provide for the adoption of policies in public school systems to prevent the harassment of students. It is the further intent of the Legislature that this chapter apply only to student against student harassment, intimidation, violence, and threats of violence in the public schools of Alabama, grades prekindergarten through 12, and that the State Department of Education develop, and

each local board of education adopt procedural policies to manage and possibly prevent these acts against any student by another student or students based on the characteristics of a student.

Additionally, it is the intent of the Legislature that the filing of a complaint of harassment be in writing and submitted by the affected student, or the parent or guardian of the affected student, and not by an education employee on behalf of an affected student or his or her parent or guardian.

16-28B-9. Adoption of local policies.

Each local board shall establish a policy in compliance with this chapter on or before July 1, 2010. Each local policy or model policy adopted by a local board or the department, respectively, shall be consistent with this chapter.

Scope

STATUTES

16-1-24. Reporting of property damage and physical assaults on students and school personnel; legislative intent; penalties.

(a) For purposes of this section, the following words and phrases shall have the following respective meanings, unless the context clearly indicates otherwise:

(1) INCIDENT. Any act of physical violence, with or without a weapon, trespass, vandalism, or property damage which occurs.

a. On school property; or

b. During school activities, on or off school property; or

c. At any other times when such incident can be reasonably related to school functions.

Provided, however, that incidents involving only students from the same school wherein no dangerous weapon was involved and no bodily injury requiring medical attention occurs shall not be required to be reported as provided herein. All attacks or incidents involving teachers or other school personnel shall be promptly reported.

16-1-24.3. Local boards of education to implement policies requiring expulsion of students who possess firearms in school areas.

(a) All city and county boards of education shall develop and implement local policies and procedures requiring the expulsion of students, for a period of one year, who are determined to have brought to school or have in their possession a firearm in a school building, on school grounds, on school buses, or at other school-sponsored functions.

16-28B-4. Prohibited behavior; complaints; school plans or programs.

(a) No student shall engage in or be subjected to harassment, intimidation, violence, or threats of violence on school property, on a school bus, or at any school-sponsored function by any other student in his or her school system.

16-28-40 License applicant under 19 to provide documentation of school enrollment, etc.; duties of school attendance official; withdrawal from school; conviction for certain pistol offenses.

(5) The court shall notify the Department of Public Safety of the conviction of a person over the age of 14 of a crime involving the possession of a pistol on the premises of a public school, or a public school bus, or both, under Section 13A-11-72 and any reversal of the conviction. The Administrative Office of Courts may promulgate necessary rules and regulations to implement this notification procedure.

Communication of policy

STATUTES

16-1-24.1. Safe school and drug-free school policy; treatment of policy violators; promulgation and distribution of discipline policy; liability limited for discipline actions; local boards may adopt more stringent guidelines.

(e) (1) A copy of the school system's discipline plan shall be distributed to all students enrolled in the system and their parents, guardians, or custodians shall read the plan and sign a statement verifying that they have been given notice of the discipline policies of their respective school system. The school board shall have its official discipline plan reviewed on an annual basis to ensure that its policies and procedures are currently in compliance with applicable, case law, and state and federal constitutional provisions.

(f) The local school board shall adopt and make available to all teachers, school personnel, students, and parents or guardians, at the beginning of the 1992-93 school year and each school year thereafter, a code of student conduct developed in consultation with teachers, school personnel, students, and parents or guardians. The code shall be based on the rules governing student conduct and discipline adopted by the school board and may be made available at the school level in the student handbook or similar publication. The code shall include, but not be limited to, all of the following: (1) Specific grounds for disciplinary action, (2) Procedures to be followed for acts requiring discipline, (3) An explanation of the responsibilities and rights of students with regard to attendance, respect for persons and property, knowledge and observation of rules of conduct, the right to learn, free speech and student publications, assembly, privacy, and participation in school programs and activities.

16-28-12. Person in loco parentis responsible for child's school attendance and behavior; noncompliance; local boards to promulgate written behavior policy, contents, annual distribution, receipt to be documented; school officials required to report noncompliance; failure to report suspected violation; district attorneys vigorously to enforce provisions.

(b) Each local public board of education shall adopt a written policy for its standards on school behavior. Each local public school superintendent shall provide at the commencement of each academic year a copy of the written policy on school behavior to each parent, guardian, or other person having care or control of a child who is enrolled. Included in the written policy shall be a copy of this section. The signature of the student and the parent, guardian, or other person having control or custody of the child shall document receipt of the policy.

16-28A-3. Local boards of education required to develop and disseminate student discipline and behavior policies.

To fully implement the provisions of this chapter, the State Board of Education shall require each local board of education to develop a written policy on student discipline and behavior and to broadly disseminate them following its adoption. Copies of the student discipline and behavior policy shall be given to all teachers, staff, parents and students.

16-28B-5. Model policy

The department shall develop a model policy prohibiting harassment, violence, and threats of violence on school property, on a school bus, or at any school-sponsored function. The model policy, at a minimum, shall contain all of the following components:

(10) A procedure for publicizing local board policy, including providing notice that the policy applies to participation in school-sponsored functions.

16-28B-8 Implementation of standards and policies.

To the extent that the Legislature shall appropriate funds, or to the extent that any local board may provide funds from other sources, each school system shall implement the following standards and policies for programs in an effort to prevent student suicide:

(12) Develop a process for discussing with students local board policies relating to the prevention of student suicide and to the prevention of harassment, intimidation, violence, and threats of violence.

In-School Discipline

Use of multi-tiered discipline approaches

STATUTES

16-28B-5. Model policy.

The department shall develop a model policy prohibiting harassment, violence, and threats of violence on school property, on a school bus, or at any school-sponsored function. The model policy, at a minimum, shall contain all of the following components:

(4) A series of graduated consequences for any student who commits an act of intimidation, harassment, violence, or threats of violence. Punishment shall conform with applicable federal and state disability, antidiscrimination, and education laws and school discipline policies.

Teacher authority to remove students from classrooms

STATUTES

16-1-14. Removal, isolation, or separation of pupils creating disciplinary problems; state approval necessary for rules implementing such measures; deprivation of right to equal and adequate education may not result.

Any city, county, or other local public school board shall, consistent with Section 16-28-12, prescribe rules and regulations with respect to behavior and discipline of pupils enrolled in the schools under its jurisdiction and, in order to enforce such rules and regulations, may remove, isolate, or separate pupils who create disciplinary problems in any classroom or other school activity and whose presence in the class may be detrimental to the best interest and welfare of the pupils of such class as a whole. Any rules and regulations adopted pursuant to this section shall be approved by the State Board of Education. Any such removal, isolation, or separation may not deprive such pupils of their full right to an equal and adequate education.

16-10-5. Dismissal of pupils.

No teacher shall dismiss pupils during school hours or close the school during school hours, except in an emergency, without the consent of the board of school trustees or the county superintendent of education.

Alternatives to suspension

STATUTES

41-15B-2.2. Allocation of trust fund revenues.

(a) For each fiscal year, beginning October 1, 1999, contingent upon the Children First Trust Fund receiving tobacco revenues and upon appropriation by the Legislature, an amount of up to and including two hundred twenty-five thousand dollars ($225,000), or equivalent percentage of the total fund, shall be designated for the administration of the fund by the council and the Commissioner of Children's Affairs.

(b) For the each fiscal year, beginning October 1, 1999, contingent upon the Children First Trust Fund receiving tobacco revenues, the remainder of the Children First Trust Fund, in the amounts provided for in Section 41-15B-2.1, shall be allocated as follows:

(2) Twenty-two percent of the fund shall be allocated to the State Board of Education to one or more of the following:

a. The operation of alternative schools as defined below:

1. In the initial fiscal year funding after June 9, 1999, the State Board of Education shall distribute a pro rata share of the monies based upon the second month enrollment of the preceding school year to each local board of education which submits a plan that satisfies all of the following criteria:

(i) The local board of education shall provide a 25 percent match of all funds for alternative school programs.

(ii) The local board of education shall provide suitable facilities for housing alternative school programs.

(iii) The plan submitted by each local board of education shall provide multiple tiers of alternative school programs which include, but are not limited to, "in-school suspension," a short-term alternative school program designed to enable children to perform in the traditional classroom setting, and a long-term program which is a true alternative to expulsion.

(iv) The plan as submitted by each local board of education shall outline the educational services which shall be available to each child assigned to the short-term or long-term programs. Those services shall include, but are not limited to, all of the following:

A. Remedial education where necessary.

B. Counseling, including sessions on conflict resolution.

C. Social skills development.

(v) Each tier of the local plan shall be curriculum-based to address the goal of academic improvement and shall include, to the extent possible, mandatory parental notification and involvement.

(vi) If a local board of education can satisfactorily demonstrate that alternative school programs meeting all of the criteria in this section have been implemented, the allocation to the local board of education for alternative school programs may be directed by the State Board of Education to programs under the School Safety Enhancement Program.

(vii) Each year any monies remaining after distribution by the State Board of Education to the local boards of education which meet the criteria pursuant to subparagraph 1. and qualify for a portion of the monies, shall be allocated to those local boards of education demonstrating innovative programs with measurable improvements in academic achievement, attendance, school behavior, and parental involvement.

2. The State Board of Education shall review the programs of each local board of education receiving monies from the fund and shall annually submit a report to the council by July 1. This report shall include all of the following:

(i) The number of children served in each tier of the program.

(ii) The improvement in academic achievement.

(iii) The improvement in behavior.

(iv) The improvement in parental involvement.

(v) Financial accounting for the state and local monies expended.

3. The State Board of Education shall develop additional criteria for continued state funding of programs initiated pursuant to this chapter.

4. Sufficient safeguards shall be implemented to ensure that the new monies will increase and not supplant or decrease existing state or local support.

b. 1. The School Safety Enhancement Program. The amount of monies available to each local board of education shall be determined by the State Board of Education based upon the second month enrollment of the preceding school year. To be eligible to initially receive a portion of the monies, each local board of education shall submit a grant application pursuant to guidelines promulgated by the State Board of Education with provisions for annual renewal of the grants. Provisions for program evaluation in order to determine effectiveness and financial accountability shall be included in the guidelines. The guidelines shall include all of the following:

(i) A component to enhance parental participation in school activities and promote parental responsibility for the performance and behavior of their children.

(ii) A requirement for a local 25 percent match of funds for school safety activities, excluding pre-kindergarten programs for at-risk children listed in item (ii) of subparagraph 2.

(iii) Sufficient safeguards implemented to ensure that the new monies will increase and not supplant or decrease existing local support.

2. School Safety Enhancement Programs eligible for grants shall be designed to prevent or reduce violence in the schools and communities and reduce school disciplinary or safety problems. The programs shall relate to one or more of the following:

(i) Extended day programs with supervised activities including, but not limited to, remedial education; tutorial assistance; arts, music, or other cultural enhancement; and activities for gifted children. Each local board of education may charge a fee based upon income for participation in the programs.

(ii) Pre-kindergarten programs for "at-risk" children. These programs do not require the local 25 percent match of funds for school safety activities mandated by item (ii) of subparagraph 1.

(iii) Truancy prevention programs which may include additional school attendance personnel and a Saturday school component.

(iv) Programs to assist children in dealing with anger and emphasizing acceptable ways of dealing with violence including peer mediation, conflict resolution, and law related education.

(v) Safety plans involving the use of metal detectors, other security devices, uniforms, school safety resource officers, or other personnel employed to provide a safe school environment.

(vi) Drug, alcohol, tobacco, gang-related, or satanic worshipping-related education, prevention, detection, or enforcement programs.

(vii) At-risk identification and intervention programs designed to identify children who are at-risk and coordinate school and community services so that the mental, physical, and social capabilities of the child are enhanced.

3. The State Board of Education shall review the programs of each local board of education which receive monies from the fund and annually submit a report to the council by July 1. This report shall include all of the following:

(i) The number of children served.

(ii) The improvement in academic achievement.

(iii) The improvement in behavior.

(iv) The improvement in parental involvement.

(v) Financial accounting for the state and local monies expended.

4. The State Board of Education shall develop additional criteria for continued state funding of programs initiated pursuant to this chapter.

c. Any other children's services provided by the State Board of Education.

Use of corporal punishment

STATUTES

16-1-23. Hazing prohibited; penalty.

(c) The term hazing as defined in this section does not include customary athletic events or similar contests or competitions, and is limited to those actions taken and situations created in connection with initiation into or affiliation with any organization. The term hazing does not include corporal punishment administered by officials or employees of public schools when in accordance with policies adopted by local boards of education.

16-1-24.1. Safe school and drug-free school policy; treatment of policy violators; promulgation and distribution of discipline policy; liability limited for discipline actions; local boards may adopt more stringent guidelines.

(g) Except in the case of excessive force or cruel and unusual punishment, no certified or noncertified employee of the State Board of Education or any local board of education shall be civilly liable for any action carried out in conformity with state law and system or school rules regarding the control, discipline, suspension, and expulsion of students.

16-28A-1. Legislative findings.

Teachers are hereby given the authority and responsibility to use appropriate means of discipline up to and including corporal punishment as may be prescribed by the local board of education.

16-28A-2. Exemption of teachers and other employees from application of Title 26.

The provisions of Title 26 shall not apply to public school teachers in relation to corporal punishment of students when the punishment is consistent with established written policies of the employing board of education. Neither shall the provisions of Title 26 apply to public school teachers or other employees while maintaining order and discipline in the classroom and on public school property, including school buses, consistent with written policies of the employing board of education.

16-28A-5. Immunity for other authorized school personnel.

It is the intent of the Legislature to include under the provisions of this chapter, principals, assistant principals and any other school personnel authorized to use corporal punishment under the policies and guidelines developed by the local board of education.

Use of student and locker searches

No relevant statutes found.

Other in-school disciplinary approaches

STATUTES

41-15B-2.2. Allocation of trust fund revenues.

(a) For each fiscal year, beginning October 1, 1999, contingent upon the Children First Trust Fund receiving tobacco revenues and upon appropriation by the Legislature, an amount of up to and including two hundred twenty-five thousand dollars ($225,000), or equivalent percentage of the total fund, shall be designated for the administration of the fund by the council and the Commissioner of Children's Affairs.

(b) For the each fiscal year, beginning October 1, 1999, contingent upon the Children First Trust Fund receiving tobacco revenues, the remainder of the Children First Trust Fund, in the amounts provided for in Section 41-15B-2.1, shall be allocated as follows:

(2) Twenty-two percent of the fund shall be allocated to the State Board of Education to one or more of the following:

a. The operation of alternative schools as defined below:

1. In the initial fiscal year funding after June 9, 1999, the State Board of Education shall distribute a pro rata share of the monies based upon the second month enrollment of the preceding school year to each local board of education which submits a plan that satisfies all of the following criteria:

(i) The local board of education shall provide a 25 percent match of all funds for alternative school programs.

(ii) The local board of education shall provide suitable facilities for housing alternative school programs.

(iii) The plan submitted by each local board of education shall provide multiple tiers of alternative school programs which include, but are not limited to, "in-school suspension," a short-term alternative school program designed to enable children to perform in the traditional classroom setting, and a long-term program which is a true alternative to expulsion.

(iv) The plan as submitted by each local board of education shall outline the educational services which shall be available to each child assigned to the short-term or long-term programs. Those services shall include, but are not limited to, all of the following:

A. Remedial education where necessary.

B. Counseling, including sessions on conflict resolution.

C. Social skills development.

(v) Each tier of the local plan shall be curriculum-based to address the goal of academic improvement and shall include, to the extent possible, mandatory parental notification and involvement.

(vi) If a local board of education can satisfactorily demonstrate that alternative school programs meeting all of the criteria in this section have been implemented, the allocation to the local board of education for alternative school programs may be directed by the State Board of Education to programs under the School Safety Enhancement Program.

(vii) Each year any monies remaining after distribution by the State Board of Education to the local boards of education which meet the criteria pursuant to subparagraph 1. and qualify for a portion of the monies, shall be allocated to those local boards of education demonstrating innovative programs with measurable improvements in academic achievement, attendance, school behavior, and parental involvement.

2. The State Board of Education shall review the programs of each local board of education receiving monies from the fund and shall annually submit a report to the council by July 1. This report shall include all of the following:

(i) The number of children served in each tier of the program.

(ii) The improvement in academic achievement.

(iii) The improvement in behavior.

(iv) The improvement in parental involvement.

(v) Financial accounting for the state and local monies expended.

3. The State Board of Education shall develop additional criteria for continued state funding of programs initiated pursuant to this chapter.

4. Sufficient safeguards shall be implemented to ensure that the new monies will increase and not supplant or decrease existing state or local support.

b. 1. The School Safety Enhancement Program. The amount of monies available to each local board of education shall be determined by the State Board of Education based upon the second month enrollment of the preceding school year. To be eligible to initially receive a portion of the monies, each local board of education shall submit a grant application pursuant to guidelines promulgated by the State Board of Education with provisions for annual renewal of the grants. Provisions for program evaluation in order to determine effectiveness and financial accountability shall be included in the guidelines. The guidelines shall include all of the following:

(i) A component to enhance parental participation in school activities and promote parental responsibility for the performance and behavior of their children.

(ii) A requirement for a local 25 percent match of funds for school safety activities, excluding pre-kindergarten programs for at-risk children listed in item (ii) of subparagraph 2.

(iii) Sufficient safeguards implemented to ensure that the new monies will increase and not supplant or decrease existing local support.

2. School Safety Enhancement Programs eligible for grants shall be designed to prevent or reduce violence in the schools and communities and reduce school disciplinary or safety problems. The programs shall relate to one or more of the following:

(i) Extended day programs with supervised activities including, but not limited to, remedial education; tutorial assistance; arts, music, or other cultural enhancement; and activities for gifted children. Each local board of education may charge a fee based upon income for participation in the programs.

(ii) Pre-kindergarten programs for "at-risk" children. These programs do not require the local 25 percent match of funds for school safety activities mandated by item (ii) of subparagraph 1.

(iii) Truancy prevention programs which may include additional school attendance personnel and a Saturday school component.

(iv) Programs to assist children in dealing with anger and emphasizing acceptable ways of dealing with violence including peer mediation, conflict resolution, and law related education.

(v) Safety plans involving the use of metal detectors, other security devices, uniforms, school safety resource officers, or other personnel employed to provide a safe school environment.

(vi) Drug, alcohol, tobacco, gang-related, or satanic worshipping-related education, prevention, detection, or enforcement programs.

(vii) At-risk identification and intervention programs designed to identify children who are at-risk and coordinate school and community services so that the mental, physical, and social capabilities of the child are enhanced.

3. The State Board of Education shall review the programs of each local board of education which receive monies from the fund and annually submit a report to the council by July 1. This report shall include all of the following:

(i) The number of children served.

(ii) The improvement in academic achievement.

(iii) The improvement in behavior.

(iv) The improvement in parental involvement.

(v) Financial accounting for the state and local monies expended.

4. The State Board of Education shall develop additional criteria for continued state funding of programs initiated pursuant to this chapter.

c. Any other children's services provided by the State Board of Education.

Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements

Grounds for possible suspension or expulsion

STATUTES

16-1-14. Removal, isolation, or separation of pupils creating disciplinary problems; state approval necessary for rules implementing such measures; deprivation of right to equal and adequate education may not result.

Any city, county, or other local public school board shall, consistent with Section 16-28-12, prescribe rules and regulations with respect to behavior and discipline of pupils enrolled in the schools under its jurisdiction and, in order to enforce such rules and regulations, may remove, isolate, or separate pupils who create disciplinary problems in any classroom or other school activity and whose presence in the class may be detrimental to the best interest and welfare of the pupils of such class as a whole. Any rules and regulations adopted pursuant to this section shall be approved by the State Board of Education. Any such removal, isolation, or separation may not deprive such pupils of their full right to an equal and adequate education.

16-28-12. Person in loco parentis responsible for child's school attendance and behavior; noncompliance; local boards to promulgate written behavior policy, contents, annual distribution, receipt to be documented; school officials required to report noncompliance; failure to report suspected violation; district attorneys vigorously to enforce provisions.

(a) Each parent, guardian, or other person having control or custody of any child required to attend school or receive regular instruction by a private tutor who fails to have the child enrolled in school or who fails to send the child to school, or have him or her instructed by a private tutor during the time the child is required to attend a public school, private school, church school, denominational school, or parochial school, or be instructed by a private tutor, or fails to require the child to regularly attend the school or tutor, or fails to compel the child to properly conduct himself or herself as a pupil in any public school in accordance with the written policy on school behavior adopted by the local board of education pursuant to this section and documented by the appropriate school official which conduct may result in the suspension of the pupil, shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than one hundred dollars ($100) and may also be sentenced to hard labor for the county for not more than 90 days. The absence of a child without the consent of the principal teacher of the public school he or she attends or should attend, or of the tutor who instructs or should instruct the child, shall be prima facie evidence of the violation of this section.

(c) Any parent, guardian, or other person having control or custody of any child enrolled in public school who fails to require the child to regularly attend the school or tutor, or fails to compel the child to properly conduct himself or herself as a pupil in accordance with the written policy on school behavior adopted by the local board of education and documented by the appropriate school official which conduct may result in the suspension of the pupil, shall be reported by the principal to the superintendent of education of the school system in which the suspected violation occurred. The superintendent of education or his or her designee shall report suspected violations to the district attorney within 10 days. Any principal or superintendent of education or his or her designee intentionally failing to report a suspected violation shall be guilty of a Class C misdemeanor. The district attorney shall vigorously enforce this section to ensure proper conduct and required attendance by any child enrolled in public school.

16-40A-3. Minimum contents to be included in drug education program or curriculum.

(a) Any program or curriculum in the public schools of Alabama that includes drug education or instructs on the use of drugs or alcohol shall, as a minimum, include the following:

(1) Age-appropriate, developmentally-based drug and alcohol education and prevention programs that address the legal, social, and health consequences of drug and alcohol use and that provide information about effective techniques for resisting peer pressure to use illicit drugs or alcohol for students in all grades of the public schools from early childhood level through grade 12.

(2) Information conveying to students that the use of illicit drugs and the unlawful possession and use of alcohol is wrong and harmful and is punishable by fines and imprisonment.

(3) Standards of conduct that are applicable to students and employees in all public schools and that clearly prohibit, at a minimum, the unlawful possession, use, or distribution of illicit drugs and alcohol by students and employees on school premises, or as part of any activities of the school.

(4) A clear statement that sanctions, consistent with local, state, and federal law, up to and including expulsion or termination of employment and referral for prosecution, will be imposed on students and employees who violate the standards of conduct required by subdivision (3). A description of those sanctions shall be included.

Grounds for mandatory suspension or expulsion

STATUTES

16-1-24.1. Safe school and drug-free school policy; treatment of policy violators; promulgation and distribution of discipline policy; liability limited for discipline actions; local boards may adopt more stringent guidelines.

(b) The principal shall notify appropriate law enforcement officials when any person violates local board of education policies concerning drugs, alcohol, weapons, physical harm to a person, or threatened physical harm to a person. If any criminal charge is warranted arising from the conduct, the principal is authorized to sign the appropriate warrant. If that person is a student enrolled in any public school in the State of Alabama, the local school system shall immediately suspend that person from attending regular classes and schedule a hearing at the earliest possible date, which shall not be later than five school days. The decision to suspend or initiate criminal charges against a student, or both, shall include a review and consideration of the student's exceptional status, if applicable, under Chapter 39, or appropriate federal statutory or case law.

16-1-24.3. Local boards of education to implement policies requiring expulsion of students who possess firearms in school areas.

(a) All city and county boards of education shall develop and implement local policies and procedures requiring the expulsion of students, for a period of one year, who are determined to have brought to school or have in their possession a firearm in a school building, on school grounds, on school buses, or at other school-sponsored functions. Notwithstanding the foregoing, city and county boards of education and the local superintendent of education of each board may modify the expulsion requirement for a student on a case-by-case basis. Students who are expelled for violation of this section shall not be allowed to attend regular school classes in any public school in the state during the expulsion period. Students who are expelled from schools for firearm possession may be permitted to attend alternative schools designed to provide education services. Discipline of students with disabilities who violate the firearm possession policies of city and county boards of education shall be determined on a case-by-case basis in accordance with the requirements of the Individuals with Disabilities Education Act (IDEA) and Section 504 of the Rehabilitation Act.

(b) For the purposes of this section, the term "firearm" has the same meaning as defined in Section 921 of Title 18 of the United States Code.

16-1-27. Use of electronic communication devices on school property.

(a) A local board of education may permit any pupil to carry a pocket pager, cellular telephone, or other electronic communication device while on school property and may permit any pupil to use a pocket pager, cellular telephone, or other electronic communication device, when such use is expressly and specifically permitted by the school administrator, teacher, or employee who is acting in a supervisory capacity at the time of the use.

(b) Any pupil found in violation of this section shall be subject to suspension by the board of education.

(c) Each local board of education may adopt a local policy that pertains to pocket pagers, cellular telephones, and other electronic communication devices.

Limitations, conditions, or exclusions for use of suspension and expulsion

STATUTES

16-10-5. Dismissal of pupils.

No teacher shall dismiss pupils during school hours or close the school during school hours, except in an emergency, without the consent of the board of school trustees or the county superintendent of education.

16-1-24.1. Safe school and drug-free school policy; treatment of policy violators; promulgation and distribution of discipline policy; liability limited for discipline actions; local boards may adopt more stringent guidelines.

(b) … The decision to suspend or initiate criminal charges against a student, or both, shall include a review and consideration of the student's exceptional status, if applicable, under Chapter 39, or appropriate federal statutory or case law.

16-1-24.3. Local boards of education to implement policies requiring expulsion of students who possess firearms in school areas.

Discipline of students with disabilities who violate the firearm possession policies of city and county boards of education shall be determined on a case-by-case basis in accordance with the requirements of the Individuals with Disabilities Education Act (IDEA) and Section 504 of the Rehabilitation Act.

Administrative procedures related to suspension and expulsion

STATUTES

16-1-24.1 Safe school and drug-free school policy; treatment of policy violators; promulgation and distribution of discipline policy; liability limited for discipline actions; local boards may adopt more stringent guidelines.

(a) The Legislature finds a compelling public interest in ensuring that schools are made safe and drug-free for all students and school employees. The Legislature finds the need for a comprehensive safe school and drug-free school policy to be adopted by the State Board of Education. This policy should establish minimum standards for classes of offenses and prescribe uniform minimum procedures and penalties for those who violate the policies. It is the intent of the Legislature that our schools remain safe and drug-free for all students and school employees. The State Board of Education shall adopt and all

local boards of education shall uniformly enforce policies that protect all students and school employees. The State Board of Education shall require local school systems to modify their policies, practices or procedures so as to ensure a safe school environment free of illegal drugs, alcohol, or weapons. Any rules and regulations adopted by the State Board of Education pursuant to this section shall be exempt from Section 41-22-3(3). These modifications shall include the formulation of a discipline plan setting forth policies, practices, and procedures dealing with students or other persons who bring illegal drugs, alcohol, or weapons on a school campus. The discipline plan shall also include uniform drug-free school policies with uniform penalties.

(b) The principal shall notify appropriate law enforcement officials when any person violates local board of education policies concerning drugs, alcohol, weapons, physical harm to a person, or threatened physical harm to a person. If any criminal charge is warranted arising from the conduct, the principal is authorized to sign the appropriate warrant. If that person is a student enrolled in any public school in the State of Alabama, the local school system shall immediately suspend that person from attending regular classes and schedule a hearing at the earliest possible date, which shall not be later than five school days. The decision to suspend or initiate criminal charges against a student, or both, shall include a review and consideration of the student's exceptional status, if applicable, under Chapter 39, or appropriate federal statutory or case law.

(c) If a person is found to have violated a local board of education policy concerning drugs, alcohol, weapons, physical harm to a person, or threatened physical harm to a person, the person may not be readmitted to the public schools of this state until (1) criminal charges or offenses arising from the conduct, if any, have been disposed of by appropriate authorities and (2) the person has satisfied all other requirements imposed by the local board of education as a condition for readmission.

(d) Any person determined to be guilty of an offense involving drugs, alcohol, weapons, physical harm to a person, or threatened physical harm to a person, may be readmitted to the public schools of this state upon such conditions as the local board of education shall prescribe for preservation of the safety or security of students and employees of the local school board, which may include, but are not limited to, psychiatric or psychological evaluation and counseling.

(e) (1) A copy of the school system's discipline plan shall be distributed to all students enrolled in the system and their parents, guardians, or custodians shall read the plan and sign a statement verifying that they have been given notice of the discipline policies of their respective school system. The school board shall have its official discipline plan reviewed on an annual basis to ensure that its policies and procedures are currently in compliance with applicable statutes, case law, and state and federal constitutional provisions.

(2) All discipline plans of school systems shall include, but not be limited to, all of the following:

a. A parent, guardian, custodian, or person, excluding a foster parent, responsible for the care or control of a minor child enrolled in a public school system shall be responsible financially for such child's destructive acts against school property or persons.

b. A parent, guardian, custodian, or person, excluding a foster parent, responsible for the care or control of a minor child enrolled in a public school system may be requested to appear at school by an appropriate school official for a conference regarding acts of the child specified in paragraph a.

c. A parent, guardian, custodian, or person, excluding a foster parent, responsible for the care or control of a minor child enrolled in a school system who has been summoned by proper notification by an appropriate school official shall be required under this provision to attend such discipline conference specified in paragraph b.

(3) Any public school system shall be entitled to recover actual damages, plus necessary court costs, from the parent or guardian, or both, of any minor who maliciously and willfully damages or destroys property belonging to the school system. However, this section shall not apply to parents whose

parental control of any child has been removed by court order or decree or to parents of exceptional children with specific mental and physical impairments if the damage is determined to result from the impairments. The action authorized in this section shall be in addition to all other actions which the school system is entitled to maintain and nothing in this section shall preclude recovery in a greater amount from the minor or from a person, including the parents or guardian, or both, for damages to which such minor other person would otherwise be liable.

(4) This section shall apply only to acts committed on or after August 1, 1992.

(f) The local school board shall adopt and make available to all teachers, school personnel, students, and parents or guardians, at the beginning of the 1992-93 school year and each school year thereafter, a code of student conduct developed in consultation with teachers, school personnel, students, and parents or guardians. The code shall be based on the rules governing student conduct and discipline adopted by the school board and may be made available at the school level in the student handbook or similar publication. The code shall include, but not be limited to, all of the following:

(1) Specific grounds for disciplinary action.

(2) Procedures to be followed for acts requiring discipline.

(3) An explanation of the responsibilities and rights of students with regard to attendance, respect for persons and property, knowledge and observation of rules of conduct, the right to learn, free speech and student publications, assembly, privacy, and participation in school programs and activities.

(g) Except in the case of excessive force or cruel and unusual punishment, no certified or noncertified employee of the State Board of Education or any local board of education shall be civilly liable for any action carried out in conformity with state law and system or school rules regarding the control, discipline, suspension, and expulsion of students.

(h) Nothing in this section shall be construed to prevent a local board of education from promulgating more stringent rules and regulations than those adopted on the state level, in order to foster and maintain a safe and drug-free environment in the public schools.

16-1-24.3. Local boards of education to implement policies requiring expulsion of students who possess firearms in school areas.

(a) All city and county boards of education shall develop and implement local policies and procedures requiring the expulsion of students, for a period of one year, who are determined to have brought to school or have in their possession a firearm in a school building, on school grounds, on school buses, or at other school-sponsored functions. Notwithstanding the foregoing, city and county boards of education and the local superintendent of education of each board may modify the expulsion requirement for a student on a case-by-case basis. Students who are expelled for violation of this section shall not be allowed to attend regular school classes in any public school in the state during the expulsion period. Students who are expelled from schools for firearm possession may be permitted to attend alternative schools designed to provide education services. Discipline of students with disabilities who violate the firearm possession policies of city and county boards of education shall be determined on a case-by-case basis in accordance with the requirements of the Individuals with Disabilities Education Act (IDEA) and Section 504 of the Rehabilitation Act.

(b) For the purposes of this section, the term "firearm" has the same meaning as defined in Section 921 of Title 18 of the United States Code.

In-school suspension

41-15B-2.2. Allocation of trust fund revenues.

(b) For the each fiscal year, beginning October 1, 1999, contingent upon the Children First Trust Fund receiving tobacco revenues, the remainder of the Children First Trust Fund, in the amounts provided for in Section 41-15B-2.1, shall be allocated as follows:

(2) Twenty-two percent of the fund shall be allocated to the State Board of Education to one or more of the following:

a. The operation of alternative schools as defined below:

1. In the initial fiscal year funding after June 9, 1999, the State Board of Education shall distribute a pro rata share of the monies based upon the second month enrollment of the preceding school year to

(iii) The plan submitted by each local board of education shall provide multiple tiers of alternative school programs which include, but are not limited to, "in-school suspension," a short-term alternative school program designed to enable children to perform in the traditional classroom setting, and a long-term program which is a true alternative to expulsion.

Return to school following removal

STATUTES

16-1-24.1. Safe school and drug-free school policy; treatment of policy violators; promulgation and distribution of discipline policy; liability limited for discipline actions; local boards may adopt more stringent guidelines.

(c) If a person is found to have violated a local board of education policy concerning drugs, alcohol, weapons, physical harm to a person, or threatened physical harm to a person, the person may not be readmitted to the public schools of this state until (1) criminal charges or offenses arising from the conduct, if any, have been disposed of by appropriate authorities and (2) the person has satisfied all other requirements imposed by the local board of education as a condition for readmission.

(d) Any person determined to be guilty of an offense involving drugs, alcohol, weapons, physical harm to a person, or threatened physical harm to a person, may be readmitted to the public schools of this state upon such conditions as the local board of education shall prescribe for preservation of the safety or security of students and employees of the local school board, which may include, but are not limited to, psychiatric or psychological evaluation and counseling.

Use of restraint and seclusion

STATUTES

16-1-14. Removal, isolation, or separation of pupils creating disciplinary problems; state approval necessary for rules implementing such measures; deprivation of right to equal and adequate education may not result.

Any city, county, or other local public school board shall, consistent with Section 16-28-12, prescribe rules and regulations with respect to behavior and discipline of pupils enrolled in the schools under its jurisdiction and, in order to enforce such rules and regulations, may remove, isolate, or separate pupils who create disciplinary problems in any classroom or other school activity and whose presence in the class may be detrimental to the best interest and welfare of the pupils of such class as a whole. Any rules

and regulations adopted pursuant to this section shall be approved by the State Board of Education. Any such removal, isolation, or separation may not deprive such pupils of their full right to an equal and adequate education.

ADMINISTRATIVE CODE

290-3-1-.02-.01(f) Permissible Use of Seclusion and Restraint.

(1) It is the policy of the State of Alabama to:

(a) Promote safety and prevent harm to all students, staff, and visitors in the public schools.

(b) Treat all public school students with dignity and respect in the delivery of discipline, use of physical restraints or seclusion, and use of reasonable force as permitted by law.

(c) Utilize seclusion and restraint, as defined below, in only emergency situations.

(d) Utilize neither seclusion nor restraint of a student in school settings as a punishment to force compliance.

(e) Provide school staff with clear guidelines about what constitutes use of reasonable force permissible in Alabama public schools.

(f) Promote retention of valuable teachers and other school personnel by providing appropriate training in prescribed procedures, which address student behavior in a positive and safe manner.

(g) Promote the use of positive behavioral support (PBS) and interventions to address discipline and problem behaviors for all students.

(h) Improve student achievement, attendance, promotion, and graduation rates by employing positive behavioral interventions to address student behavior in a positive and safe manner.

(2) The following definitions apply in this section:

(a) "Assistive technology device" means any item, piece of equipment, or product system that is used to increase, maintain, or improve the functional capacities of a child with a disability.

(b) "Aversive procedure" means a physical or sensory intervention program for modifying the behavior of a student which causes or reasonably may be expected to cause one or more of the following:

1. Significant physical harm, such as tissue damage, physical illness, or death.
2. Serious, foreseeable long-term psychological impairment.
3. Obvious repulsion on the part of observers who cannot reconcile extreme procedures with acceptable, standard practice, for example: electric shock applied to the body; extremely loud auditory stimuli; forcible introduction of foul substances to the mouth, eyes, ears, nose, or skin; placement in a tub of cold water or shower; slapping, pinching, or pulling hair; blindfolding or other forms of visual blocking; unreasonable withholding of meals; or denial of reasonable access to toileting facilities.

(c) "Behavioral intervention" means the implementation of strategies to address behavior that is dangerous, disruptive, or otherwise impedes the learning of a student or others.

(d) “Chemical restraint” means a medication that is prescribed to restrict a student’s freedom of movement for the control of extreme violent physical behavior.

(e) “Emergency” means a situation in which a person is exhibiting behavior that places self in immediate physical danger or others at risk of immediate physical danger.

(f) "IEP" means a student's Individualized Education Plan.

(g) "Law enforcement officer" means a sworn law enforcement officer with the power to arrest.

(h) "Mechanical restraint" means the use of any device or material attached or adjacent to a student's body that restricts freedom of movement or normal access to any portion of the student's body and that the student cannot easily remove.

(i) "Physical restraint" means the use of physical force to restrict the free movement of all or a portion of a student's body.

(j) "School personnel" means:

1. Employees of a local board of education.
2. Any person working on school grounds or at a school function under a contract or written agreement with the public school system to provide educational or related services to students.
3. Any person working on school grounds or at a school function for another agency providing educational or related services to students.

(k) "Seclusion" means the involuntary confinement of a student alone in an enclosed space from which the student is:

1. Physically prevented from leaving.
2. Not capable of leaving due to physical or intellectual incapacity.

(l) "Time-out" means a behavior management technique in which a student is separated from other students for a limited period of time in a monitored setting.

(3) Physical Restraint.

(a) Physical restraint of students by school personnel shall be considered a reasonable use of force when used in the following circumstances:

1. As reasonably needed to obtain possession of a weapon or other dangerous objects on a person or within the control of a person.
2. As reasonably needed to maintain order or prevent or break up a fight.
3. As reasonably needed for self-defense.
4. As reasonably needed to ensure the safety of any student, school employee, volunteer, or other person present in an emergency situation, to teach a skill, to calm or comfort a student, or to prevent self-injurious behavior.
5. As reasonably needed to escort a student safely from one area to another.
6. If used as provided for in a student's IEP or Section 504 plan or behavior intervention plan.
7. As reasonably needed to prevent imminent destruction to school or another person's property.

(b) Except as set forth in subdivision (a) of this subsection, physical restraint of students shall not be considered a reasonable use of force, and its use is prohibited.

(c) Prone restraints that restrict the flow of air into a person’s lungs are prohibited.

(d) School personnel shall not use physical restraint on a student except as an emergency intervention to prevent immediate or imminent injury to the student or others.

(e) Physical restraint shall not be considered a reasonable use of force when used solely as a disciplinary consequence.

(f) Nothing in this subsection shall be construed to prevent the use of force by law enforcement officers in the lawful exercise of their law enforcement duties.

(4) Mechanical Restraint.

(a) Mechanical restraint of students by school personnel is permissible only in the following circumstances:

1. When properly used as an assistive technology device included in the student's IEP or Section 504 plan or as otherwise prescribed for the student by a medical or related service provider.

2. When using seat belts or other safety restraints to secure students during transportation.

3. As reasonably needed to obtain possession of a weapon or other dangerous objects on a person or within the control of a person.

4. As reasonably needed for self-defense.

5. As reasonably needed to ensure the safety of any student, school employee, volunteer, or other person present in an emergency situation.

(b) Except as set forth in subdivision (a) of this subsection, mechanical restraint, including the tying, taping, or strapping down of a student, shall not be considered a reasonable use of force, and its use is prohibited.

(c) Prone restraints that restrict the flow of air into a person's lungs are prohibited.

(d) Nothing in this subsection shall be construed to prevent the use of mechanical restraint devices, such as handcuffs by law enforcement officers in the lawful exercise of their law enforcement duties.

(5) Chemical restraints.

(a) Chemical restraints are medications used in addition to, or in replacement of, a student's regular drug regimen to control extreme violent physical behavior.

(b) Administering a chemical restraint to a student is prohibited.

(c) The medications that comprise the student's regular medical regimen, including PRN medications, are not considered chemical restraints, even if their purpose is to treat ongoing behavioral symptoms.

(d) Nothing in this subsection shall be construed to prohibit the administration of a chemical restraint when administered for therapeutic purposes under the direction of a physician and with the child-s parent or guardian's consent to administer such chemical restraint.

(6) Seclusion.

(a) Seclusion of students by school personnel may be used in the following circumstances:

1. As reasonably needed to respond to a person in control of a weapon or other dangerous object.

2. As reasonably needed to maintain order or prevent or break up a fight.

3. As reasonably needed for self-defense.

4. As reasonably needed when a student's behavior poses a threat of imminent physical harm to self or others or imminent substantial destruction of school or another person's property.

5. When used as specified in the student's IEP, Section 504 plan, or behavior intervention plan; and

(i) The student is monitored while in seclusion by an adult in close proximity who is able to see and hear the student at all times.

(ii) The student is released from seclusion upon cessation of the behaviors that led to the seclusion or as otherwise specified in the student's IEP or Section 504 plan.

(iii) The space in which the student is confined has been approved for such use by the local education agency.

(iv) The space is appropriately lighted.

(v) The space is appropriately ventilated and heated or cooled.

(vi) The space is free of objects that unreasonably expose the student or others to harm.

(b) Except as set forth in subdivision (a) of this subsection, the use of seclusion is not considered reasonable force, and its use is not permitted.

(c) Seclusion shall not be considered a reasonable use of force when used solely as a disciplinary consequence.

(d) Nothing in this subsection shall be construed to prevent the use of seclusion by law enforcement officers in the lawful exercise of their law enforcement duties.

(7) Time-Out. Time-out is permitted as a behavior management technique provided that:

(a) The space used for time-out is appropriately lighted, ventilated, and heated or cooled.

(b) The duration of the time-out is reasonable in light of the purpose of the time-out and the age of the child.

(c) The student is reasonably monitored while in time-out.

(d) The time-out space is free of objects that unreasonably expose the student or others to harm.

(8) Aversive Procedures. The use of aversive procedures as defined in this section is prohibited in public schools.

(9) Nothing in this section modifies the rights of school personnel to use reasonable force as permitted under the Code of Alabama, 1975, §16-1-14 or modifies the rules and procedures governing discipline under the Code of Alabama, 1975, §16-28-12.

(10) Notice, Reporting, and Documentation.

(a) Notice of procedures. – Each local board of education shall provide copies of this section and all local board policies developed to implement this section to school personnel and parents or guardians at the beginning of each school year.

(b) Notice of specified incidents:

1. School personnel shall promptly notify the principal or principal's designee of:

(i) Any use of aversive procedures.

(ii) Any prohibited use of chemical, mechanical or physical restraint.

(iii) Any use of restraint resulting in observable physical injury to a student.

2. When a principal or principal's designee has personal knowledge or actual notice of any of the events described in this subdivision, the principal or principal's designee shall promptly notify the student's parent or guardian and will provide the name of a school employee the parent or guardian can contact regarding the incident.

(c) As used in subdivision (2) of this subsection, "promptly notify" means by the end of the workday during which the incident occurred when reasonably possible, but in no event later than the end of the following workday.

(d) The parent or guardian of the student shall be provided with a written incident report for any incident reported under this section within a reasonable period of time, but in no event later than 15 days after the incident. The written incident report shall include:

(i) The date, time of day, location, duration, and description of the incident and interventions.

(ii) The events or events that led up to the incident.

(iii) The nature and extent of any injury to the student.

(iv) The name of a school employee the parent or guardian can contact regarding the incident.

(e) No local board of education or employee of a local board of education shall discharge, threaten, or otherwise retaliate against another employee of the board regarding that employee's compensation, terms, conditions, location, or privileges of employment because the employee makes a report alleging a prohibited use of physical restraint, mechanical restraint, aversive procedure, or seclusion, unless the employee knew or should have known that the report was false.

(11) As specified in the Code of Alabama, 1975, §26-14-3, (Title 26, INFANTS AND INCOMPETENTS. Chapter 14, REPORTING OF CHILD ABUSE OR NEGLECT) nothing in this chapter shall preclude interagency agreements between departments of human resources, law enforcement, and other state agencies on procedures for investigating reports of suspected child abuse and neglect to provide for departments of human resources to assist law enforcement and other state agencies in these investigations.

(12) Nothing in this section shall be construed to create a private cause of action against any local board of education, its agents or employees, or any institutions of teacher education or their agents or employees or to create a criminal offense.

(13) Certification requirements. The standards for approval of institutions of teacher education shall require that teacher education programs for all students include demonstrated competencies in positive behavioral support (PBS) and management of student behavior, effective communication techniques for defusing and deescalating disruptive or dangerous behavior, and safe and appropriate use of seclusion and restraint.

(14) Local education plan. Each local education plan (school safety plan) shall include, at a minimum, the following training: Professional development shall include training appropriate school personnel in positive behavioral support and management of disruptive or dangerous student behavior in order to limit and reduce the use of seclusion and restraint to protect students. Appropriate school personnel may include, but is not limited to, teachers, teacher assistants, school administrators, bus drivers, school resource officers, school psychologists, and school counselors. The training shall include instruction in positive behavioral support and management of student behavior, effective communication for defusing and deescalating disruptive or dangerous behavior, and safe and appropriate use of seclusion and restraint. The appropriate personnel with priority for the training shall include those staff members who are most likely to be called upon to prevent or address disruptive or dangerous student behavior. Each local board of education shall include in its school safety plan procedures to evaluate the effectiveness of this training in preventing or addressing disruptive or dangerous student behavior. Local boards of education are encouraged to use available sources of discretionary revenue to train personnel in the management of disruptive or dangerous student behavior. By February 1, 2010, local boards of education shall amend their school safety plans to include this training. In the “Assurance of Compliance for Laws and Regulations Related to School Safety” document, each local education agency will document their compliance with the seclusion and restraint rule.

(15) Reporting Requirements. Local schools shall maintain a record of incidents of seclusion and restraint reported under this rule and shall provide this information annually to the local board of education. The information provided to the local board of education will be subsequently reported annually to the State Department of Education.

Alternative placements

STATUTES

16-1-24.3. Local boards of education to implement policies requiring expulsion of students who possess firearms in school areas.

(a) All city and county boards of education shall develop and implement local policies and procedures requiring the expulsion of students, for a period of one year, who are determined to have brought to school or have in their possession a firearm in a school building, on school grounds, on school buses, or at other school-sponsored functions. Notwithstanding the foregoing, city and county boards of education and the local superintendent of education of each board may modify the expulsion requirement for a student on a case-by-case basis. Students who are expelled for violation of this section shall not be

allowed to attend regular school classes in any public school in the state during the expulsion period. Students who are expelled from schools for firearm possession may be permitted to attend alternative schools designed to provide education services. Discipline of students with disabilities who violate the firearm possession policies of city and county boards of education shall be determined on a case-by-case basis in accordance with the requirements of the Individuals with Disabilities Education Act (IDEA) and Section 504 of the Rehabilitation Act.

16-6B-3. Assistance programs.

(a) Student strategy. The superintendent of the local board of education along with the staff of each school shall develop an assistance program at each school for at-risk students performing below the standards set by the State Board of Education. The standards shall include the results of the required assessment program adopted by the State Board of Education with emphasis on students who are found to be at one or more grade levels below the prescribed norm. The local board of education shall budget at least one hundred dollars ($100) per student so identified to be expended on tutorial assistance programs including, but not limited to, after-school, Saturday school, or summer school, or any combination of these programs. These funds may be budgeted from state or federal funds. However, federal funds already budgeted for at-risk students may not be counted toward the minimum one hundred dollars ($100) requirement set aside to be expended for at-risk students as defined in this chapter. In addition, these funds may be expended for any of the following purposes:

(1) Programs to encourage at-risk five-year olds to attend an approved preschool program.

(2) Programs to identify at-risk students in the first grade.

(3) Programs to ensure strict enforcement of truancy laws.

(4) Programs to create alternative or disciplinary schools in which children who consistently exhibit behaviors or patterns of behaviors that interfere with the learning environment of other students would be placed and would be provided counseling and instruction in basic skills.

(5) Programs to encourage parental involvement of parents of at-risk children.

(6) Programs to encourage literacy of parents of at-risk children.

(b) School strategy. The State Board of Education shall develop an assistance program for a school in need of assistance. A school in need of assistance shall mean any school which has a majority of its students scoring one or more grade levels below the prescribed norm on the state adopted student assessments. Local superintendents and local boards of education will be expected to make the effort and commit the resources necessary to improve the instructional program for a school in need of assistance and shall be required to budget all funds earned by that school in the cost calculations of the Foundation Program. Local superintendents and local boards of education are encouraged to use assistance from the State Department of Education, colleges of education, accrediting agencies and other sources.

The State Board of Education's plan for an assistance program shall consist of the following components:

(1) The faculty and staff of each school in need of assistance shall engage in a self-study to examine the problem of low achievement within that school and shall develop steps which may be taken to improve student achievement. Parents of students in the schools shall be consulted as part of this self-study.

(2) If, after two years, student achievement has not improved, the State Superintendent of Education shall designate a team of practicing professionals to visit the school, conduct a study, consult with parents of students in the school, analyze causes of poor student achievement, and make specific recommendations which shall become a part of a school improvement plan for the succeeding year.

(3) As a final step, when insufficient or no improvement as determined by the State Board of Education is evident from the implementation of steps one and two above, the State Superintendent of Education is required to intervene and to appoint a person or persons to run the day-to-day operation of the school. In considering intervention, the State Board of Education shall consider factors which may have affected the prescribed norm test score. Factors shall include drop-out rates, attendance rates, special education enrollment, and any other data necessary to properly interpret student achievement in each school.

(c) School system strategy. The State Board of Education shall develop an assistance program for a local board of education identified as being in need of assistance. A local board of education in need of assistance shall mean any local board of education which has a majority of its schools, or a majority of the students in a system, in which the students are scoring one or more grade levels below the prescribed norm.

The State Board of Education shall require a local board of education in need of assistance to do the following:

(1) The local board of education and the local superintendent with input from other administrators, teachers, staff, parents of students in the school, and the local community shall engage in a self-study to examine the problem of low achievement within the system and to develop steps which may be taken to improve student achievement.

(2) If, after two years, student achievement has not improved, the state superintendent shall develop a system-wide school improvement plan in consultation with teachers, parents of students in the school, and the local community. This school improvement plan shall become a part of the local board of education's program and financial operations for the succeeding year.

(3) If, after the implementation of the school improvement plan, student achievement has not sufficiently improved, relative to the previous year's performance, the State Board of Education shall require the State Superintendent of Education to intervene and assume the direct management and day-to-day operation of the local board of education for such period of time as may be necessary for student achievement to improve. In considering intervention, the State Board of Education shall consider factors which may have affected the prescribed norm test score. Factors shall include drop-out rates, attendance rates, special education enrollment, and any other data necessary to properly interpret student achievement in each system.

(d) It is the intent of the Legislature that intervention is not to occur when a school or school system scores below the prescribed average. Intervention by the State Board of Education is to occur only after the three-year period provided in this chapter during which a school or school system fails to show improvement. So long as improvement is being shown, the State Board of Education shall not intervene but shall continue to encourage the school to improve.

41-15B-2.2 - Allocation of trust fund revenues.

(a) For each fiscal year, beginning October 1, 1999, contingent upon the Children First Trust Fund receiving tobacco revenues and upon appropriation by the Legislature, an amount of up to and including two hundred twenty-five thousand dollars ($225,000), or equivalent percentage of the total fund, shall be designated for the administration of the fund by the council and the Commissioner of Children's Affairs.

(b) For the each fiscal year, beginning October 1, 1999, contingent upon the Children First Trust Fund receiving tobacco revenues, the remainder of the Children First Trust Fund, in the amounts provided for in Section 41-15B-2.1, shall be allocated as follows:

(2) Twenty-two percent of the fund shall be allocated to the State Board of Education to one or more of the following:

a. The operation of alternative schools as defined below:

1. In the initial fiscal year funding after June 9, 1999, the State Board of Education shall distribute a pro rata share of the monies based upon the second month enrollment of the preceding school year to each local board of education which submits a plan that satisfies all of the following criteria:

(i) The local board of education shall provide a 25 percent match of all funds for alternative school programs.

(ii) The local board of education shall provide suitable facilities for housing alternative school programs.

(iii) The plan submitted by each local board of education shall provide multiple tiers of alternative school programs which include, but are not limited to, "in-school suspension," a short-term alternative school program designed to enable children to perform in the traditional classroom setting, and a long-term program which is a true alternative to expulsion.

(iv) The plan as submitted by each local board of education shall outline the educational services which shall be available to each child assigned to the short-term or long-term programs. Those services shall include, but are not limited to, all of the following:

A. Remedial education where necessary.

B. Counseling, including sessions on conflict resolution.

C. Social skills development.

(v) Each tier of the local plan shall be curriculum-based to address the goal of academic improvement and shall include, to the extent possible, mandatory parental notification and involvement.

(vi) If a local board of education can satisfactorily demonstrate that alternative school programs meeting all of the criteria in this section have been implemented, the allocation to the local board of education for alternative school programs may be directed by the State Board of Education to programs under the School Safety Enhancement Program.

(vii) Each year any monies remaining after distribution by the State Board of Education to the local boards of education which meet the criteria pursuant to subparagraph 1. and qualify for a portion of the monies, shall be allocated to those local boards of education demonstrating innovative programs with measurable improvements in academic achievement, attendance, school behavior, and parental involvement.

2. The State Board of Education shall review the programs of each local board of education receiving monies from the fund and shall annually submit a report to the council by July 1. This report shall include all of the following:

(i) The number of children served in each tier of the program.

(ii) The improvement in academic achievement.

(iii) The improvement in behavior.

(iv) The improvement in parental involvement.

(v) Financial accounting for the state and local monies expended.

3. The State Board of Education shall develop additional criteria for continued state funding of programs initiated pursuant to this chapter.

4. Sufficient safeguards shall be implemented to ensure that the new monies will increase and not supplant or decrease existing state or local support.

b. 1. The School Safety Enhancement Program. The amount of monies available to each local board of education shall be determined by the State Board of Education based upon the second month enrollment of the preceding school year. To be eligible to initially receive a portion of the monies,

each local board of education shall submit a grant application pursuant to guidelines promulgated by the State Board of Education with provisions for annual renewal of the grants. Provisions for program evaluation in order to determine effectiveness and financial accountability shall be included in the guidelines. The guidelines shall include all of the following:

(i) A component to enhance parental participation in school activities and promote parental responsibility for the performance and behavior of their children.

(ii) A requirement for a local 25 percent match of funds for school safety activities, excluding pre-kindergarten programs for at-risk children listed in item (ii) of subparagraph 2.

(iii) Sufficient safeguards implemented to ensure that the new monies will increase and not supplant or decrease existing local support.

2. School Safety Enhancement Programs eligible for grants shall be designed to prevent or reduce violence in the schools and communities and reduce school disciplinary or safety problems. The programs shall relate to one or more of the following:

(i) Extended day programs with supervised activities including, but not limited to, remedial education; tutorial assistance; arts, music, or other cultural enhancement; and activities for gifted children. Each local board of education may charge a fee based upon income for participation in the programs.

(ii) Pre-kindergarten programs for "at-risk" children. These programs do not require the local 25 percent match of funds for school safety activities mandated by item (ii) of subparagraph 1.

(iii) Truancy prevention programs which may include additional school attendance personnel and a Saturday school component.

(iv) Programs to assist children in dealing with anger and emphasizing acceptable ways of dealing with violence including peer mediation, conflict resolution, and law related education.

(v) Safety plans involving the use of metal detectors, other security devices, uniforms, school safety resource officers, or other personnel employed to provide a safe school environment.

(vi) Drug, alcohol, tobacco, gang-related, or satanic worshipping-related education, prevention, detection, or enforcement programs.

(vii) At-risk identification and intervention programs designed to identify children who are at-risk and coordinate school and community services so that the mental, physical, and social capabilities of the child are enhanced.

3. The State Board of Education shall review the programs of each local board of education which receive monies from the fund and annually submit a report to the council by July 1. This report shall include all of the following:

(i) The number of children served.

(ii) The improvement in academic achievement.

(iii) The improvement in behavior.

(iv) The improvement in parental involvement.

(v) Financial accounting for the state and local monies expended.

4. The State Board of Education shall develop additional criteria for continued state funding of programs initiated pursuant to this chapter.

c. Any other children's services provided by the State Board of Education.

Disciplinary Approaches Addressing Specific Infractions and Conditions

Firearms (as required by the Guns-Free Schools Act)

STATUTES

16-1-24.1 Safe school and drug-free school policy; treatment of policy violators; promulgation and distribution of discipline policy; liability limited for discipline actions; local boards may adopt more stringent guidelines.

(a) The Legislature finds a compelling public interest in ensuring that schools are made safe and drug-free for all students and school employees. The Legislature finds the need for a comprehensive safe school and drug-free school policy to be adopted by the State Board of Education. This policy should establish minimum standards for classes of offenses and prescribe uniform minimum procedures and penalties for those who violate the policies. It is the intent of the Legislature that our schools remain safe and drug-free for all students and school employees. The State Board of Education shall adopt and all local boards of education shall uniformly enforce policies that protect all students and school employees. The State Board of Education shall require local school systems to modify their policies, practices or procedures so as to ensure a safe school environment free of illegal drugs, alcohol, or weapons. Any rules and regulations adopted by the State Board of Education pursuant to this section shall be exempt from Section 41-22-3(3). These modifications shall include the formulation of a discipline plan setting forth policies, practices, and procedures dealing with students or other persons who bring illegal drugs, alcohol, or weapons on a school campus. The discipline plan shall also include uniform drug-free school policies with uniform penalties.

(b) The principal shall notify appropriate law enforcement officials when any person violates local board of education policies concerning drugs, alcohol, weapons, physical harm to a person, or threatened physical harm to a person. If any criminal charge is warranted arising from the conduct, the principal is authorized to sign the appropriate warrant. If that person is a student enrolled in any public school in the State of Alabama, the local school system shall immediately suspend that person from attending regular classes and schedule a hearing at the earliest possible date, which shall not be later than five school days. The decision to suspend or initiate criminal charges against a student, or both, shall include a review and consideration of the student's exceptional status, if applicable, under Chapter 39, or appropriate federal statutory or case law.

(c) If a person is found to have violated a local board of education policy concerning drugs, alcohol, weapons, physical harm to a person, or threatened physical harm to a person, the person may not be readmitted to the public schools of this state until (1) criminal charges or offenses arising from the conduct, if any, have been disposed of by appropriate authorities and (2) the person has satisfied all other requirements imposed by the local board of education as a condition for readmission.

(d) Any person determined to be guilty of an offense involving drugs, alcohol, weapons, physical harm to a person, or threatened physical harm to a person, may be readmitted to the public schools of this state upon such conditions as the local board of education shall prescribe for preservation of the safety or security of students and employees of the local school board, which may include, but are not limited to, psychiatric or psychological evaluation and counseling.

(e) (1) A copy of the school system's discipline plan shall be distributed to all students enrolled in the system and their parents, guardians, or custodians shall read the plan and sign a statement verifying that they have been given notice of the discipline policies of their respective school system. The

school board shall have its official discipline plan reviewed on an annual basis to ensure that its policies and procedures are currently in compliance with applicable statutes, case law, and state and federal constitutional provisions.

(2) All discipline plans of school systems shall include, but not be limited to, all of the following:

a. A parent, guardian, custodian, or person, excluding a foster parent, responsible for the care or control of a minor child enrolled in a public school system shall be responsible financially for such child's destructive acts against school property or persons.

b. A parent, guardian, custodian, or person, excluding a foster parent, responsible for the care or control of a minor child enrolled in a public school system may be requested to appear at school by an appropriate school official for a conference regarding acts of the child specified in paragraph a.

c. A parent, guardian, custodian, or person, excluding a foster parent, responsible for the care or control of a minor child enrolled in a school system who has been summoned by proper notification by an appropriate school official shall be required under this provision to attend such discipline conference specified in paragraph b.

(3) Any public school system shall be entitled to recover actual damages, plus necessary court costs, from the parent or guardian, or both, of any minor who maliciously and willfully damages or destroys property belonging to the school system. However, this section shall not apply to parents whose parental control of any child has been removed by court order or decree or to parents of exceptional children with specific mental and physical impairments if the damage is determined to result from the impairments. The action authorized in this section shall be in addition to all other actions which the school system is entitled to maintain and nothing in this section shall preclude recovery in a greater amount from the minor or from a person, including the parents or guardian, or both, for damages to which such minor other person would otherwise be liable.

(4) This section shall apply only to acts committed on or after August 1, 1992.

(f) The local school board shall adopt and make available to all teachers, school personnel, students, and parents or guardians, at the beginning of the 1992-93 school year and each school year thereafter, a code of student conduct developed in consultation with teachers, school personnel, students, and parents or guardians. The code shall be based on the rules governing student conduct and discipline adopted by the school board and may be made available at the school level in the student handbook or similar publication. The code shall include, but not be limited to, all of the following:

(1) Specific grounds for disciplinary action.

(2) Procedures to be followed for acts requiring discipline.

(3) An explanation of the responsibilities and rights of students with regard to attendance, respect for persons and property, knowledge and observation of rules of conduct, the right to learn, free speech and student publications, assembly, privacy, and participation in school programs and activities.

(g) Except in the case of excessive force or cruel and unusual punishment, no certified or noncertified employee of the State Board of Education or any local board of education shall be civilly liable for any action carried out in conformity with state law and system or school rules regarding the control, discipline, suspension, and expulsion of students.

(h) Nothing in this section shall be construed to prevent a local board of education from promulgating more stringent rules and regulations than those adopted on the state level, in order to foster and maintain a safe and drug-free environment in the public schools.

16-1-24.3. Local boards of education to implement policies requiring expulsion of students who possess firearms in school areas.

(a) All city and county boards of education shall develop and implement local policies and procedures requiring the expulsion of students, for a period of one year, who are determined to have brought to school or have in their possession a firearm in a school building, on school grounds, on school buses, or at other school-sponsored functions. Notwithstanding the foregoing, city and county boards of education and the local superintendent of education of each board may modify the expulsion requirement for a student on a case-by-case basis. Students who are expelled for violation of this section shall not be allowed to attend regular school classes in any public school in the state during the expulsion period. Students who are expelled from schools for firearm possession may be permitted to attend alternative schools designed to provide education services. Discipline of students with disabilities who violate the firearm possession policies of city and county boards of education shall be determined on a case-by-case basis in accordance with the requirements of the Individuals with Disabilities Education Act (IDEA) and Section 504 of the Rehabilitation Act.

(b) For the purposes of this section, the term "firearm" has the same meaning as defined in Section 921 of Title 18 of the United States Code.

(c) When there are violations of the prohibition on firearms being brought to school or the possession of firearms by students, the school principal shall notify the appropriate law enforcement authority which may include city police, county sheriffs, and the local district attorney. In addition to notification of law enforcement officials, the school principal shall notify the parents of students who violate the firearm-free school environment provided for in this section.

Law enforcement authorities involved with students charged with firearm violations shall refer the violators of this section to the appropriate authority in the judicial system when the action is feasible.

(d) Local education agencies submitting applications for federal funds to the State Department of Education shall include in the application:

(1) An affidavit to affirm that the local education agency has developed and implemented a policy to provide for a gun-free environment in all its public schools.

(2) A description of the circumstances surrounding an expulsion imposed under this section including:

a. The name of the school concerned.

b. The number of students expelled.

c. The types of weapons concerned.

The State Department of Education shall report the information collected from the local education agencies to the Secretary of Education.

16-28-40. License applicant under 19 to provide documentation of school enrollment, etc.; duties of school attendance official; withdrawal from school; conviction for certain pistol offenses.

(e) (1) Any person over the age of 14 who is convicted of the crime of possession of a pistol on the premises of a public school, or a public school bus, or both, under Section 13A-11-72 shall be denied issuance of a driver's permit or license for the operation of a motor vehicle for 180 days from the date the person is eligible and applies for a permit or license for the operation of a motor vehicle. Any adjudication as a juvenile delinquent or youthful offender where the underlying charge is the possession of a pistol on the premises of a public school, or a public school bus, or both, under Section 13A-11-72 shall be considered a conviction under this subsection, and the adjudication of a person as a juvenile delinquent or youthful offender where the underlying charge is a violation under Section 13A-11-72 shall be reported to the Department of Public Safety.

(2) If a person over the age of 14 years possesses a driver's license on the date of conviction, the Department of Public Safety, within five days of receipt of a notice of conviction from the court, shall send notice to the licensee that his or her driver's license will be suspended. The notice shall state that the license will be suspended for 180 days commencing on the 30th day following the date the notice was sent unless documentation is received by the department before the 30th day that the person was not convicted of the crime. Upon the appropriate date, the department shall suspend the license.

(3) Upon the written request of the person whose license is denied or suspended, the Department of Public Safety shall afford the person an opportunity for a hearing in the same manner and under the procedure used for other driver's license suspensions. If the suspension or denial of issuance determination is sustained by the Director of the Department of Public Safety or the authorized agent of the director, upon such hearing, the person may file a petition in the appropriate court to review the final order of suspension or denial by the director or the authorized agent of the director in the same manner and under the same conditions as is provided in the case of suspensions and denials.

(4) If the conviction is reversed within the 180-day period, the department, upon receipt of notice of the reversal from the Administrative Office of Courts, shall reinstate a suspended license and shall accept an application for a license and shall issue the license according to law and regulation.

(5) The court shall notify the Department of Public Safety of the conviction of a person over the age of 14 of a crime involving the possession of a pistol on the premises of a public school, or a public school bus, or both, under Section 13A-11-72 and any reversal of the conviction. The Administrative Office of Courts may promulgate necessary rules and regulations to implement this notification procedure.

ADMINISTRATIVE CODE

290-3-1-.02. Regulations Governing Public Schools.

(1) Safe School Equipment and Facilities, Laboratories, and Policies.

(a) Safety precautions must be implemented and adequate facilities must be provided for implementations of programs prescribed by SDE Bulletin(s). (b) Effective with the 1995-96 school year and thereafter, local boards of education must:

1. Adopt a uniform policy allowing law enforcement agencies to make periodic visits to local public schools to detect the presence of illegal drugs, unannounced to anyone except the local superintendent and building principal.

2. Adopt a uniform policy prohibiting the use of tobacco products on school property and prescribing specific penalties for violating this policy.

3. Adopt and enforce a uniform policy prohibiting all persons, other than authorized law enforcement personnel, from bringing or possessing any deadly weapon or dangerous instrument on school property and prescribing specific penalties for students and school personnel who violate this policy, notwithstanding any criminal penalties which may also be imposed.

(c) Local school systems which operate alternative educational programs shall provide a curriculum that stresses skills in recognizing and managing anger, alternatives to aggression (verbal and physical assault), strategies for developing self-control and personal responsibility, skills for getting along with others, success through academic achievement, and skills for success in the workplace.

(d) All policies and actions implemented under these mandatory regulations affecting students with disabilities must comply with federal and state special education laws, regulations, and court rulings.

(e) Unsafe School Choice Option

1. Definitions: A transfer option school (TOS) in the state of Alabama is one in which for three (3) consecutive school years the school has expelled one percent (1%) of the student population or five (5) students (whichever is greater) for violent criminal offenses committed on school property during school hours or committed at school-sponsored activities. The words “transfer option school,” “TOS,” or “TOS school” shall mean a “persistently dangerous school” as those words are used in the No Child Left Behind Act of 2001, Public Law 107-110, Title IX, §9532(a) and (b). For the purpose of this definition, a “violent criminal offense” shall mean homicide; robbery; assault in the first and/or second degree; sexual battery (including rape) as these offenses are defined in the Criminal Code of Alabama (see §13A-6-1, et. seq., Code of Ala. 1975); and use of a handgun, firearm component, explosive, knife, and other "unknown weapons" as defined by the Student Incident Report (SIR).

2. A student who becomes a victim of a violent criminal offense committed on school property during school hours or at school-sponsored activities shall be given an opportunity to transfer to a safe public school within the LEA. The LEA shall notify the student’s parent/guardian of the right to transfer as soon as practicable, not to exceed ten (10) calendar days from the date of a final determination by the school board or its designee that a violent criminal offense has occurred. All LEA transfer procedures will be observed. It shall be the policy of the Alabama State Department of Education (SDE) to notify the LEA annually when one or more of its schools have been identified as a transfer option school. Each Superintendent or his or her designee shall orally notify the Prevention and Support Services Section of the State Department of Education within twenty-four (24) hours of the decision that a violent criminal offense has occurred, followed by written confirmation. The State Department of Education will assist the LEA in resolving all safety issues. At a minimum, an LEA that has one or more schools identified as persistently dangerous must:

(i) Step 1. Notify parents/guardians of each student attending the school within ten (10) working days that it has been identified as a transfer option school and offer students the opportunity to transfer to a safe public school within the LEA if another school is available.

(ii) Step 2. Complete the transfer for those students who opt to do so within 20 working days.

(iii) Step 3. Develop a corrective action plan to be submitted to the SDE for approval within 20 working days of the LEA’s receipt of status.

(iv) Step 4. Implement the corrective action plan. Once a school has been identified as a transfer option school, it can return to safe status by (1) completing Steps One through Four above and (2) completing two consecutive years with less than one percent (1%) of the student population or five (5) students (whichever is greater) expelled for violent criminal offenses as defined in its policy.

Other weapons

STATUTES

16-1-24.1 Safe school and drug-free school policy; treatment of policy violators; promulgation and distribution of discipline policy; liability limited for discipline actions; local boards may adopt more stringent guidelines.

(a) The Legislature finds a compelling public interest in ensuring that schools are made safe and drug-free for all students and school employees. The Legislature finds the need for a comprehensive safe school and drug-free school policy to be adopted by the State Board of Education. This policy should establish minimum standards for classes of offenses and prescribe uniform minimum procedures and penalties for those who violate the policies. It is the intent of the Legislature that our schools remain safe and drug-free for all students and school employees. The State Board of Education shall adopt and all local boards of education shall uniformly enforce policies that protect all students and school employees. The State Board of Education shall require local school systems to modify their policies, practices or

procedures so as to ensure a safe school environment free of illegal drugs, alcohol, or weapons. Any rules and regulations adopted by the State Board of Education pursuant to this section shall be exempt from Section 41-22-3(3). These modifications shall include the formulation of a discipline plan setting forth policies, practices, and procedures dealing with students or other persons who bring illegal drugs, alcohol, or weapons on a school campus. The discipline plan shall also include uniform drug-free school policies with uniform penalties.

(b) The principal shall notify appropriate law enforcement officials when any person violates local board of education policies concerning drugs, alcohol, weapons, physical harm to a person, or threatened physical harm to a person. If any criminal charge is warranted arising from the conduct, the principal is authorized to sign the appropriate warrant. If that person is a student enrolled in any public school in the State of Alabama, the local school system shall immediately suspend that person from attending regular classes and schedule a hearing at the earliest possible date, which shall not be later than five school days. The decision to suspend or initiate criminal charges against a student, or both, shall include a review and consideration of the student's exceptional status, if applicable, under Chapter 39, or appropriate federal statutory or case law.

(c) If a person is found to have violated a local board of education policy concerning drugs, alcohol, weapons, physical harm to a person, or threatened physical harm to a person, the person may not be readmitted to the public schools of this state until (1) criminal charges or offenses arising from the conduct, if any, have been disposed of by appropriate authorities and (2) the person has satisfied all other requirements imposed by the local board of education as a condition for readmission.

(d) Any person determined to be guilty of an offense involving drugs, alcohol, weapons, physical harm to a person, or threatened physical harm to a person, may be readmitted to the public schools of this state upon such conditions as the local board of education shall prescribe for preservation of the safety or security of students and employees of the local school board, which may include, but are not limited to, psychiatric or psychological evaluation and counseling.

(e) (1) A copy of the school system's discipline plan shall be distributed to all students enrolled in the system and their parents, guardians, or custodians shall read the plan and sign a statement verifying that they have been given notice of the discipline policies of their respective school system. The school board shall have its official discipline plan reviewed on an annual basis to ensure that its policies and procedures are currently in compliance with applicable statutes, case law, and state and federal constitutional provisions.

(2) All discipline plans of school systems shall include, but not be limited to, all of the following:

a. A parent, guardian, custodian, or person, excluding a foster parent, responsible for the care or control of a minor child enrolled in a public school system shall be responsible financially for such child's destructive acts against school property or persons.

b. A parent, guardian, custodian, or person, excluding a foster parent, responsible for the care or control of a minor child enrolled in a public school system may be requested to appear at school by an appropriate school official for a conference regarding acts of the child specified in paragraph a.

c. A parent, guardian, custodian, or person, excluding a foster parent, responsible for the care or control of a minor child enrolled in a school system who has been summoned by proper notification by an appropriate school official shall be required under this provision to attend such discipline conference specified in paragraph b.

(3) Any public school system shall be entitled to recover actual damages, plus necessary court costs, from the parent or guardian, or both, of any minor who maliciously and willfully damages or destroys property belonging to the school system. However, this section shall not apply to parents whose parental control of any child has been removed by court order or decree or to parents of exceptional children with specific mental and physical impairments if the damage is determined to result from the

impairments. The action authorized in this section shall be in addition to all other actions which the school system is entitled to maintain and nothing in this section shall preclude recovery in a greater amount from the minor or from a person, including the parents or guardian, or both, for damages to which such minor other person would otherwise be liable.

(4) This section shall apply only to acts committed on or after August 1, 1992.

(f) The local school board shall adopt and make available to all teachers, school personnel, students, and parents or guardians, at the beginning of the 1992-93 school year and each school year thereafter, a code of student conduct developed in consultation with teachers, school personnel, students, and parents or guardians. The code shall be based on the rules governing student conduct and discipline adopted by the school board and may be made available at the school level in the student handbook or similar publication. The code shall include, but not be limited to, all of the following:

(1) Specific grounds for disciplinary action.

(2) Procedures to be followed for acts requiring discipline.

(3) An explanation of the responsibilities and rights of students with regard to attendance, respect for persons and property, knowledge and observation of rules of conduct, the right to learn, free speech and student publications, assembly, privacy, and participation in school programs and activities.

(g) Except in the case of excessive force or cruel and unusual punishment, no certified or noncertified employee of the State Board of Education or any local board of education shall be civilly liable for any action carried out in conformity with state law and system or school rules regarding the control, discipline, suspension, and expulsion of students.

(h) Nothing in this section shall be construed to prevent a local board of education from promulgating more stringent rules and regulations than those adopted on the state level, in order to foster and maintain a safe and drug-free environment in the public schools.

ADMINISTRATIVE CODE

290-3-1-.02. Regulations Governing Public Schools.

(1) Safe School Equipment and Facilities, Laboratories, and Policies.

(a) Safety precautions must be implemented and adequate facilities must be provided for implementations of programs prescribed by SDE Bulletin(s). (b) Effective with the 1995-96 school year and thereafter, local boards of education must:

1. Adopt a uniform policy allowing law enforcement agencies to make periodic visits to local public schools to detect the presence of illegal drugs, unannounced to anyone except the local superintendent and building principal.

2. Adopt a uniform policy prohibiting the use of tobacco products on school property and prescribing specific penalties for violating this policy.

3. Adopt and enforce a uniform policy prohibiting all persons, other than authorized law enforcement personnel, from bringing or possessing any deadly weapon or dangerous instrument on school property and prescribing specific penalties for students and school personnel who violate this policy, notwithstanding any criminal penalties which may also be imposed.

(c) Local school systems which operate alternative educational programs shall provide a curriculum that stresses skills in recognizing and managing anger, alternatives to aggression (verbal and physical assault), strategies for developing self-control and personal responsibility, skills for getting along with others, success through academic achievement, and skills for success in the workplace.

(d) All policies and actions implemented under these mandatory regulations affecting students with disabilities must comply with federal and state special education laws, regulations, and court rulings.

(e) Unsafe School Choice Option

1. Definitions: A transfer option school (TOS) in the state of Alabama is one in which for three (3) consecutive school years the school has expelled one percent (1%) of the student population or five (5) students (whichever is greater) for violent criminal offenses committed on school property during school hours or committed at school-sponsored activities. The words “transfer option school,” “TOS,” or “TOS school” shall mean a “persistently dangerous school” as those words are used in the No Child Left Behind Act of 2001, Public Law 107-110, Title IX, §9532(a) and (b). For the purpose of this definition, a “violent criminal offense” shall mean homicide; robbery; assault in the first and/or second degree; sexual battery (including rape) as these offenses are defined in the Criminal Code of Alabama (see §13A-6-1, et. seq., Code of Ala. 1975); and use of a handgun, firearm component, explosive, knife, and other "unknown weapons" as defined by the Student Incident Report (SIR).

2. A student who becomes a victim of a violent criminal offense committed on school property during school hours or at school-sponsored activities shall be given an opportunity to transfer to a safe public school within the LEA. The LEA shall notify the student’s parent/guardian of the right to transfer as soon as practicable, not to exceed ten (10) calendar days from the date of a final determination by the school board or its designee that a violent criminal offense has occurred. All LEA transfer procedures will be observed. It shall be the policy of the Alabama State Department of Education (SDE) to notify the LEA annually when one or more of its schools have been identified as a transfer option school. Each Superintendent or his or her designee shall orally notify the Prevention and Support Services Section of the State Department of Education within twenty-four (24) hours of the decision that a violent criminal offense has occurred, followed by written confirmation. The State Department of Education will assist the LEA in resolving all safety issues. At a minimum, an LEA that has one or more schools identified as persistently dangerous must:

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(iii) Step 3. Develop a corrective action plan to be submitted to the SDE for approval within 20 working days of the LEA’s receipt of status.

(iv) Step 4. Implement the corrective action plan. Once a school has been identified as a transfer option school, it can return to safe status by (1) completing Steps One through Four above and (2) completing two consecutive years with less than one percent (1%) of the student population or five (5) students (whichever is greater) expelled for violent criminal offenses as defined in its policy.

Students with chronic disciplinary issues

STATUTES

16-28-14 Habitual truant.

In case any child becomes an habitual truant, or because of irregular attendance or misconduct has become a menace to the best interest of the school which he is attending or should attend, and the parent, guardian or other person files a written statement in court as provided in Section 16-28-13, stating that he is unable to control such child, the attendance officer must file a complaint before the judge of the juvenile court of the county, alleging the facts, whereupon such child must be proceeded against in the juvenile court for the purpose of ascertaining whether such child is a dependent, neglected or delinquent child.

Attendance and truancy

STATUTES

16-6B-3. Assistance programs.

(a) Student strategy. The superintendent of the local board of education along with the staff of each school shall develop an assistance program at each school for at-risk students performing below the standards set by the State Board of Education. The standards shall include the results of the required assessment program adopted by the State Board of Education with emphasis on students who are found to be at one or more grade levels below the prescribed norm. The local board of education shall budget at least one hundred dollars ($100) per student so identified to be expended on tutorial assistance programs including, but not limited to, after-school, Saturday school, or summer school, or any combination of these programs. These funds may be budgeted from state or federal funds. However, federal funds already budgeted for at-risk students may not be counted toward the minimum one hundred dollars ($100) requirement set aside to be expended for at-risk students as defined in this chapter. In addition, these funds may be expended for any of the following purposes:

(1) Programs to encourage at-risk five-year olds to attend an approved preschool program.

(2) Programs to identify at-risk students in the first grade.

(3) Programs to ensure strict enforcement of truancy laws.

(4) Programs to create alternative or disciplinary schools in which children who consistently exhibit behaviors or patterns of behaviors that interfere with the learning environment of other students would be placed and would be provided counseling and instruction in basic skills.

(5) Programs to encourage parental involvement of parents of at-risk children.

(6) Programs to encourage literacy of parents of at-risk children.

(b) School strategy. The State Board of Education shall develop an assistance program for a school in need of assistance. A school in need of assistance shall mean any school which has a majority of its students scoring one or more grade levels below the prescribed norm on the state adopted student assessments. Local superintendents and local boards of education will be expected to make the effort and commit the resources necessary to improve the instructional program for a school in need of assistance and shall be required to budget all funds earned by that school in the cost calculations of the Foundation Program. Local superintendents and local boards of education are encouraged to use assistance from the State Department of Education, colleges of education, accrediting agencies and other sources.

The State Board of Education's plan for an assistance program shall consist of the following components:

(1) The faculty and staff of each school in need of assistance shall engage in a self-study to examine the problem of low achievement within that school and shall develop steps which may be taken to improve student achievement. Parents of students in the schools shall be consulted as part of this self-study.

(2) If, after two years, student achievement has not improved, the State Superintendent of Education shall designate a team of practicing professionals to visit the school, conduct a study, consult with parents of students in the school, analyze causes of poor student achievement, and make specific recommendations which shall become a part of a school improvement plan for the succeeding year.

(3) As a final step, when insufficient or no improvement as determined by the State Board of Education is evident from the implementation of steps one and two above, the State Superintendent of Education is required to intervene and to appoint a person or persons to run the day-to-day operation of the school. In considering intervention, the State Board of Education shall consider factors which may have

affected the prescribed norm test score. Factors shall include drop-out rates, attendance rates, special education enrollment, and any other data necessary to properly interpret student achievement in each school.

(c) School system strategy. The State Board of Education shall develop an assistance program for a local board of education identified as being in need of assistance. A local board of education in need of assistance shall mean any local board of education which has a majority of its schools, or a majority of the students in a system, in which the students are scoring one or more grade levels below the prescribed norm.

The State Board of Education shall require a local board of education in need of assistance to do the following:

(1) The local board of education and the local superintendent with input from other administrators, teachers, staff, parents of students in the school, and the local community shall engage in a self-study to examine the problem of low achievement within the system and to develop steps which may be taken to improve student achievement.

(2) If, after two years, student achievement has not improved, the state superintendent shall develop a system-wide school improvement plan in consultation with teachers, parents of students in the school, and the local community. This school improvement plan shall become a part of the local board of education's program and financial operations for the succeeding year.

(3) If, after the implementation of the school improvement plan, student achievement has not sufficiently improved, relative to the previous year's performance, the State Board of Education shall require the State Superintendent of Education to intervene and assume the direct management and day-to-day operation of the local board of education for such period of time as may be necessary for student achievement to improve. In considering intervention, the State Board of Education shall consider factors which may have affected the prescribed norm test score. Factors shall include drop-out rates, attendance rates, special education enrollment, and any other data necessary to properly interpret student achievement in each system.

(d) It is the intent of the Legislature that intervention is not to occur when a school or school system scores below the prescribed average. Intervention by the State Board of Education is to occur only after the three-year period provided in this chapter during which a school or school system fails to show improvement. So long as improvement is being shown, the State Board of Education shall not intervene but shall continue to encourage the school to improve.

16-1-24.1. Safe school and drug-free school policy; treatment of policy violators; promulgation and distribution of discipline policy; liability limited for discipline actions; local boards may adopt more stringent guidelines.

(f) The local school board shall adopt and make available to all teachers, school personnel, students, and parents or guardians, at the beginning of the 1992-93 school year and each school year thereafter, a code of student conduct developed in consultation with teachers, school personnel, students, and parents or guardians. The code shall be based on the rules governing student conduct and discipline adopted by the school board and may be made available at the school level in the student handbook or similar publication. The code shall include, but not be limited to, all of the following:

(3) An explanation of the responsibilities and rights of students with regard to attendance, respect for persons and property, knowledge and observation of rules of conduct, the right to learn, free speech and student publications, assembly, privacy, and participation in school programs and activities.

16-28-2.1 Adoption of standards for mandatory attendance policy; parents held accountable; enforcement.

The Legislature finds that mandatory attendance policies for schools differ from school system to school system throughout the State of Alabama. The State Board of Education shall adopt standards for a mandatory and enforceable attendance policy for all students in public schools in the State of Alabama. Parents shall be held accountable in accordance with Sections 16-28-12 and 16-28-7, for the failure of the child who is of compulsory attendance age to attend either public, private or church-school. Enforcement of this section shall lie with the local board of education and the juvenile court system.

16-28-3.1 Guidelines and procedures for withdrawal from school; dropout prevention program.

(b) The State Department of Education shall work with local public school systems that have the lowest four-year graduation rates. The department shall incorporate specific dropout prevention strategies, target resources, and gather data that will improve graduation rates and educational outcomes in all grades in all public schools. The department shall develop specific methods of targeted intervention or identify appropriate existing methods for local public school systems that have a four-year graduation rate less than the percentage as determined by the State Board of Education. These interventions may include the following:

(1) Early intervention for students who fail Algebra I, or any ninth grade reading or math class, and have insufficient credits to be promoted.

(2) Alternative education programs designed to reengage dropouts including, but not limited to, dual enrollment courses at the community college level.

(3) Increased availability of advanced placement courses.

(4) Offering full course fee waivers for students who are eligible for free or reduced lunches, when enrolled in dual credit courses.

(5) Flexible programs for older students who are currently not enrolled.

(6) Comprehensive coaching for middle school and high school students who are below grade level in reading and math or who are at risk due to poor attendance, behavior, or safety issues including, but not limited to, harassment and bullying.

(7) Teacher advisories and other supports that are designed to specifically address the needs of those students who are most at risk of dropping out of school by providing opportunities to build positive connections with peers and teachers and providing assistance with course selection, school performance, and completion of graduation requirements. Students who are most at risk of dropping out of school include, but are not limited to, those students who move often, have poor attendance, or have multiple suspensions or discipline issues.

(8) Strategies that are specifically designed to improve high school graduation rates for those teenagers who are at the highest risk of dropping out, including, but not limited to, students in the foster care system, pregnant students, student parents, English as second language students, and students with special educational needs.

(c) The department, in addition to other information and data, shall compile all of the following data to ensure that the dropout prevention program, and local versions of the program, are based upon evidence-based research, are data-driven, and show continuous improvement in:

(1) The total number of high school suspensions related to truancy.

(2) The total number of students enrolled in alternative education programs.

(3) The total number of students who have been reenrolled in programs with flexible schedules or community college programs.

(4) The total number of students who have failed Algebra I or ninth grade reading or math.

(5) The total number of students who are repeating the ninth grade.

(6) The total number of students receiving remedial assistance in the ninth grade.

(d) The department shall prepare and submit to the Legislature a written report that documents all of the following:

(1) The outcomes of the dropout prevention strategies to date, at the local school system level.

(2) Any planned modification of school system dropout prevention strategies and activities, based on the data compiled.

16-28-12. Person in loco parentis responsible for child's school attendance and behavior; noncompliance; local boards to promulgate written behavior policy, contents, annual distribution, receipt to be documented; school officials required to report noncompliance; failure to report suspected violation; district attorneys vigorously to enforce provisions.

(a) Each parent, guardian, or other person having control or custody of any child required to attend school or receive regular instruction by a private tutor who fails to have the child enrolled in school or who fails to send the child to school, or have him or her instructed by a private tutor during the time the child is required to attend a public school, private school, church school, denominational school, or parochial school, or be instructed by a private tutor, or fails to require the child to regularly attend the school or tutor, or fails to compel the child to properly conduct himself or herself as a pupil in any public school in accordance with the written policy on school behavior adopted by the local board of education pursuant to this section and documented by the appropriate school official which conduct may result in the suspension of the pupil, shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than one hundred dollars ($100) and may also be sentenced to hard labor for the county for not more than 90 days. The absence of a child without the consent of the principal teacher of the public school he or she attends or should attend, or of the tutor who instructs or should instruct the child, shall be prima facie evidence of the violation of this section.

(c) Any parent, guardian, or other person having control or custody of any child enrolled in public school who fails to require the child to regularly attend the school or tutor, or fails to compel the child to properly conduct himself or herself as a pupil in accordance with the written policy on school behavior adopted by the local board of education and documented by the appropriate school official which conduct may result in the suspension of the pupil, shall be reported by the principal to the superintendent of education of the school system in which the suspected violation occurred. The superintendent of education or his or her designee shall report suspected violations to the district attorney within 10 days. Any principal or superintendent of education or his or her designee intentionally failing to report a suspected violation shall be guilty of a Class C misdemeanor. The district attorney shall vigorously enforce this section to ensure proper conduct and required attendance by any child enrolled in public school.

16-28-15 Absence must be explained.

Every parent, guardian, or other person having control or charge of any child required to attend public school, private school, or church school, shall as soon as practical explain the cause of any absence of the child under his control or charge which was without permission of the teacher, and a failure to furnish such explanation shall be admissible as evidence of such child being a truant with the consent and connivance of the person in control or charge of said child, unless such person can show to the reasonable satisfaction of the court that he had no knowledge of such absence and that he has been diligent in his efforts to secure the attendance of such child.

16-28-16 Cases of nonenrollment and nonattendance; withdrawal of enrollment.

(a) It shall be the duty of the county superintendent of education or the city superintendent of education, as the case may be, to require the attendance officer to investigate all cases of nonenrollment and of nonattendance. In all cases investigated where no valid reason for nonenrollment or nonattendance is found, the attendance officer shall give written notice to the parent, guardian, or other person having control of the child. In the event of the absence of the parent, guardian, or other person having control of the child from his or her usual place of residence, the attendance officer shall leave a copy of the notice with some person over 12 years of age residing at the usual place of residence, with instructions to hand the notice to the parent, guardian, or other person having control of the child, which notice shall require the attendance of the child at the school within three days from the date of the notice. In the event the investigation discloses that the nonenrollment or nonattendance was without valid excuse or good reason and intentional, the attendance officer shall be required to bring criminal prosecution against the parent, guardian, or other person having control of the child.

(b) Each child who is enrolled in a public school shall be subject to the attendance and truancy provisions of this article except that any parent or parents, guardian or guardians who voluntarily enrolls their child in public school, who feel that it is in the best interest of that child shall have the right to withdraw the child at any time prior to the current minimum compulsory attendance age.

16-28-17 When child may be taken into custody.

It shall be the duty of the attendance officer, probation officer or other officer authorized to execute writs of arrest to take into custody without warrant any child required to attend school or be instructed by a private tutor who is found away from home and not in the custody of the person having charge or control of such child during school hours and who has been reported by any person authorized to begin proceedings or prosecutions under the provisions of this article as a truant. Such child shall forthwith be delivered to the person having charge or control of said child or to the principal teacher of the school or the private tutor from whom said child is a truant. If such child is an habitual truant, he shall be brought before the juvenile court for such disposition as the judge of said court finds proper from the facts.

16-28-40 License applicant under 19 to provide documentation of school enrollment, etc.; duties of school attendance official; withdrawal from school; conviction for certain pistol offenses.

(a) The Department of Public Safety shall deny a driver's license or a learner's license for the operation of a motor vehicle to any person under the age of 19 who does not, at the time of application, present a diploma or other certificate of graduation issued to the person from a secondary high school of this state or any other state, or documentation that the person: (1) is enrolled and making satisfactory progress in a course leading to a general educational development certificate (GED) from a state approved institution or organization, or has obtained the certificate; (2) is enrolled in a secondary school of this state or any other state and has not at the time of application accumulated disciplinary points while a student in school that would extend the age of eligibility for the student to apply for a driver's license; (3) is participating in a job training program approved by the State Superintendent of Education; (4) is gainfully and substantially employed; (5) is a parent with the care and custody of a minor or unborn child; (6) has a physician certify that the parents of the person depend on him or her as their sole source of transportation; or (7) is exempted from this requirement due to circumstances beyond his or her control as provided in this chapter.

(b) The attendance officer or chief attendance administrator, upon request, shall provide documentation of enrollment status and disciplinary points on a form approved by the Department of Education to any student 15 years of age or older who is properly enrolled in a school under the jurisdiction of the official, for presentation to the Department of Public Safety, on application for, or renewal or reinstatement of, a driver's license or a learner's license to operate a motor vehicle. Whenever a student 16 years of age or

older withdraws from school, the attendance officer or chief attendance administrator shall notify the Department of Public Safety of the withdrawal. Withdrawal shall be defined as more than 10 consecutive or 15 days total unexcused absences during a single semester.

(c) Within five days of receipt of a notice of withdrawal, the Department of Public Safety shall send notice to the licensee that his or her driver's license or learner's license will be suspended under this article on the 30th day following the date the notice was sent unless documentation of compliance with this article is received by the department before the 30th day.

(d) Whenever the withdrawal from school of the student, or the failure of the student to enroll in a course leading to or to obtain a GED or high school diploma, is beyond the control of the student, or is for the purpose of transfer to another school as confirmed in writing by the parent or guardian of the student, or is for the purpose of participating in a job training program approved by the State Superintendent of Education, no notice shall be sent by the proper school official to the Department of Public Safety to suspend the license of the student. If the student is applying for or renewing a driver's license or a learner's license, the attendance officer or chief attendance administrator, upon request, shall provide the student with documentation to present to the Department of Public Safety to exempt the student from this section. The local superintendent of education with the assistance of the county or city school attendance director as the case may be, and any other staff or school personnel, or the appropriate school official of any private secondary school, shall be the sole judge of whether the withdrawal is due to circumstances beyond the control of the person. Suspension or expulsion from school or imprisonment in a jail or penitentiary is not a circumstance beyond the control of a person.

(e) (1) Any person over the age of 14 who is convicted of the crime of possession of a pistol on the premises of a public school, or a public school bus, or both, under Section 13A-11-72 shall be denied issuance of a driver's permit or license for the operation of a motor vehicle for 180 days from the date the person is eligible and applies for a permit or license for the operation of a motor vehicle. Any adjudication as a juvenile delinquent or youthful offender where the underlying charge is the possession of a pistol on the premises of a public school, or a public school bus, or both, under Section 13A-11-72 shall be considered a conviction under this subsection, and the adjudication of a person as a juvenile delinquent or youthful offender where the underlying charge is a violation under Section 13A-11-72 shall be reported to the Department of Public Safety.

(2) If a person over the age of 14 years possesses a driver's license on the date of conviction, the Department of Public Safety, within five days of receipt of a notice of conviction from the court, shall send notice to the licensee that his or her driver's license will be suspended. The notice shall state that the license will be suspended for 180 days commencing on the 30th day following the date the notice was sent unless documentation is received by the department before the 30th day that the person was not convicted of the crime. Upon the appropriate date, the department shall suspend the license.

(3) Upon the written request of the person whose license is denied or suspended, the Department of Public Safety shall afford the person an opportunity for a hearing in the same manner and under the procedure used for other driver's license suspensions. If the suspension or denial of issuance determination is sustained by the Director of the Department of Public Safety or the authorized agent of the director, upon such hearing, the person may file a petition in the appropriate court to review the final order of suspension or denial by the director or the authorized agent of the director in the same manner and under the same conditions as is provided in the case of suspensions and denials.

(4) If the conviction is reversed within the 180-day period, the department, upon receipt of notice of the reversal from the Administrative Office of Courts, shall reinstate a suspended license and shall accept an application for a license and shall issue the license according to law and regulation.

(5) The court shall notify the Department of Public Safety of the conviction of a person over the age of 14 of a crime involving the possession of a pistol on the premises of a public school, or a public school

bus, or both, under Section 13A-11-72 and any reversal of the conviction. The Administrative Office of Courts may promulgate necessary rules and regulations to implement this notification procedure.

Substance use

STATUTES

16-1-10. Selling, etc., alcoholic beverages to school children; keeping on school premises.

Any person, firm, corporation or association that knowingly sells, gives or dispenses any alcoholic beverage to any school student under the age of 18 years, or keeps or has in possession any alcoholic beverage in or on the campus or premises of any school building of any public secondary or grade school is guilty of a felony and, upon conviction thereof, shall be imprisoned in the state penitentiary for a period of from one to three years.

16-1-24.1. Safe school and drug-free school policy; treatment of policy violators; promulgation and distribution of discipline policy; liability limited for discipline actions; local boards may adopt more stringent guidelines.

(a) The Legislature finds a compelling public interest in ensuring that schools are made safe and drug-free for all students and school employees. The Legislature finds the need for a comprehensive safe school and drug-free school policy to be adopted by the State Board of Education. This policy should establish minimum standards for classes of offenses and prescribe uniform minimum procedures and penalties for those who violate the policies. It is the intent of the Legislature that our schools remain safe and drug-free for all students and school employees. The State Board of Education shall adopt and all local boards of education shall uniformly enforce policies that protect all students and school employees. The State Board of Education shall require local school systems to modify their policies, practices or procedures so as to ensure a safe school environment free of illegal drugs, alcohol, or weapons. Any rules and regulations adopted by the State Board of Education pursuant to this section shall be exempt from Section 41-22-3(3). These modifications shall include the formulation of a discipline plan setting forth policies, practices, and procedures dealing with students or other persons who bring illegal drugs, alcohol, or weapons on a school campus. The discipline plan shall also include uniform drug-free school policies with uniform penalties.

(b) The principal shall notify appropriate law enforcement officials when any person violates local board of education policies concerning drugs, alcohol, weapons, physical harm to a person, or threatened physical harm to a person. If any criminal charge is warranted arising from the conduct, the principal is authorized to sign the appropriate warrant. If that person is a student enrolled in any public school in the State of Alabama, the local school system shall immediately suspend that person from attending regular classes and schedule a hearing at the earliest possible date, which shall not be later than five school days. The decision to suspend or initiate criminal charges against a student, or both, shall include a review and consideration of the student's exceptional status, if applicable, under Chapter 39, or appropriate federal statutory or case law.

(c) If a person is found to have violated a local board of education policy concerning drugs, alcohol, weapons, physical harm to a person, or threatened physical harm to a person, the person may not be readmitted to the public schools of this state until (1) criminal charges or offenses arising from the conduct, if any, have been disposed of by appropriate authorities and (2) the person has satisfied all other requirements imposed by the local board of education as a condition for readmission.

(d) Any person determined to be guilty of an offense involving drugs, alcohol, weapons, physical harm to a person, or threatened physical harm to a person, may be readmitted to the public schools of this state upon such conditions as the local board of education shall prescribe for preservation of the safety or

security of students and employees of the local school board, which may include, but are not limited to, psychiatric or psychological evaluation and counseling.

(e) (1) A copy of the school system's discipline plan shall be distributed to all students enrolled in the system and their parents, guardians, or custodians shall read the plan and sign a statement verifying that they have been given notice of the discipline policies of their respective school system. The school board shall have its official discipline plan reviewed on an annual basis to ensure that its policies and procedures are currently in compliance with applicable statutes, case law, and state and federal constitutional provisions.

(2) All discipline plans of school systems shall include, but not be limited to, all of the following:

a. A parent, guardian, custodian, or person, excluding a foster parent, responsible for the care or control of a minor child enrolled in a public school system shall be responsible financially for such child's destructive acts against school property or persons.

b. A parent, guardian, custodian, or person, excluding a foster parent, responsible for the care or control of a minor child enrolled in a public school system may be requested to appear at school by an appropriate school official for a conference regarding acts of the child specified in paragraph a.

c. A parent, guardian, custodian, or person, excluding a foster parent, responsible for the care or control of a minor child enrolled in a school system who has been summoned by proper notification by an appropriate school official shall be required under this provision to attend such discipline conference specified in paragraph b.

(3) Any public school system shall be entitled to recover actual damages, plus necessary court costs, from the parent or guardian, or both, of any minor who maliciously and willfully damages or destroys property belonging to the school system. However, this section shall not apply to parents whose parental control of any child has been removed by court order or decree or to parents of exceptional children with specific mental and physical impairments if the damage is determined to result from the impairments. The action authorized in this section shall be in addition to all other actions which the school system is entitled to maintain and nothing in this section shall preclude recovery in a greater amount from the minor or from a person, including the parents or guardian, or both, for damages to which such minor other person would otherwise be liable.

(4) This section shall apply only to acts committed on or after August 1, 1992.

(f) The local school board shall adopt and make available to all teachers, school personnel, students, and parents or guardians, at the beginning of the 1992-93 school year and each school year thereafter, a code of student conduct developed in consultation with teachers, school personnel, students, and parents or guardians. The code shall be based on the rules governing student conduct and discipline adopted by the school board and may be made available at the school level in the student handbook or similar publication. The code shall include, but not be limited to, all of the following:

(1) Specific grounds for disciplinary action.

(2) Procedures to be followed for acts requiring discipline.

(3) An explanation of the responsibilities and rights of students with regard to attendance, respect for persons and property, knowledge and observation of rules of conduct, the right to learn, free speech and student publications, assembly, privacy, and participation in school programs and activities.

(g) Except in the case of excessive force or cruel and unusual punishment, no certified or noncertified employee of the State Board of Education or any local board of education shall be civilly liable for any action carried out in conformity with state law and system or school rules regarding the control, discipline, suspension, and expulsion of students.

(h) Nothing in this section shall be construed to prevent a local board of education from promulgating more stringent rules and regulations than those adopted on the state level, in order to foster and maintain a safe and drug-free environment in the public schools.

16-28A-4. Immunity for teachers or administrators who report suspected drug abuse.

A teacher or administrator who, in good faith, reports suspected drug abuse by a student to the appropriate authorities shall be immune from civil or criminal liability.

16-40A-1. Legislative findings; purpose of chapter.

(a) The Legislature finds that:

(2) Drug and alcohol abuse diminish the strength and vitality of the young people of our nation and state; an increasing number of substances, both legal and illegal, are being abused by increasing numbers of school children, even at the grade school level; abuse of any substance causes human behavior that influences many forces, including school, family, church, community, media, and peer groups. Prevention and early intervention in such behavior requires cooperation and coordination involving strategies designed to respond to carefully defined problems in which the education system of the state can play an important role.

(b) The purposes of this chapter are:

(2) To encourage the prevention of alcohol and drug abuse among children in the public schools; to stimulate the development of improved approaches to the prevention of alcohol and drug abuse; to demonstrate the use of such approaches in model educational programs and to evaluate the effectiveness thereof; to disseminate successful approaches and significant information for use in educational programs throughout the public schools; and to provide training programs for school administrators, teachers, and counselors.

16-40A-3. Minimum contents to be included in drug education program or curriculum.

(a) Any program or curriculum in the public schools of Alabama that includes drug education or instructs on the use of drugs or alcohol shall, as a minimum, include the following:

(1) Age-appropriate, developmentally-based drug and alcohol education and prevention programs that address the legal, social, and health consequences of drug and alcohol use and that provide information about effective techniques for resisting peer pressure to use illicit drugs or alcohol for students in all grades of the public schools from early childhood level through grade 12.

(2) Information conveying to students that the use of illicit drugs and the unlawful possession and use of alcohol is wrong and harmful and is punishable by fines and imprisonment.

(3) Standards of conduct that are applicable to students and employees in all public schools and that clearly prohibit, at a minimum, the unlawful possession, use, or distribution of illicit drugs and alcohol by students and employees on school premises, or as part of any activities of the school.

(4) A clear statement that sanctions, consistent with local, state, and federal law, up to and including expulsion or termination of employment and referral for prosecution, will be imposed on students and employees who violate the standards of conduct required by subdivision (3). A description of those sanctions shall be included.

16-40A-4. Illegal conduct not to be encouraged or proposed to public school children.

Conduct that is illegal under state or federal law, including but not limited to, illegal use or distribution of controlled substances, under-age alcohol use or distribution, sexual intercourse imposed by means of force, or sexual actions which are otherwise illegal, shall not be encouraged or proposed to public school

children in such a manner as to indicate that they have a legitimate right to decide or choose illegal conduct.

16-41-1. Short title.

This chapter shall be known and may be cited as "The Drug Abuse Education Act of 1971."

16-41-2. "Drug" defined.

As used in this chapter, the term "drug" shall include barbiturates, central nervous system stimulants, hallucinogenics, and all other drugs to which the narcotic and drug abuse laws of the United States apply. It shall also include alcoholic and intoxicating liquor and beverages and tobacco.

16-41-3. Purpose; legislative intent.

The purpose of this chapter is to insure the development of a comprehensive drug abuse education program for all children and youth in grades one through 12. It is the legislative intent that this program shall teach the adverse and dangerous effects on the human mind and body of drugs and that such instruction shall be intensive and that it shall be given immediate emphasis, beginning with the 1971-72 school year. It is further the intent of the Legislature that the voluntary services of persons from the professions of clergy, education, medicine, law enforcement, social services and such other professionally and occupationally qualified individuals as can make a contribution to this program be utilized in its implementation so that the highest possible degree of expertise may be brought to bear.

16-41-4. Administration of chapter by State Superintendent of Education; priorities for implementation.

(a) The State Superintendent of Education shall administer this chapter pursuant to regulations adopted by the State Board of Education. In administering this chapter, the superintendent shall seek and ask for advice and assistance from the medical association of the State of Alabama and take into consideration the advice of the Department of Public Health.

(b) Priorities for the implementation of this program shall include the following:

(1) The implementation of in-service education programs for teachers, administrators and other personnel. Special emphasis shall be placed on methods and materials necessary for the effective teaching of drug abuse education. In-service teacher education materials which are based on individual performance and designed for use with a minimum of supervision shall be developed and made available to all county and city school systems;

(2) Establishing resource centers located in various regions of the state for the purpose of assisting the Department of Education in coordinating drug abuse education activities in that region;

(3) Expanding degree programs for the preparation of drug education specialists. Special attention shall be given to performance based criteria and to the development and articulation of appropriate drug abuse education courses at junior colleges;

(4) Designing programs for the selection and training of school paraprofessional personnel and personnel of nonschool health or health related agencies; and

(5) Implementing the provisions of this chapter to insure that actual pupil instruction in drug abuse education will begin with the opening of the 1971-72 school year, as part of the curriculum of every elementary, junior and senior high school in this state.

16-41-5. Exclusion of teacher or administrator employed by nonpublic school from participation in institutes or programs.

No teacher or school administrator employed by a nonpublic school shall be excluded from participating in in-service teacher education institutes or curriculum development programs conducted pursuant to this chapter.

16-41-6. Exemption by parents.

Any child whose parent presents to the school principal a signed statement that the teaching of disease, its symptoms, development and treatment and the use of instructional aids and materials of such subjects conflict with the religious teachings of his church shall be exempt from such instruction, and no child so exempt shall be penalized by reason of such exemption.

16-41-7. Adoption of regulations by state board; scheduling of drug abuse education courses.

The state board shall adopt regulations to insure the teaching of drug abuse education to all pupils. Every county and city school system shall schedule drug abuse education courses as part of the curriculum of every school, K-12.

16-41-9. Combining of funds from various sources.

In implementing this chapter, every effort shall be made to combine funds appropriated for this purpose with funds available from all other sources, federal, state, local or private, in order to achieve maximum benefits for improving drug abuse education.

16-41-10. Report of status of program by State Superintendent of Education.

The State Superintendent of Education shall, at least 30 days prior to the 1973 Regular Session and each regular session thereafter, transmit to the members of the state board, the President of the Senate, the Speaker of the House, the Chairman of the Senate and the Chairman of the House Education Committees a report as to the status of the drug abuse education program together with any recommendations for further improvement or modification.

Bullying, harassment, or hazing

STATUTES

16-1-23 Hazing prohibited; penalty.

(a) Hazing is defined as follows:

(1) Any willful action taken or situation created, whether on or off any school, college, university, or other educational premises, which recklessly or intentionally endangers the mental or physical health of any student, or

(2) Any willful act on or off any school, college, university, or other educational premises by any person alone or acting with others in striking, beating, bruising, or maiming; or seriously offering, threatening, or attempting to strike, beat, bruise, or maim, or to do or seriously offer, threaten, or attempt to do physical violence to any student of any such educational institution or any assault upon any such students made for the purpose of committing any of the acts, or producing any of the results to such student as defined in this section.

(3) The term hazing as defined in this section does not include customary athletic events or similar contests or competitions, and is limited to those actions taken and situations created in connection with initiation into or affiliation with any organization. The term hazing does not include corporal punishment

administered by officials or employees of public schools when in accordance with policies adopted by local boards of education.

(b) No person shall engage in what is commonly known and recognized as hazing, or encourage, aid, or assist any other person thus offending.

(c) No person shall knowingly permit, encourage, aid, or assist any person in committing the offense of hazing, or willfully acquiesce in the commission of such offense, or fail to report promptly his knowledge or any reasonable information within his knowledge of the presence and practice of hazing in this state to the chief executive officer of the appropriate school, college, university, or other educational institution in this state. Any act of omission or commission shall be deemed hazing under the provisions of this section.

(d) Any person who shall commit the offense of hazing shall be guilty of a Class C misdemeanor as defined by Title 13A.

(e) Any person who participates in the hazing of another, or any organization associated with a school, college, university, or other educational institution in this state which knowingly permits hazing to be conducted by its members or by others subject to its direction or control, shall forfeit any entitlement to public funds, scholarships, or awards which are enjoyed by him or by it and shall be deprived of any sanction or approval granted by the school, college, university, or other educational institution.

(f) Nothing in this section shall be construed as in any manner affecting or repealing any law of this state respecting homicide, or murder, manslaughter, assault with intent to murder, or aggravated assault.

16-28B-1. Short title.

This chapter shall be known and may be cited as the Student Harassment Prevention Act.

16-28B-2. Legislative intent.

It is the intent of the Legislature to provide for the adoption of policies in public school systems to prevent the harassment of students. It is the further intent of the Legislature that this chapter apply only to student against student harassment, intimidation, violence, and threats of violence in the public schools of Alabama, grades prekindergarten through 12, and that the State Department of Education develop, and each local board of education adopt procedural policies to manage and possibly prevent these acts against any student by another student or students based on the characteristics of a student.

Additionally, it is the intent of the Legislature that the filing of a complaint of harassment be in writing and submitted by the affected student, or the parent or guardian of the affected student, and not by an education employee on behalf of an affected student or his or her parent or guardian.

16-28B-3. Definitions.

The following terms have the following meanings:

(1) DEPARTMENT. The State Department of Education.

(2) HARASSMENT. A continuous pattern of intentional behavior that takes place on school property, on a school bus, or at a school-sponsored function including, but not limited to, written, electronic, verbal, or physical acts that are reasonably perceived as being motivated by any characteristic of a student, or by the association of a student with an individual who has a particular characteristic, if the characteristic falls into one of the categories of personal characteristics contained in the model policy adopted by the department or by a local board. To constitute harassment, a pattern of behavior may do any of the following:

a. Place a student in reasonable fear of harm to his or her person or damage to his or her property.

b. Have the effect of substantially interfering with the educational performance, opportunities, or benefits of a student.

c. Have the effect of substantially disrupting or interfering with the orderly operation of the school.

d. Have the effect of creating a hostile environment in the school, on school property, on a school bus, or at a school-sponsored function.

e. Have the effect of being sufficiently severe, persistent, or pervasive enough to create an intimidating, threatening, or abusive educational environment for a student.

(3) HOSTILE ENVIRONMENT. The perception by an affected student or victim that the conduct of another student constitutes a threat of violence or harassment and that the conduct is objectively severe or pervasive enough that a reasonable person, under the circumstances, would agree that the conduct constitutes harassment, threat of assault, or assault.

(4) LOCAL BOARD. A city or county board of education.

(5) SCHOOL. Each public school, grades prekindergarten through 12, the Alabama Institute for Deaf and Blind, the Alabama High School of Mathematics and Science, and the Alabama School of Fine Arts.

(6) SCHOOL SYSTEM. The schools under the jurisdiction of a local board.

16-28B-4. Prohibited behavior; complaints; school plans or programs.

(a) No student shall engage in or be subjected to harassment, intimidation, violence, or threats of violence on school property, on a school bus, or at any school-sponsored function by any other student in his or her school system.

(b) No person shall engage in reprisal, retaliation, or false accusation against a victim, witness, or other person who has reliable information about an act of harassment, violence, or threat of violence.

(c) Any student, or parent or guardian of the student, who is the object of harassment may file a complaint outlining the details of the harassment, on a form authorized by the local board, and submit the form to the official designated by the local board to receive complaints at the school.

(d) Each school shall develop plans or programs, including, but not limited to, peer mediation teams, in an effort to encourage students to report and address incidents of harassment, violence, or threats of violence.

16-28B-5. Model policy.

The department shall develop a model policy prohibiting harassment, violence, and threats of violence on school property, on a school bus, or at any school-sponsored function. The model policy, at a minimum, shall contain all of the following components:

(1) A statement prohibiting harassment, violence, and threats of violence.

(2) Definitions of the terms harassment, as provided in subdivision (2) of Section 16-28B-3, intimidation, and threats of violence.

(3) A description of the behavior expected of each student.

(4) A series of graduated consequences for any student who commits an act of intimidation, harassment, violence, or threats of violence. Punishment shall conform with applicable federal and state disability, antidiscrimination, and education laws and school discipline policies.

(5) A procedure for reporting an act of intimidation, threat of suicide, harassment, violence, or threat of violence. An anonymous report may not be the basis for imposing formal disciplinary action against a student.

(6) A procedure for the prompt investigation of reports of serious violations and complaints, specifying that the principal, or his or her designee, is the person responsible for the investigation.

(7) A response procedure for a school to follow upon confirmation of an incident of intimidation, harassment, violence, or threats of violence.

(8) A statement prohibiting reprisal or retaliation against any person who reports an act of intimidation, violence, threat of violence, or harassment, including the consequences of and any appropriate remedial action that may be taken against a person who engages in such reprisal or retaliation.

(9) A statement of the consequences of and appropriate remedial action that may be taken against a person who has deliberately and recklessly falsely accused another.

(10) A procedure for publicizing local board policy, including providing notice that the policy applies to participation in school-sponsored functions.

(11) A clearly defined procedure for students to use in reporting harassment, including, but not limited to, written reports on local board approved complaint forms and written reports of instances of harassment, intimidation, violence, and threats of violence based on the personal characteristics of a student. The complaint form may be served in person or by mail on the principal, or his or her designee, or his or her office. The procedures shall be made known and be readily available to each student, employee, and the parent or guardian of each student. It is the sole responsibility of the affected student, or the parent or guardian of the affected student, to report incidences of harassment to the principal, or his or her designee.

(12) A procedure for promulgating rules to implement this chapter, including the development of a model student complaint form. The department shall seek public input in developing and revising the model policy, model complaint form, and any other necessary forms.

(13) A procedure for the development of a nonexhaustive list of the specific personal characteristics of a student which may often lead to harassment. Based upon experience, a local board of education may add, but not remove, characteristics from the list. The additional characteristics or perceived characteristics that cause harassment shall be identified by the local board on a case-by-case basis and added to the local board policy. The list shall be included in the code of conduct policy of each local board.

16-28B-6. Duties of schools.

Each school shall do all of the following:

(1) Develop and implement evidence-based practices to promote a school environment that is free of harassment, intimidation, violence, and threats of violence.

(2) Develop and implement evidence-based practices to prevent harassment, intimidation, violence, and threats of violence based, as a minimum, on the criteria established by this chapter and local board policy, and to intervene when such incidents occur.

(3) Incorporate into civility, citizenship, and character education curricula awareness of and sensitivity to the prohibitions of this chapter and local board policy against harassment, intimidation, violence, and threats of violence.

(4) Report statistics to the local board of actual violence, submitted reports of threats of violence, and harassment. The local board shall provide the statistics of the school system and each school in the school system to the department for posting on the department website. The posted statistics shall be available to the public and any state or federal agency requiring the information. The identity of each student involved shall be protected and may not be posted on the department website.

16-28B-7. Freedoms of speech and expression.

This chapter shall not affect the freedom of speech and freedom of expression guaranteed each student under the Constitution of the United States and the Constitution of Alabama of 1901, and other applicable statutory law provided in the Code of Alabama 1975.

16-28B-8. Implementation of standards and policies.

To the extent that the Legislature shall appropriate funds, or to the extent that any local board may provide funds from other sources, each school system shall implement the following standards and policies for programs in an effort to prevent student suicide:

(1) Foster individual, family, and group counseling services related to suicide prevention.

(2) Make referral, crisis intervention, and other related information available for students, parents, and school personnel.

(3) Foster training for school personnel who are responsible for counseling and supervising students.

(4) Increase student awareness of the relationship between drug and alcohol use and suicide.

(5) Educate students in recognizing signs of suicidal tendencies and other facts and warning signs of suicide.

(6) Inform students of available community suicide prevention services.

(7) Promote cooperative efforts between school personnel and community suicide prevention program personnel.

(8) Foster school-based or community-based, or both, alternative programs outside of the classroom.

(9) Develop a strategy to assist survivors of attempted suicide, students, and school personnel in coping with the issues relating to attempted suicide, suicide, the death of a student, and healing.

(10) Engage in any other program or activity which the local board determines is appropriate and prudent in the efforts of the school system to prevent student suicide.

(11) Provide training for school employees and volunteers who have significant contact with students on the local board policies to prevent harassment, intimidation, violence, and threats of violence.

(12) Develop a process for discussing with students local board policies relating to the prevention of student suicide and to the prevention of harassment, intimidation, violence, and threats of violence.

16-28B-9. Adoption of local policies.

Each local board shall establish a policy in compliance with this chapter on or before July 1, 2010. Each local policy or model policy adopted by a local board or the department, respectively, shall be consistent with this chapter.

Other special infractions or conditions

No relevant statutes found.

Prevention and Behavioral Interventions (Non-Punitive)

Prevention

STATUTES

16-1-24.2. Department of Education to develop statewide violence prevention program.

(b) The Department of Education shall develop a statewide violence prevention program using such resources as law-related education and guidance counseling procedures to develop violence prevention curricula for grades K through twelve, to provide training to teachers and school administrators on violence prevention, and to develop school-community partnerships for violence prevention.

16-28-3.1 Guidelines and procedures for withdrawal from school; dropout prevention program.

(b) The State Department of Education shall work with local public school systems that have the lowest four-year graduation rates. The department shall incorporate specific dropout prevention strategies, target resources, and gather data that will improve graduation rates and educational outcomes in all grades in all public schools. The department shall develop specific methods of targeted intervention or identify appropriate existing methods for local public school systems that have a four-year graduation rate less than the percentage as determined by the State Board of Education. These interventions may include the following:

(1) Early intervention for students who fail Algebra I, or any ninth grade reading or math class, and have insufficient credits to be promoted.

(2) Alternative education programs designed to reengage dropouts including, but not limited to, dual enrollment courses at the community college level.

(3) Increased availability of advanced placement courses.

(4) Offering full course fee waivers for students who are eligible for free or reduced lunches, when enrolled in dual credit courses.

(5) Flexible programs for older students who are currently not enrolled.

(6) Comprehensive coaching for middle school and high school students who are below grade level in reading and math or who are at risk due to poor attendance, behavior, or safety issues including, but not limited to, harassment and bullying.

(7) Teacher advisories and other supports that are designed to specifically address the needs of those students who are most at risk of dropping out of school by providing opportunities to build positive connections with peers and teachers and providing assistance with course selection, school performance, and completion of graduation requirements. Students who are most at risk of dropping out of school include, but are not limited to, those students who move often, have poor attendance, or have multiple suspensions or discipline issues.

(8) Strategies that are specifically designed to improve high school graduation rates for those teenagers who are at the highest risk of dropping out, including, but not limited to, students in the foster care system, pregnant students, student parents, English as second language students, and students with special educational needs.

(c) The department, in addition to other information and data, shall compile all of the following data to ensure that the dropout prevention program, and local versions of the program, are based upon evidence-based research, are data-driven, and show continuous improvement in:

(1) The total number of high school suspensions related to truancy.

(2) The total number of students enrolled in alternative education programs.

(3) The total number of students who have been reenrolled in programs with flexible schedules or community college programs.

(4) The total number of students who have failed Algebra I or ninth grade reading or math.

(5) The total number of students who are repeating the ninth grade.

(6) The total number of students receiving remedial assistance in the ninth grade.

(d) The department shall prepare and submit to the Legislature a written report that documents all of the following:

(1) The outcomes of the dropout prevention strategies to date, at the local school system level.

(2) Any planned modification of school system dropout prevention strategies and activities, based on the data compiled.

16-28B-2. Legislative intent.

It is the intent of the Legislature to provide for the adoption of policies in public school systems to prevent the harassment of students. It is the further intent of the Legislature that this chapter apply only to student against student harassment, intimidation, violence, and threats of violence in the public schools of Alabama, grades prekindergarten through 12, and that the State Department of Education develop, and each local board of education adopt procedural policies to manage and possibly prevent these acts against any student by another student or students based on the characteristics of a student.

Additionally, it is the intent of the Legislature that the filing of a complaint of harassment be in writing and submitted by the affected student, or the parent or guardian of the affected student, and not by an education employee on behalf of an affected student or his or her parent or guardian.

16-28B-4. Prohibited behavior; complaints; school plans or programs.

(d) Each school shall develop plans or programs, including, but not limited to, peer mediation teams, in an effort to encourage students to report and address incidents of harassment, violence, or threats of violence.

16-28B-6 Duties of schools.

Each school shall do all of the following:

(1) Develop and implement evidence-based practices to promote a school environment that is free of harassment, intimidation, violence, and threats of violence.

(2) Develop and implement evidence-based practices to prevent harassment, intimidation, violence, and threats of violence based, as a minimum, on the criteria established by this chapter and local board policy, and to intervene when such incidents occur.

(3) Incorporate into civility, citizenship, and character education curricula awareness of and sensitivity to the prohibitions of this chapter and local board policy against harassment, intimidation, violence, and threats of violence.

16-28B-8 Implementation of standards and policies.

To the extent that the Legislature shall appropriate funds, or to the extent that any local board may provide funds from other sources, each school system shall implement the following standards and policies for programs in an effort to prevent student suicide:

(1) Foster individual, family, and group counseling services related to suicide prevention.

(2) Make referral, crisis intervention, and other related information available for students, parents, and school personnel.

(3) Foster training for school personnel who are responsible for counseling and supervising students.

(4) Increase student awareness of the relationship between drug and alcohol use and suicide.

(5) Educate students in recognizing signs of suicidal tendencies and other facts and warning signs of suicide.

(6) Inform students of available community suicide prevention services.

(7) Promote cooperative efforts between school personnel and community suicide prevention program personnel.

(8) Foster school-based or community-based, or both, alternative programs outside of the classroom.

(9) Develop a strategy to assist survivors of attempted suicide, students, and school personnel in coping with the issues relating to attempted suicide, suicide, the death of a student, and healing.

(10) Engage in any other program or activity which the local board determines is appropriate and prudent in the efforts of the school system to prevent student suicide.

(11) Provide training for school employees and volunteers who have significant contact with students on the local board policies to prevent harassment, intimidation, violence, and threats of violence.

(12) Develop a process for discussing with students local board policies relating to the prevention of student suicide and to the prevention of harassment, intimidation, violence, and threats of violence.

16-40A-3 Minimum contents to be included in drug education program or curriculum.

(a) Any program or curriculum in the public schools of Alabama that includes drug education or instructs on the use of drugs or alcohol shall, as a minimum, include the following:

(1) Age-appropriate, developmentally-based drug and alcohol education and prevention programs that address the legal, social, and health consequences of drug and alcohol use and that provide information about effective techniques for resisting peer pressure to use illicit drugs or alcohol for students in all grades of the public schools from early childhood level through grade 12.

(2) Information conveying to students that the use of illicit drugs and the unlawful possession and use of alcohol is wrong and harmful and is punishable by fines and imprisonment.

(3) Standards of conduct that are applicable to students and employees in all public schools and that clearly prohibit, at a minimum, the unlawful possession, use, or distribution of illicit drugs and alcohol by students and employees on school premises, or as part of any activities of the school.

(4) A clear statement that sanctions, consistent with local, state, and federal law, up to and including expulsion or termination of employment and referral for prosecution, will be imposed on students and employees who violate the standards of conduct required by subdivision (3). A description of those sanctions shall be included.

6-41-3. Purpose; legislative intent.

The purpose of this chapter is to insure the development of a comprehensive drug abuse education program for all children and youth in grades one through 12. It is the legislative intent that this program shall teach the adverse and dangerous effects on the human mind and body of drugs and that such instruction shall be intensive and that it shall be given immediate emphasis, beginning with the 1971-72 school year. It is further the intent of the Legislature that the voluntary services of persons from the professions of clergy, education, medicine, law enforcement, social services and such other professionally and occupationally qualified individuals as can make a contribution to this program be utilized in its implementation so that the highest possible degree of expertise may be brought to bear.

16-41-4. Administration of chapter by State Superintendent of Education; priorities for implementation.

(a) The State Superintendent of Education shall administer this chapter pursuant to regulations adopted by the State Board of Education. In administering this chapter, the superintendent shall seek and ask for advice and assistance from the medical association of the State of Alabama and take into consideration the advice of the Department of Public Health.

(b) Priorities for the implementation of this program shall include the following:

(1) The implementation of in-service education programs for teachers, administrators and other personnel. Special emphasis shall be placed on methods and materials necessary for the effective teaching of drug abuse education. In-service teacher education materials which are based on individual performance and designed for use with a minimum of supervision shall be developed and made available to all county and city school systems;

(2) Establishing resource centers located in various regions of the state for the purpose of assisting the Department of Education in coordinating drug abuse education activities in that region;

(3) Expanding degree programs for the preparation of drug education specialists. Special attention shall be given to performance based criteria and to the development and articulation of appropriate drug abuse education courses at junior colleges;

(4) Designing programs for the selection and training of school paraprofessional personnel and personnel of nonschool health or health related agencies; and

(5) Implementing the provisions of this chapter to insure that actual pupil instruction in drug abuse education will begin with the opening of the 1971-72 school year, as part of the curriculum of every elementary, junior and senior high school in this state.

16-41-7 Adoption of regulations by state board; scheduling of drug abuse education courses.

The state board shall adopt regulations to insure the teaching of drug abuse education to all pupils. Every county and city school system shall schedule drug abuse education courses as part of the curriculum of every school, K-12.

Section 41-15B-2.2. Allocation of trust fund revenues.

2. School Safety Enhancement Programs eligible for grants shall be designed to prevent or reduce violence in the schools and communities and reduce school disciplinary or safety problems. The programs shall relate to one or more of the following:

(i) Extended day programs with supervised activities including, but not limited to, remedial education; tutorial assistance; arts, music, or other cultural enhancement; and activities for gifted children. Each local board of education may charge a fee based upon income for participation in the programs.

(ii) Pre-kindergarten programs for "at-risk" children. These programs do not require the local 25 percent match of funds for school safety activities mandated by item (ii) of subparagraph 1.

(iii) Truancy prevention programs which may include additional school attendance personnel and a Saturday school component.

(iv) Programs to assist children in dealing with anger and emphasizing acceptable ways of dealing with violence including peer mediation, conflict resolution, and law related education.

(v) Safety plans involving the use of metal detectors, other security devices, uniforms, school safety resource officers, or other personnel employed to provide a safe school environment.

(vi) Drug, alcohol, tobacco, gang-related, or satanic worshipping-related education, prevention, detection, or enforcement programs.

(vii) At-risk identification and intervention programs designed to identify children who are at-risk and coordinate school and community services so that the mental, physical, and social capabilities of the child are enhanced.

Behavioral interventions and student support services

STATUTES

16-1-24.1. Safe school and drug-free school policy; treatment of policy violators; promulgation and distribution of discipline policy; liability limited for discipline actions; local boards may adopt more stringent guidelines.

(a) The Legislature finds a compelling public interest in ensuring that schools are made safe and drug-free for all students and school employees. The Legislature finds the need for a comprehensive safe school and drug-free school policy to be adopted by the State Board of Education. This policy should establish minimum standards for classes of offenses and prescribe uniform minimum procedures and penalties for those who violate the policies. It is the intent of the Legislature that our schools remain safe and drug-free for all students and school employees. The State Board of Education shall adopt and all local boards of education shall uniformly enforce policies that protect all students and school employees. The State Board of Education shall require local school systems to modify their policies, practices or procedures so as to ensure a safe school environment free of illegal drugs, alcohol, or weapons. Any rules and regulations adopted by the State Board of Education pursuant to this section shall be exempt from Section 41-22-3(3). These modifications shall include the formulation of a discipline plan setting forth policies, practices, and procedures dealing with students or other persons who bring illegal drugs, alcohol, or weapons on a school campus. The discipline plan shall also include uniform drug-free school policies with uniform penalties.

(b) The principal shall notify appropriate law enforcement officials when any person violates local board of education policies concerning drugs, alcohol, weapons, physical harm to a person, or threatened physical harm to a person. If any criminal charge is warranted arising from the conduct, the principal is authorized to sign the appropriate warrant. If that person is a student enrolled in any public school in the State of Alabama, the local school system shall immediately suspend that person from attending regular classes and schedule a hearing at the earliest possible date, which shall not be later than five school days. The decision to suspend or initiate criminal charges against a student, or both, shall include a review and consideration of the student's exceptional status, if applicable, under Chapter 39, or appropriate federal statutory or case law.

(c) If a person is found to have violated a local board of education policy concerning drugs, alcohol, weapons, physical harm to a person, or threatened physical harm to a person, the person may not be readmitted to the public schools of this state until (1) criminal charges or offenses arising from the conduct, if any, have been disposed of by appropriate authorities and (2) the person has satisfied all other requirements imposed by the local board of education as a condition for readmission.

(d) Any person determined to be guilty of an offense involving drugs, alcohol, weapons, physical harm to a person, or threatened physical harm to a person, may be readmitted to the public schools of this state upon such conditions as the local board of education shall prescribe for preservation of the safety or security of students and employees of the local school board, which may include, but are not limited to, psychiatric or psychological evaluation and counseling.

(e) (1) A copy of the school system's discipline plan shall be distributed to all students enrolled in the system and their parents, guardians, or custodians shall read the plan and sign a statement verifying that they have been given notice of the discipline policies of their respective school system. The school board shall have its official discipline plan reviewed on an annual basis to ensure that its policies and

procedures are currently in compliance with applicable statutes, case law, and state and federal constitutional provisions.

(2) All discipline plans of school systems shall include, but not be limited to, all of the following:

a. A parent, guardian, custodian, or person, excluding a foster parent, responsible for the care or control of a minor child enrolled in a public school system shall be responsible financially for such child's destructive acts against school property or persons.

b. A parent, guardian, custodian, or person, excluding a foster parent, responsible for the care or control of a minor child enrolled in a public school system may be requested to appear at school by an appropriate school official for a conference regarding acts of the child specified in paragraph a.

c. A parent, guardian, custodian, or person, excluding a foster parent, responsible for the care or control of a minor child enrolled in a school system who has been summoned by proper notification by an appropriate school official shall be required under this provision to attend such discipline conference specified in paragraph b.

(3) Any public school system shall be entitled to recover actual damages, plus necessary court costs, from the parent or guardian, or both, of any minor who maliciously and willfully damages or destroys property belonging to the school system. However, this section shall not apply to parents whose parental control of any child has been removed by court order or decree or to parents of exceptional children with specific mental and physical impairments if the damage is determined to result from the impairments. The action authorized in this section shall be in addition to all other actions which the school system is entitled to maintain and nothing in this section shall preclude recovery in a greater amount from the minor or from a person, including the parents or guardian, or both, for damages to which such minor other person would otherwise be liable.

(4) This section shall apply only to acts committed on or after August 1, 1992.

(f) The local school board shall adopt and make available to all teachers, school personnel, students, and parents or guardians, at the beginning of the 1992-93 school year and each school year thereafter, a code of student conduct developed in consultation with teachers, school personnel, students, and parents or guardians. The code shall be based on the rules governing student conduct and discipline adopted by the school board and may be made available at the school level in the student handbook or similar publication. The code shall include, but not be limited to, all of the following:

(1) Specific grounds for disciplinary action.

(2) Procedures to be followed for acts requiring discipline.

(3) An explanation of the responsibilities and rights of students with regard to attendance, respect for persons and property, knowledge and observation of rules of conduct, the right to learn, free speech and student publications, assembly, privacy, and participation in school programs and activities.

(g) Except in the case of excessive force or cruel and unusual punishment, no certified or noncertified employee of the State Board of Education or any local board of education shall be civilly liable for any action carried out in conformity with state law and system or school rules regarding the control, discipline, suspension, and expulsion of students.

(h) Nothing in this section shall be construed to prevent a local board of education from promulgating more stringent rules and regulations than those adopted on the state level, in order to foster and maintain a safe and drug-free environment in the public schools.

16-6B-3. Assistance programs.

(a) Student strategy. The superintendent of the local board of education along with the staff of each school shall develop an assistance program at each school for at-risk students performing below the standards set by the State Board of Education. The standards shall include the results of the required

assessment program adopted by the State Board of Education with emphasis on students who are found to be at one or more grade levels below the prescribed norm. The local board of education shall budget at least one hundred dollars ($100) per student so identified to be expended on tutorial assistance programs including, but not limited to, after-school, Saturday school, or summer school, or any combination of these programs. These funds may be budgeted from state or federal funds. However, federal funds already budgeted for at-risk students may not be counted toward the minimum one hundred dollars ($100) requirement set aside to be expended for at-risk students as defined in this chapter. In addition, these funds may be expended for any of the following purposes:

(1) Programs to encourage at-risk five-year olds to attend an approved preschool program.

(2) Programs to identify at-risk students in the first grade.

(3) Programs to ensure strict enforcement of truancy laws.

(4) Programs to create alternative or disciplinary schools in which children who consistently exhibit behaviors or patterns of behaviors that interfere with the learning environment of other students would be placed and would be provided counseling and instruction in basic skills.

(5) Programs to encourage parental involvement of parents of at-risk children.

(6) Programs to encourage literacy of parents of at-risk children.

16-28-3.1 Guidelines and procedures for withdrawal from school; dropout prevention program.

(b) The State Department of Education shall work with local public school systems that have the lowest four-year graduation rates. The department shall incorporate specific dropout prevention strategies, target resources, and gather data that will improve graduation rates and educational outcomes in all grades in all public schools. The department shall develop specific methods of targeted intervention or identify appropriate existing methods for local public school systems that have a four-year graduation rate less than the percentage as determined by the State Board of Education. These interventions may include the following:

(1) Early intervention for students who fail Algebra I, or any ninth grade reading or math class, and have insufficient credits to be promoted.

(2) Alternative education programs designed to reengage dropouts including, but not limited to, dual enrollment courses at the community college level.

(3) Increased availability of advanced placement courses.

(4) Offering full course fee waivers for students who are eligible for free or reduced lunches, when enrolled in dual credit courses.

(5) Flexible programs for older students who are currently not enrolled.

(6) Comprehensive coaching for middle school and high school students who are below grade level in reading and math or who are at risk due to poor attendance, behavior, or safety issues including, but not limited to, harassment and bullying.

(7) Teacher advisories and other supports that are designed to specifically address the needs of those students who are most at risk of dropping out of school by providing opportunities to build positive connections with peers and teachers and providing assistance with course selection, school performance, and completion of graduation requirements. Students who are most at risk of dropping out of school include, but are not limited to, those students who move often, have poor attendance, or have multiple suspensions or discipline issues.

(8) Strategies that are specifically designed to improve high school graduation rates for those teenagers who are at the highest risk of dropping out, including, but not limited to, students in the foster care

system, pregnant students, student parents, English as second language students, and students with special educational needs.

(c) The department, in addition to other information and data, shall compile all of the following data to ensure that the dropout prevention program, and local versions of the program, are based upon evidence-based research, are data-driven, and show continuous improvement in:

(1) The total number of high school suspensions related to truancy.

(2) The total number of students enrolled in alternative education programs.

(3) The total number of students who have been reenrolled in programs with flexible schedules or community college programs.

(4) The total number of students who have failed Algebra I or ninth grade reading or math.

(5) The total number of students who are repeating the ninth grade.

(6) The total number of students receiving remedial assistance in the ninth grade.

(d) The department shall prepare and submit to the Legislature a written report that documents all of the following:

(1) The outcomes of the dropout prevention strategies to date, at the local school system level.

(2) Any planned modification of school system dropout prevention strategies and activities, based on the data compiled.

16-28B-4. Prohibited behavior; complaints; school plans or programs.

(a) No student shall engage in or be subjected to harassment, intimidation, violence, or threats of violence on school property, on a school bus, or at any school-sponsored function by any other student in his or her school system.

(b) No person shall engage in reprisal, retaliation, or false accusation against a victim, witness, or other person who has reliable information about an act of harassment, violence, or threat of violence.

(c) Any student, or parent or guardian of the student, who is the object of harassment may file a complaint outlining the details of the harassment, on a form authorized by the local board, and submit the form to the official designated by the local board to receive complaints at the school.

(d) Each school shall develop plans or programs, including, but not limited to, peer mediation teams, in an effort to encourage students to report and address incidents of harassment, violence, or threats of violence.

16-28B-6. Duties of schools.

Each school shall do all of the following:

(1) Develop and implement evidence-based practices to promote a school environment that is free of harassment, intimidation, violence, and threats of violence.

(2) Develop and implement evidence-based practices to prevent harassment, intimidation, violence, and threats of violence based, as a minimum, on the criteria established by this chapter and local board policy, and to intervene when such incidents occur.

(3) Incorporate into civility, citizenship, and character education curricula awareness of and sensitivity to the prohibitions of this chapter and local board policy against harassment, intimidation, violence, and threats of violence.

(4) Report statistics to the local board of actual violence, submitted reports of threats of violence, and harassment. The local board shall provide the statistics of the school system and each school in the school system to the department for posting on the department website. The posted statistics shall be

available to the public and any state or federal agency requiring the information. The identity of each student involved shall be protected and may not be posted on the department website.

16-28B-8. Implementation of standards and policies.

To the extent that the Legislature shall appropriate funds, or to the extent that any local board may provide funds from other sources, each school system shall implement the following standards and policies for programs in an effort to prevent student suicide:

(1) Foster individual, family, and group counseling services related to suicide prevention.

(2) Make referral, crisis intervention, and other related information available for students, parents, and school personnel.

(3) Foster training for school personnel who are responsible for counseling and supervising students.

(4) Increase student awareness of the relationship between drug and alcohol use and suicide.

(5) Educate students in recognizing signs of suicidal tendencies and other facts and warning signs of suicide.

(6) Inform students of available community suicide prevention services.

(7) Promote cooperative efforts between school personnel and community suicide prevention program personnel.

(8) Foster school-based or community-based, or both, alternative programs outside of the classroom.

(9) Develop a strategy to assist survivors of attempted suicide, students, and school personnel in coping with the issues relating to attempted suicide, suicide, the death of a student, and healing.

(10) Engage in any other program or activity which the local board determines is appropriate and prudent in the efforts of the school system to prevent student suicide.

(11) Provide training for school employees and volunteers who have significant contact with students on the local board policies to prevent harassment, intimidation, violence, and threats of violence.

(12) Develop a process for discussing with students local board policies relating to the prevention of student suicide and to the prevention of harassment, intimidation, violence, and threats of violence.

16-41-4. Administration of chapter by State Superintendent of Education; priorities for implementation.

(a) The State Superintendent of Education shall administer this chapter pursuant to regulations adopted by the State Board of Education. In administering this chapter, the superintendent shall seek and ask for advice and assistance from the medical association of the State of Alabama and take into consideration the advice of the Department of Public Health.

(b) Priorities for the implementation of this program shall include the following:

(1) The implementation of in-service education programs for teachers, administrators and other personnel. Special emphasis shall be placed on methods and materials necessary for the effective teaching of drug abuse education. In-service teacher education materials which are based on individual performance and designed for use with a minimum of supervision shall be developed and made available to all county and city school systems;

(2) Establishing resource centers located in various regions of the state for the purpose of assisting the Department of Education in coordinating drug abuse education activities in that region;

(3) Expanding degree programs for the preparation of drug education specialists. Special attention shall be given to performance based criteria and to the development and articulation of appropriate drug abuse education courses at junior colleges;

(4) Designing programs for the selection and training of school paraprofessional personnel and personnel of nonschool health or health related agencies; and

(5) Implementing the provisions of this chapter to insure that actual pupil instruction in drug abuse education will begin with the opening of the 1971-72 school year, as part of the curriculum of every elementary, junior and senior high school in this state.

41-15B-2.2 - Allocation of trust fund revenues.

(a) For each fiscal year, beginning October 1, 1999, contingent upon the Children First Trust Fund receiving tobacco revenues and upon appropriation by the Legislature, an amount of up to and including two hundred twenty-five thousand dollars ($225,000), or equivalent percentage of the total fund, shall be designated for the administration of the fund by the council and the Commissioner of Children's Affairs.

(b) For the each fiscal year, beginning October 1, 1999, contingent upon the Children First Trust Fund receiving tobacco revenues, the remainder of the Children First Trust Fund, in the amounts provided for in Section 41-15B-2.1, shall be allocated as follows:

(2) Twenty-two percent of the fund shall be allocated to the State Board of Education to one or more of the following:

a. The operation of alternative schools as defined below:

1. In the initial fiscal year funding after June 9, 1999, the State Board of Education shall distribute a pro rata share of the monies based upon the second month enrollment of the preceding school year to each local board of education which submits a plan that satisfies all of the following criteria:

(i) The local board of education shall provide a 25 percent match of all funds for alternative school programs.

(ii) The local board of education shall provide suitable facilities for housing alternative school programs.

(iii) The plan submitted by each local board of education shall provide multiple tiers of alternative school programs which include, but are not limited to, "in-school suspension," a short-term alternative school program designed to enable children to perform in the traditional classroom setting, and a long-term program which is a true alternative to expulsion.

(iv) The plan as submitted by each local board of education shall outline the educational services which shall be available to each child assigned to the short-term or long-term programs. Those services shall include, but are not limited to, all of the following:

A. Remedial education where necessary.

B. Counseling, including sessions on conflict resolution.

C. Social skills development.

(v) Each tier of the local plan shall be curriculum-based to address the goal of academic improvement and shall include, to the extent possible, mandatory parental notification and involvement.

(vi) If a local board of education can satisfactorily demonstrate that alternative school programs meeting all of the criteria in this section have been implemented, the allocation to the local board of education for alternative school programs may be directed by the State Board of Education to programs under the School Safety Enhancement Program.

(vii) Each year any monies remaining after distribution by the State Board of Education to the local boards of education which meet the criteria pursuant to subparagraph 1. and qualify for a portion of the monies, shall be allocated to those local boards of education demonstrating

innovative programs with measurable improvements in academic achievement, attendance, school behavior, and parental involvement.

2. The State Board of Education shall review the programs of each local board of education receiving monies from the fund and shall annually submit a report to the council by July 1. This report shall include all of the following:

(i) The number of children served in each tier of the program.

(ii) The improvement in academic achievement.

(iii) The improvement in behavior.

(iv) The improvement in parental involvement.

(v) Financial accounting for the state and local monies expended.

3. The State Board of Education shall develop additional criteria for continued state funding of programs initiated pursuant to this chapter.

4. Sufficient safeguards shall be implemented to ensure that the new monies will increase and not supplant or decrease existing state or local support.

b. 1. The School Safety Enhancement Program. The amount of monies available to each local board of education shall be determined by the State Board of Education based upon the second month enrollment of the preceding school year. To be eligible to initially receive a portion of the monies, each local board of education shall submit a grant application pursuant to guidelines promulgated by the State Board of Education with provisions for annual renewal of the grants. Provisions for program evaluation in order to determine effectiveness and financial accountability shall be included in the guidelines. The guidelines shall include all of the following:

(i) A component to enhance parental participation in school activities and promote parental responsibility for the performance and behavior of their children.

(ii) A requirement for a local 25 percent match of funds for school safety activities, excluding pre-kindergarten programs for at-risk children listed in item (ii) of subparagraph 2.

(iii) Sufficient safeguards implemented to ensure that the new monies will increase and not supplant or decrease existing local support.

2. School Safety Enhancement Programs eligible for grants shall be designed to prevent or reduce violence in the schools and communities and reduce school disciplinary or safety problems. The programs shall relate to one or more of the following:

(i) Extended day programs with supervised activities including, but not limited to, remedial education; tutorial assistance; arts, music, or other cultural enhancement; and activities for gifted children. Each local board of education may charge a fee based upon income for participation in the programs.

(ii) Pre-kindergarten programs for "at-risk" children. These programs do not require the local 25 percent match of funds for school safety activities mandated by item (ii) of subparagraph 1.

(iii) Truancy prevention programs which may include additional school attendance personnel and a Saturday school component.

(iv) Programs to assist children in dealing with anger and emphasizing acceptable ways of dealing with violence including peer mediation, conflict resolution, and law related education.

(v) Safety plans involving the use of metal detectors, other security devices, uniforms, school safety resource officers, or other personnel employed to provide a safe school environment.

(vi) Drug, alcohol, tobacco, gang-related, or satanic worshipping-related education, prevention, detection, or enforcement programs.

(vii) At-risk identification and intervention programs designed to identify children who are at-risk and coordinate school and community services so that the mental, physical, and social capabilities of the child are enhanced.

3. The State Board of Education shall review the programs of each local board of education which receive monies from the fund and annually submit a report to the council by July 1. This report shall include all of the following:

(i) The number of children served.

(ii) The improvement in academic achievement.

(iii) The improvement in behavior.

(iv) The improvement in parental involvement.

(v) Financial accounting for the state and local monies expended.

4. The State Board of Education shall develop additional criteria for continued state funding of programs initiated pursuant to this chapter.

c. Any other children's services provided by the State Board of Education.

Professional development

STATUTES

16-1-24.2. Department of Education to develop statewide violence prevention program.

(b) The Department of Education shall develop a statewide violence prevention program using such resources as law-related education and guidance counseling procedures to develop violence prevention curricula for grades K through twelve, to provide training to teachers and school administrators on violence prevention, and to develop school-community partnerships for violence prevention.

16-28B-8. Implementation of standards and policies.

To the extent that the Legislature shall appropriate funds, or to the extent that any local board may provide funds from other sources, each school system shall implement the following standards and policies for programs in an effort to prevent student suicide:

(3) Foster training for school personnel who are responsible for counseling and supervising students.

(11) Provide training for school employees and volunteers who have significant contact with students on the local board policies to prevent harassment, intimidation, violence, and threats of violence.

16-41-4. Administration of chapter by State Superintendent of Education; priorities for implementation.

(a) The State Superintendent of Education shall administer this chapter pursuant to regulations adopted by the State Board of Education. In administering this chapter, the superintendent shall seek and ask for advice and assistance from the medical association of the State of Alabama and take into consideration the advice of the Department of Public Health.

(b) Priorities for the implementation of this program shall include the following:

(1) The implementation of in-service education programs for teachers, administrators and other personnel. Special emphasis shall be placed on methods and materials necessary for the effective teaching of drug abuse education. In-service teacher education materials which are based on individual performance and designed for use with a minimum of supervision shall be developed and made available to all county and city school systems;

16-41-5. Exclusion of teacher or administrator employed by nonpublic school from participation in institutes or programs.

No teacher or school administrator employed by a nonpublic school shall be excluded from participating in in-service teacher education institutes or curriculum development programs conducted pursuant to this chapter.

Monitoring and Accountability

Formal incident reporting of conduct violations

STATUTES

16-1-24. Reporting of property damage and physical assaults on students and school personnel; legislative intent; penalties.

(a) For purposes of this section, the following words and phrases shall have the following respective meanings, unless the context clearly indicates otherwise:

(1) INCIDENT. Any act of physical violence, with or without a weapon, trespass, vandalism, or property damage which occurs.

a. On school property; or

b. During school activities, on or off school property; or

c. At any other times when such incident can be reasonably related to school functions.

Provided, however, that incidents involving only students from the same school wherein no dangerous weapon was involved and no bodily injury requiring medical attention occurs shall not be required to be reported as provided herein. All attacks or incidents involving teachers or other school personnel shall be promptly reported.

(2) PRINCIPAL. The principal or top administrator of any public elementary, junior or senior high school at which the incident occurred.

(3) SUPERINTENDENT OF EDUCATION. The superintendent of the county or city board of education in the county in which the school is located.

(4) REPORT. A written narrative report of an incident, the number and names and addresses of persons involved in the incident, the type of any weapon involved and a description of any injury or damage resulting from the incident. Said report shall contain the names and addresses of all known persons present at the time of said incident.

(5) TEACHER AND OTHER SCHOOL EMPLOYEE. An employee of any public elementary, junior or senior high school at which the incident occurred.

(6) SCHOOL BOARD. The board of education.

(7) COUNTY SHERIFF. The sheriff of the county in which the public school is located.

(b) It is the intention of the Legislature by passage of the section to require principals, teachers and other school employees of public elementary, junior and senior high schools to make reports of violent disruptive incidents occurring on school property during school hours or during school activities conducted on or off school property after school hours or at any other time when such incident can be reasonably related to school or school functions and to provide for penalties for failure to report such incidents.

(c) Principals shall file a report within 72 hours with the superintendent of education of any incident of which they have knowledge. A copy of the report shall also be furnished members of the school board and the county sheriff by the superintendent of education.

(d) Teachers and other school employees shall immediately report to the principal any incident of which they have knowledge. Said teacher and employee shall assist the principal in the preparation of the report required under subsection (c) of this section.

(e) Any superintendent of education, principal, teacher, or employee who violates the provisions of this section by failure to file a required report shall be guilty of a Class C misdemeanor.

16-1-24.3. Local boards of education to implement policies requiring expulsion of students who possess firearms in school areas.

(d) Local education agencies submitting applications for federal funds to the State Department of Education shall include in the application:

(1) An affidavit to affirm that the local education agency has developed and implemented a policy to provide for a gun-free environment in all its public schools.

(2) A description of the circumstances surrounding an expulsion imposed under this section including:

a. The name of the school concerned.

b. The number of students expelled.

c. The types of weapons concerned.

The State Department of Education shall report the information collected from the local education agencies to the Secretary of Education.

16-28-3.1. Guidelines and procedures for withdrawal from school; dropout prevention program.

(c) The department, in addition to other information and data, shall compile all of the following data to ensure that the dropout prevention program, and local versions of the program, are based upon evidence-based research, are data-driven, and show continuous improvement in: (1) The total number of high school suspensions related to truancy.

16-28-12. Person in loco parentis responsible for child's school attendance and behavior; noncompliance; local boards to promulgate written behavior policy, contents, annual distribution, receipt to be documented; school officials required to report noncompliance; failure to report suspected violation; district attorneys vigorously to enforce provisions.

(a) Each parent, guardian, or other person having control or custody of any child required to attend school or receive regular instruction by a private tutor who fails to have the child enrolled in school or who fails to send the child to school, or have him or her instructed by a private tutor during the time the child is required to attend a public school, private school, church school, denominational school, or parochial school, or be instructed by a private tutor, or fails to require the child to regularly attend the school or tutor, or fails to compel the child to properly conduct himself or herself as a pupil in any public school in accordance with the written policy on school behavior adopted by the local board of education pursuant to this section and documented by the appropriate school official which conduct may result in the suspension of the pupil, shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than one hundred dollars ($100) and may also be sentenced to hard labor for the county for not more than 90 days. The absence of a child without the consent of the principal teacher of the public school he or she attends or should attend, or of the tutor who instructs or should instruct the child, shall be prima facie evidence of the violation of this section.

(c) Any parent, guardian, or other person having control or custody of any child enrolled in public school who fails to require the child to regularly attend the school or tutor, or fails to compel the child to properly conduct himself or herself as a pupil in accordance with the written policy on school behavior adopted by the local board of education and documented by the appropriate school official which conduct may result in the suspension of the pupil, shall be reported by the principal to the superintendent of education of the school system in which the suspected violation occurred. The superintendent of education or his or her designee shall report suspected violations to the district attorney within 10 days. Any principal or superintendent of education or his or her designee intentionally failing to report a suspected violation shall

be guilty of a Class C misdemeanor. The district attorney shall vigorously enforce this section to ensure proper conduct and required attendance by any child enrolled in public school.

16-28B-2. Legislative intent.

It is the intent of the Legislature to provide for the adoption of policies in public school systems to prevent the harassment of students. It is the further intent of the Legislature that this chapter apply only to student against student harassment, intimidation, violence, and threats of violence in the public schools of Alabama, grades prekindergarten through 12, and that the State Department of Education develop, and each local board of education adopt procedural policies to manage and possibly prevent these acts against any student by another student or students based on the characteristics of a student.

Additionally, it is the intent of the Legislature that the filing of a complaint of harassment be in writing and submitted by the affected student, or the parent or guardian of the affected student, and not by an education employee on behalf of an affected student or his or her parent or guardian.

16-28B-4. Prohibited behavior; complaints; school plans or programs.

(a) No student shall engage in or be subjected to harassment, intimidation, violence, or threats of violence on school property, on a school bus, or at any school-sponsored function by any other student in his or her school system.

(b) No person shall engage in reprisal, retaliation, or false accusation against a victim, witness, or other person who has reliable information about an act of harassment, violence, or threat of violence.

(c) Any student, or parent or guardian of the student, who is the object of harassment may file a complaint outlining the details of the harassment, on a form authorized by the local board, and submit the form to the official designated by the local board to receive complaints at the school.

(d) Each school shall develop plans or programs, including, but not limited to, peer mediation teams, in an effort to encourage students to report and address incidents of harassment, violence, or threats of violence.

16-28B-5. Model policy.

The department shall develop a model policy prohibiting harassment, violence, and threats of violence on school property, on a school bus, or at any school-sponsored function. The model policy, at a minimum, shall contain all of the following components:

(1) A statement prohibiting harassment, violence, and threats of violence.

(2) Definitions of the terms harassment, as provided in subdivision (2) of Section 16-28B-3, intimidation, and threats of violence.

(3) A description of the behavior expected of each student.

(4) A series of graduated consequences for any student who commits an act of intimidation, harassment, violence, or threats of violence. Punishment shall conform with applicable federal and state disability, antidiscrimination, and education laws and school discipline policies.

(5) A procedure for reporting an act of intimidation, threat of suicide, harassment, violence, or threat of violence. An anonymous report may not be the basis for imposing formal disciplinary action against a student.

(6) A procedure for the prompt investigation of reports of serious violations and complaints, specifying that the principal, or his or her designee, is the person responsible for the investigation.

(7) A response procedure for a school to follow upon confirmation of an incident of intimidation, harassment, violence, or threats of violence.

(8) A statement prohibiting reprisal or retaliation against any person who reports an act of intimidation, violence, threat of violence, or harassment, including the consequences of and any appropriate remedial action that may be taken against a person who engages in such reprisal or retaliation.

(9) A statement of the consequences of and appropriate remedial action that may be taken against a person who has deliberately and recklessly falsely accused another.

(10) A procedure for publicizing local board policy, including providing notice that the policy applies to participation in school-sponsored functions.

(11) A clearly defined procedure for students to use in reporting harassment, including, but not limited to, written reports on local board approved complaint forms and written reports of instances of harassment, intimidation, violence, and threats of violence based on the personal characteristics of a student. The complaint form may be served in person or by mail on the principal, or his or her designee, or his or her office. The procedures shall be made known and be readily available to each student, employee, and the parent or guardian of each student. It is the sole responsibility of the affected student, or the parent or guardian of the affected student, to report incidences of harassment to the principal, or his or her designee.

(12) A procedure for promulgating rules to implement this chapter, including the development of a model student complaint form. The department shall seek public input in developing and revising the model policy, model complaint form, and any other necessary forms.

(13) A procedure for the development of a nonexhaustive list of the specific personal characteristics of a student which may often lead to harassment. Based upon experience, a local board of education may add, but not remove, characteristics from the list. The additional characteristics or perceived characteristics that cause harassment shall be identified by the local board on a case-by-case basis and added to the local board policy. The list shall be included in the code of conduct policy of each local board.

16-28B-6. Duties of schools.

Each school shall do all of the following:

(4) Report statistics to the local board of actual violence, submitted reports of threats of violence, and harassment. The local board shall provide the statistics of the school system and each school in the school system to the department for posting on the department website. The posted statistics shall be available to the public and any state or federal agency requiring the information. The identity of each student involved shall be protected and may not be posted on the department website.

16-28-40. License applicant under 19 to provide documentation of school enrollment, etc.; denial of application if requiste status not shown; role of school attendance official; effect of withdrawal from school; effect of conviction for certain pistol offenses on driving privileges.

(a) The Department of Public Safety shall deny a driver's license or a learner's license for the operation of a motor vehicle to any person under the age of 19 who does not, at the time of application, present a diploma or other certificate of graduation issued to the person from a secondary high school of this state or any other state, or documentation that the person: (1) is enrolled and making satisfactory progress in a course leading to a general educational development certificate (GED) from a state approved institution or organization, or has obtained the certificate; (2) is enrolled in a secondary school of this state or any other state; (3) is participating in a job training program approved by the State Superintendent of Education; (4) is gainfully and substantially employed; (5) is a parent with the care and custody of a minor or unborn child; (6) has a physician certify that the parents of the person depend on him or her as their sole source of transportation; or (7) is exempted from this requirement due to circumstances beyond his or her control as provided in this chapter.

(b) The attendance officer or chief attendance administrator, upon request, shall provide documentation of enrollment status on a form approved by the Department of Education to any student 15 years of age or older who is properly enrolled in a school under the jurisdiction of the official, for presentation to the Department of Public Safety, on application for, or renewal or reinstatement of, a driver's license or a learner's license to operate a motor vehicle. Whenever a student 16 years of age or older withdraws from school, the attendance officer or chief attendance administrator shall notify the Department of Public Safety of the withdrawal. Withdrawal shall be defined as more than 10 consecutive or 15 days total unexcused absences during a single semester.

(c) Within five days of receipt of a notice of withdrawal, the Department of Public Safety shall send notice to the licensee that his or her driver's license or learner's license will be suspended under this article on the 30th day following the date the notice was sent unless documentation of compliance with this article is received by the department before the 30th day.

(d) Whenever the withdrawal from school of the student, or the failure of the student to enroll in a course leading to or to obtain a GED or high school diploma, is beyond the control of the student, or is for the purpose of transfer to another school as confirmed in writing by the parent or guardian of the student, or is for the purpose of participating in a job training program approved by the State Superintendent of Education, no notice shall be sent by the proper school official to the Department of Public Safety to suspend the license of the student. If the student is applying for or renewing a driver's license or a learner's license, the attendance officer or chief attendance administrator, upon request, shall provide the student with documentation to present to the Department of Public Safety to exempt the student from this section. The local superintendent of education with the assistance of the county or city school attendance director as the case may be, and any other staff or school personnel, or the appropriate school official of any private secondary school, shall be the sole judge of whether the withdrawal is due to circumstances beyond the control of the person. Suspension or expulsion from school or imprisonment in a jail or penitentiary is not a circumstance beyond the control of a person.

(e) (1) Any person over the age of 14 who is convicted of the crime of possession of a pistol on the premises of a public school, or a public school bus, or both, under Section 13A-11-72 shall be denied issuance of a driver's permit or license for the operation of a motor vehicle for 180 days from the date the person is eligible and applies for a permit or license for the operation of a motor vehicle. Any adjudication as a juvenile delinquent or youthful offender where the underlying charge is the possession of a pistol on the premises of a public school, or a public school bus, or both, under Section 13A-11-72 shall be considered a conviction under this subsection, and the adjudication of a person as a juvenile delinquent or youthful offender where the underlying charge is a violation under Section 13A-11-72 shall be reported to the Department of Public Safety.

(2) If a person over the age of 14 years possesses a driver's license on the date of conviction, the Department of Public Safety, within five days of receipt of a notice of conviction from the court, shall send notice to the licensee that his or her driver's license will be suspended. The notice shall state that the license will be suspended for 180 days commencing on the 30th day following the date the notice was sent unless documentation is received by the department before the 30th day that the person was not convicted of the crime. Upon the appropriate date, the department shall suspend the license.

(3) Upon the written request of the person whose license is denied or suspended, the Department of Public Safety shall afford the person an opportunity for a hearing in the same manner and under the procedure used for other driver's license suspensions. If the suspension or denial of issuance determination is sustained by the Director of the Department of Public Safety or the authorized agent of the director, upon such hearing, the person may file a petition in the appropriate court to review the final order of suspension or denial by the director or the authorized agent of the director in the same manner and under the same conditions as is provided in the case of suspensions and denials.

(4) If the conviction is reversed within the 180 day period, the department, upon receipt of notice of the reversal from the Administrative Office of Courts, shall reinstate a suspended license and shall accept an application for a license and shall issue the license according to law and regulation.

(5) The court shall notify the Department of Public Safety of the conviction of a person over the age of 14 of a crime involving the possession of a pistol on the premises of a public school, or a public school bus, or both, under Section 13A-11-72 and any reversal of the conviction. The Administrative Office of Courts may promulgate necessary rules and regulations to implement this notification procedure.

ADMINISTRATIVE CODE

290-3-1-.02-.01(f). Permissible Use of Seclusion and Restraint.

(10) Notice, Reporting, and Documentation.

(a) Notice of procedures. – Each local board of education shall provide copies of this section and all local board policies developed to implement this section to school personnel and parents or guardians at the beginning of each school year.

(b) Notice of specified incidents:

1. School personnel shall promptly notify the principal or principal's designee of:

(i) Any use of aversive procedures.

(ii) Any prohibited use of chemical, mechanical or physical restraint.

(iii) Any use of restraint resulting in observable physical injury to a student.

2. When a principal or principal's designee has personal knowledge or actual notice of any of the events described in this subdivision, the principal or principal's designee shall promptly notify the student's parent or guardian and will provide the name of a school employee the parent or guardian can contact regarding the incident.

(c) As used in subdivision (2) of this subsection, "promptly notify" means by the end of the workday during which the incident occurred when reasonably possible, but in no event later than the end of the following workday.

(d) The parent or guardian of the student shall be provided with a written incident report for any incident reported under this section within a reasonable period of time, but in no event later than 15 days after the incident. The written incident report shall include:

(i) The date, time of day, location, duration, and description of the incident and interventions.

(ii) The events or events that led up to the incident.

(iii) The nature and extent of any injury to the student.

(iv) The name of a school employee the parent or guardian can contact regarding the incident.

(e) No local board of education or employee of a local board of education shall discharge, threaten, or otherwise retaliate against another employee of the board regarding that employee's compensation, terms, conditions, location, or privileges of employment because the employee makes a report alleging a prohibited use of physical restraint, mechanical restraint, aversive procedure, or seclusion, unless the employee knew or should have known that the report was false.

Parental notification

STATUTES

16-1-24.1. Safe school and drug-free school policy; treatment of policy violators; promulgation and distribution of discipline policy; liability limited for discipline actions; local boards may adopt more stringent guidelines.

(e) (2)b A parent, guardian, custodian, or person, excluding a foster parent, responsible for the care or control of a minor child enrolled in a public school system may be requested to appear at school by an appropriate school official for a conference regarding acts of the child specified in paragraph a.

(c) A parent, guardian, custodian, or person, excluding a foster parent, responsible for the care or control of a minor child enrolled in a school system who has been summoned by proper notification by an appropriate school official shall be required under this provision to attend such discipline conference specified in paragraph b.

16-28-16 Cases of nonenrollment and nonattendance; withdrawal of enrollment.

(a) It shall be the duty of the county superintendent of education or the city superintendent of education, as the case may be, to require the attendance officer to investigate all cases of nonenrollment and of nonattendance. In all cases investigated where no valid reason for nonenrollment or nonattendance is found, the attendance officer shall give written notice to the parent, guardian, or other person having control of the child. In the event of the absence of the parent, guardian, or other person having control of the child from his or her usual place of residence, the attendance officer shall leave a copy of the notice with some person over 12 years of age residing at the usual place of residence, with instructions to hand the notice to the parent, guardian, or other person having control of the child, which notice shall require the attendance of the child at the school within three days from the date of the notice. In the event the investigation discloses that the nonenrollment or nonattendance was without valid excuse or good reason and intentional, the attendance officer shall be required to bring criminal prosecution against the parent, guardian, or other person having control of the child.

(b) Each child who is enrolled in a public school shall be subject to the attendance and truancy provisions of this article except that any parent or parents, guardian or guardians who voluntarily enrolls their child in public school, who feel that it is in the best interest of that child shall have the right to withdraw the child at any time prior to the current minimum compulsory attendance age.

ADMINSTRATIVE CODE

290-3-1-.02. Regulations Governing Public Schools.

(1) Safe School Equipment and Facilities, Laboratories, and Policies.

(a) Safety precautions must be implemented and adequate facilities must be provided for implementations of programs prescribed by SDE Bulletin(s).

(b) Effective with the 1995-96 school year and thereafter, local boards of education must:

1. Adopt a uniform policy allowing law enforcement agencies to make periodic visits to local public schools to detect the presence of illegal drugs, unannounced to anyone except the local superintendent and building principal.

2. Adopt a uniform policy prohibiting the use of tobacco products on school property and prescribing specific penalties for violating this policy.

3. Adopt and enforce a uniform policy prohibiting all persons, other than authorized law enforcement personnel, from bringing or possessing any deadly weapon or dangerous instrument on school

property and prescribing specific penalties for students and school personnel who violate this policy, notwithstanding any criminal penalties which may also be imposed.

(c) Local school systems which operate alternative educational programs shall provide a curriculum that stresses skills in recognizing and managing anger, alternatives to aggression (verbal and physical assault), strategies for developing self-control and personal responsibility, skills for getting along with others, success through academic achievement, and skills for success in the workplace.

(d) All policies and actions implemented under these mandatory regulations affecting students with disabilities must comply with federal and state special education laws, regulations, and court rulings.

(e) Unsafe School Choice Option

1. Definitions: A transfer option school (TOS) in the state of Alabama is one in which for three (3) consecutive school years the school has expelled one percent (1%) of the student population or five (5) students (whichever is greater) for violent criminal offenses committed on school property during school hours or committed at school-sponsored activities. The words “transfer option school,” “TOS,” or “TOS school” shall mean a “persistently dangerous school” as those words are used in the No Child Left Behind Act of 2001, Public Law 107-110, Title IX, §9532(a) and (b). For the purpose of this definition, a “violent criminal offense” shall mean homicide; robbery; assault in the first and/or second degree; sexual battery (including rape) as these offenses are defined in the Criminal Code of Alabama (see §13A-6-1, et. seq., Code of Ala. 1975); and use of a handgun, firearm component, explosive, knife, and other "unknown weapons" as defined by the Student Incident Report (SIR).

2. A student who becomes a victim of a violent criminal offense committed on school property during school hours or at school-sponsored activities shall be given an opportunity to transfer to a safe public school within the LEA. The LEA shall notify the student’s parent/guardian of the right to transfer as soon as practicable, not to exceed ten (10) calendar days from the date of a final determination by the school board or its designee that a violent criminal offense has occurred. All LEA transfer procedures will be observed. It shall be the policy of the Alabama State Department of Education (SDE) to notify the LEA annually when one or more of its schools have been identified as a transfer option school. Each Superintendent or his or her designee shall orally notify the Prevention and Support Services Section of the State Department of Education within twenty-four (24) hours of the decision that a violent criminal offense has occurred, followed by written confirmation. The State Department of Education will assist the LEA in resolving all safety issues. At a minimum, an LEA that has one or more schools identified as persistently dangerous must:

(i) Step 1. Notify parents/guardians of each student attending the school within ten (10) working days that it has been identified as a transfer option school and offer students the opportunity to transfer to a safe public school within the LEA if another school is available.

(ii) Step 2. Complete the transfer for those students who opt to do so within 20 working days.

(iii) Step 3. Develop a corrective action plan to be submitted to the SDE for approval within 20 working days of the LEA’s receipt of status.

(iv) Step 4. Implement the corrective action plan. Once a school has been identified as a transfer option school, it can return to safe status by (1) completing Steps One through Four above and (2) completing two consecutive years with less than one percent (1%) of the student population or five (5) students (whichever is greater) expelled for violent criminal offenses as defined in its policy.

290-3-1-.02-.01(f). Permissible Use of Seclusion and Restraint.

(b) Notice of specified incidents:

1. School personnel shall promptly notify the principal or principal's designee of:

(i) Any use of aversive procedures.

(ii) Any prohibited use of chemical, mechanical or physical restraint.

(iii) Any use of restraint resulting in observable physical injury to a student.

2. When a principal or principal's designee has personal knowledge or actual notice of any of the events described in this subdivision, the principal or principal's designee shall promptly notify the student's parent or guardian and will provide the name of a school employee the parent or guardian can contact regarding the incident.

(c) As used in subdivision (2) of this subsection, "promptly notify" means by the end of the workday during which the incident occurred when reasonably possible, but in no event later than the end of the following workday.

(d) The parent or guardian of the student shall be provided with a written incident report for any incident reported under this section within a reasonable period of time, but in no event later than 15 days after the incident. The written incident report shall include:

(i) The date, time of day, location, duration, and description of the incident and interventions.

(ii) The events or events that led up to the incident.

(iii) The nature and extent of any injury to the student.

(iv) The name of a school employee the parent or guardian can contact regarding the incident.

(e) No local board of education or employee of a local board of education shall discharge, threaten, or otherwise retaliate against another employee of the board regarding that employee's compensation, terms, conditions, location, or privileges of employment because the employee makes a report alleging a prohibited use of physical restraint, mechanical restraint, aversive procedure, or seclusion, unless the employee knew or should have known that the report was false.

Reporting and referrals between schools and law enforcement

STATUTES

16-1-24. Reporting of property damage and physical assaults on students and school personnel; legislative intent; penalties.

(a) For purposes of this section, the following words and phrases shall have the following respective meanings, unless the context clearly indicates otherwise:

(1) INCIDENT. Any act of physical violence, with or without a weapon, trespass, vandalism, or property damage which occurs.

a. On school property; or

b. During school activities, on or off school property; or

c. At any other times when such incident can be reasonably related to school functions.

Provided, however, that incidents involving only students from the same school wherein no dangerous weapon was involved and no bodily injury requiring medical attention occurs shall not be required to be reported as provided herein. All attacks or incidents involving teachers or other school personnel shall be promptly reported.

(2) PRINCIPAL. The principal or top administrator of any public elementary, junior or senior high school at which the incident occurred.

(3) SUPERINTENDENT OF EDUCATION. The superintendent of the county or city board of education in the county in which the school is located.

(4) REPORT. A written narrative report of an incident, the number and names and addresses of persons involved in the incident, the type of any weapon involved and a description of any injury or

damage resulting from the incident. Said report shall contain the names and addresses of all known persons present at the time of said incident.

(5) TEACHER AND OTHER SCHOOL EMPLOYEE. An employee of any public elementary, junior or senior high school at which the incident occurred.

(6) SCHOOL BOARD. The board of education.

(7) COUNTY SHERIFF. The sheriff of the county in which the public school is located.

(b) It is the intention of the Legislature by passage of the section to require principals, teachers and other school employees of public elementary, junior and senior high schools to make reports of violent disruptive incidents occurring on school property during school hours or during school activities conducted on or off school property after school hours or at any other time when such incident can be reasonably related to school or school functions and to provide for penalties for failure to report such incidents.

(c) Principals shall file a report within 72 hours with the superintendent of education of any incident of which they have knowledge. A copy of the report shall also be furnished members of the school board and the county sheriff by the superintendent of education.

(d) Teachers and other school employees shall immediately report to the principal any incident of which they have knowledge. Said teacher and employee shall assist the principal in the preparation of the report required under subsection (c) of this section.

(e) Any superintendent of education, principal, teacher, or employee who violates the provisions of this section by failure to file a required report shall be guilty of a Class C misdemeanor.

16-1-24.1. Safe school and drug-free school policy; treatment of policy violators; promulgation and distribution of discipline policy; liability limited for discipline actions; local boards may adopt more stringent guidelines.

(b) The principal shall notify appropriate law enforcement officials when any person violates local board of education policies concerning drugs, alcohol, weapons, physical harm to a person, or threatened physical harm to a person. If any criminal charge is warranted arising from the conduct, the principal is authorized to sign the appropriate warrant. If that person is a student enrolled in any public school in the State of Alabama, the local school system shall immediately suspend that person from attending regular classes and schedule a hearing at the earliest possible date, which shall not be later than five school days. The decision to suspend or initiate criminal charges against a student, or both, shall include a review and consideration of the student's exceptional status, if applicable, under Chapter 39, or appropriate federal statutory or case law.

16-1-24.3. Local boards of education to implement policies requiring expulsion of students who possess firearms in school areas.

(c) Law enforcement authorities involved with students charged with firearm violations shall refer the violators of this section to the appropriate authority in the judicial system when the action is feasible.

16-28-12. Person in loco parentis responsible for child's school attendance and behavior; noncompliance; local boards to promulgate written behavior policy, contents, annual distribution, receipt to be documented; school officials required to report noncompliance; failure to report suspected violation; district attorneys vigorously to enforce provisions.

(a) Each parent, guardian, or other person having control or custody of any child required to attend school or receive regular instruction by a private tutor who fails to have the child enrolled in school or who fails to send the child to school, or have him or her instructed by a private tutor during the time the child is required to attend a public school, private school, church school, denominational school, or parochial

school, or be instructed by a private tutor, or fails to require the child to regularly attend the school or tutor, or fails to compel the child to properly conduct himself or herself as a pupil in any public school in accordance with the written policy on school behavior adopted by the local board of education pursuant to this section and documented by the appropriate school official which conduct may result in the suspension of the pupil, shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than one hundred dollars ($100) and may also be sentenced to hard labor for the county for not more than 90 days. The absence of a child without the consent of the principal teacher of the public school he or she attends or should attend, or of the tutor who instructs or should instruct the child, shall be prima facie evidence of the violation of this section.

(c) Any parent, guardian, or other person having control or custody of any child enrolled in public school who fails to require the child to regularly attend the school or tutor, or fails to compel the child to properly conduct himself or herself as a pupil in accordance with the written policy on school behavior adopted by the local board of education and documented by the appropriate school official which conduct may result in the suspension of the pupil, shall be reported by the principal to the superintendent of education of the school system in which the suspected violation occurred. The superintendent of education or his or her designee shall report suspected violations to the district attorney within 10 days. Any principal or superintendent of education or his or her designee intentionally failing to report a suspected violation shall be guilty of a Class C misdemeanor. The district attorney shall vigorously enforce this section to ensure proper conduct and required attendance by any child enrolled in public school.

16-28-40. License applicant under 19 to provide documentation of school enrollment, etc.; denial of application if requiste status not shown; role of school attendance official; effect of withdrawal from school; effect of conviction for certain pistol offenses on driving privileges.

(a) The Department of Public Safety shall deny a driver's license or a learner's license for the operation of a motor vehicle to any person under the age of 19 who does not, at the time of application, present a diploma or other certificate of graduation issued to the person from a secondary high school of this state or any other state, or documentation that the person: (1) is enrolled and making satisfactory progress in a course leading to a general educational development certificate (GED) from a state approved institution or organization, or has obtained the certificate; (2) is enrolled in a secondary school of this state or any other state; (3) is participating in a job training program approved by the State Superintendent of Education; (4) is gainfully and substantially employed; (5) is a parent with the care and custody of a minor or unborn child; (6) has a physician certify that the parents of the person depend on him or her as their sole source of transportation; or (7) is exempted from this requirement due to circumstances beyond his or her control as provided in this chapter.

(b) The attendance officer or chief attendance administrator, upon request, shall provide documentation of enrollment status on a form approved by the Department of Education to any student 15 years of age or older who is properly enrolled in a school under the jurisdiction of the official, for presentation to the Department of Public Safety, on application for, or renewal or reinstatement of, a driver's license or a learner's license to operate a motor vehicle. Whenever a student 16 years of age or older withdraws from school, the attendance officer or chief attendance administrator shall notify the Department of Public Safety of the withdrawal. Withdrawal shall be defined as more than 10 consecutive or 15 days total unexcused absences during a single semester.

(c) Within five days of receipt of a notice of withdrawal, the Department of Public Safety shall send notice to the licensee that his or her driver's license or learner's license will be suspended under this article on the 30th day following the date the notice was sent unless documentation of compliance with this article is received by the department before the 30th day.

(d) Whenever the withdrawal from school of the student, or the failure of the student to enroll in a course leading to or to obtain a GED or high school diploma, is beyond the control of the student, or is for the

purpose of transfer to another school as confirmed in writing by the parent or guardian of the student, or is for the purpose of participating in a job training program approved by the State Superintendent of Education, no notice shall be sent by the proper school official to the Department of Public Safety to suspend the license of the student. If the student is applying for or renewing a driver's license or a learner's license, the attendance officer or chief attendance administrator, upon request, shall provide the student with documentation to present to the Department of Public Safety to exempt the student from this section. The local superintendent of education with the assistance of the county or city school attendance director as the case may be, and any other staff or school personnel, or the appropriate school official of any private secondary school, shall be the sole judge of whether the withdrawal is due to circumstances beyond the control of the person. Suspension or expulsion from school or imprisonment in a jail or penitentiary is not a circumstance beyond the control of a person.

(e) (1) Any person over the age of 14 who is convicted of the crime of possession of a pistol on the premises of a public school, or a public school bus, or both, under Section 13A-11-72 shall be denied issuance of a driver's permit or license for the operation of a motor vehicle for 180 days from the date the person is eligible and applies for a permit or license for the operation of a motor vehicle. Any adjudication as a juvenile delinquent or youthful offender where the underlying charge is the possession of a pistol on the premises of a public school, or a public school bus, or both, under Section 13A-11-72 shall be considered a conviction under this subsection, and the adjudication of a person as a juvenile delinquent or youthful offender where the underlying charge is a violation under Section 13A-11-72 shall be reported to the Department of Public Safety.

(2) If a person over the age of 14 years possesses a driver's license on the date of conviction, the Department of Public Safety, within five days of receipt of a notice of conviction from the court, shall send notice to the licensee that his or her driver's license will be suspended. The notice shall state that the license will be suspended for 180 days commencing on the 30th day following the date the notice was sent unless documentation is received by the department before the 30th day that the person was not convicted of the crime. Upon the appropriate date, the department shall suspend the license.

(3) Upon the written request of the person whose license is denied or suspended, the Department of Public Safety shall afford the person an opportunity for a hearing in the same manner and under the procedure used for other driver's license suspensions. If the suspension or denial of issuance determination is sustained by the Director of the Department of Public Safety or the authorized agent of the director, upon such hearing, the person may file a petition in the appropriate court to review the final order of suspension or denial by the director or the authorized agent of the director in the same manner and under the same conditions as is provided in the case of suspensions and denials.

(4) If the conviction is reversed within the 180 day period, the department, upon receipt of notice of the reversal from the Administrative Office of Courts, shall reinstate a suspended license and shall accept an application for a license and shall issue the license according to law and regulation.

(5) The court shall notify the Department of Public Safety of the conviction of a person over the age of 14 of a crime involving the possession of a pistol on the premises of a public school, or a public school bus, or both, under Section 13A-11-72 and any reversal of the conviction. The Administrative Office of Courts may promulgate necessary rules and regulations to implement this notification procedure.

ADMINISTRATIVE CODE

290-3-1-.02-.01(f). Permissible Use of Seclusion and Restraint.

(10) Notice, Reporting, and Documentation.

(a) Notice of procedures. – Each local board of education shall provide copies of this section and all local board policies developed to implement this section to school personnel and parents or guardians at the beginning of each school year.

(b) Notice of specified incidents:

1. School personnel shall promptly notify the principal or principal's designee of:

(i) Any use of aversive procedures.

(ii) Any prohibited use of chemical, mechanical or physical restraint.

(iii) Any use of restraint resulting in observable physical injury to a student.

2. When a principal or principal's designee has personal knowledge or actual notice of any of the events described in this subdivision, the principal or principal's designee shall promptly notify the student's parent or guardian and will provide the name of a school employee the parent or guardian can contact regarding the incident.

(c) As used in subdivision (2) of this subsection, "promptly notify" means by the end of the workday during which the incident occurred when reasonably possible, but in no event later than the end of the following workday.

(d) The parent or guardian of the student shall be provided with a written incident report for any incident reported under this section within a reasonable period of time, but in no event later than 15 days after the incident. The written incident report shall include:

(i) The date, time of day, location, duration, and description of the incident and interventions.

(ii) The events or events that led up to the incident.

(iii) The nature and extent of any injury to the student.

(iv) The name of a school employee the parent or guardian can contact regarding the incident.

(e) No local board of education or employee of a local board of education shall discharge, threaten, or otherwise retaliate against another employee of the board regarding that employee's compensation, terms, conditions, location, or privileges of employment because the employee makes a report alleging a prohibited use of physical restraint, mechanical restraint, aversive procedure, or seclusion, unless the employee knew or should have known that the report was false.

Disclosure of school records

No relevant statutes found.

Data collection, review, and reporting of disciplinary policies and actions

STATUTES

16-1-24.1. Safe school and drug-free school policy; treatment of policy violators; promulgation and distribution of discipline policy; liability limited for discipline actions; local boards may adopt more stringent guidelines.

(e) (1) A copy of the school system's discipline plan shall be distributed to all students enrolled in the system and their parents, guardians, or custodians shall read the plan and sign a statement verifying that they have been given notice of the discipline policies of their respective school system. The school board shall have its official discipline plan reviewed on an annual basis to ensure that its policies and procedures are currently in compliance with applicable , case law, and state and federal constitutional provisions.

16-1-24.3. Local boards of education to implement policies requiring expulsion of students who possess firearms in school areas.

(d). Local education agencies submitting applications for federal funds to the State Department of Education shall include in the application:

(1) An affidavit to affirm that the local education agency has developed and implemented a policy to provide for a gun-free environment in all its public schools,

(2) A description of the circumstances surrounding an expulsion imposed under this section including:

a. The name of the school concerned,

b. The number of students expelled,

c. The types of weapons concerned.

The State Department of Education shall report the information collected from the local education agencies to the Secretary of Education.

16-6B-7. Accountability reports to the public.

(a) The local board of education shall prepare an annual accountability report for each school and area vocational/technical center under its jurisdiction, and for itself, to be provided to the public under regulations promulgated by the State Board of Education. Such accountability reports shall include, but not be limited to, all of the following:

(3) A School Safety and Discipline Report which shall include statistical information relating to student safety and discipline in each school and any other data deemed necessary by the local board of education or the State Board of Education to inform the public about safety and discipline in each school.

(b) These reports shall be released to the media, presented to parent organizations, members of the Legislature who represent the schools covered in each report, and the State Superintendent of Education. These reports shall be made available to the public upon request on or before ninety (90) days after the end of the fiscal year.

16-28-3.1 Guidelines and procedures for withdrawal from school; dropout prevention program.

(c) The department, in addition to other information and data, shall compile all of the following data to ensure that the dropout prevention program, and local versions of the program, are based upon evidence-based research, are data-driven, and show continuous improvement in: (1) The total number of high school suspensions related to truancy.

16-28B-6. Duties of schools

Each school shall do all of the following:

(4) Report statistics to the local board of actual violence, submitted reports of threats of violence, and harassment. The local board shall provide the statistics of the school system and each school in the school system to the department for posting on the department website. The posted statistics shall be available to the public and any state or federal agency requiring the information. The identity of each student involved shall be protected and may not be posted on the department website.

16-41-10. Report of status of program by State Superintendent of Education.

The State Superintendent of Education shall, at least 30 days prior to the 1973 Regular Session and each regular session thereafter, transmit to the members of the state board, the President of the Senate, the Speaker of the House, the Chairman of the Senate and the Chairman of the House Education

Committees a report as to the status of the drug abuse education program together with any recommendations for further improvement or modification.

School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers

Authority and power to implement school arrest

STATUTES

16-28-17. When child may be taken into custody.

It shall be the duty of the attendance officer, probation officer or other officer authorized to execute writs of arrest to take into custody without warrant any child required to attend school or be instructed by a private tutor who is found away from home and not in the custody of the person having charge or control of such child during school hours and who has been reported by any person authorized to begin proceedings or prosecutions under the provisions of this article as a truant. Such child shall forthwith be delivered to the person having charge or control of said child or to the principal teacher of the school or the private tutor from whom said child is a truant. If such child is an habitual truant, he shall be brought before the juvenile court for such disposition as the judge of said court finds proper from the facts.

Certification or training

No relevant statutes found.

MOUs, authorization, and/or funding

STATUTES

16-28-20. Compensation of attendance officers.

The attendance officers who are employed by the county or city board of education shall be paid by the respective boards of education such salaries as may be required to secure efficient service. Said attendance officer shall be paid as other employees of the county or city boards of education are paid, but no attendance officer shall receive any compensation under the provisions of this title until he shall have filed such reports as are required by the State Board of Education and by the board of education of the county or city employing him.

State Education Agency Support

State model policies and implementation support

STATUTES

16-1-24.1. Safe school and drug-free school policy; treatment of policy violators; promulgation and distribution of discipline policy; liability limited for discipline actions; local boards may adopt more stringent guidelines.

(a) The Legislature finds a compelling public interest in ensuring that schools are made safe and drug-free for all students and school employees. The Legislature finds the need for a comprehensive safe school and drug-free school policy to be adopted by the State Board of Education. This policy should establish minimum standards for classes of offenses and prescribe uniform minimum procedures and penalties for those who violate the policies. It is the intent of the Legislature that our schools remain safe and drug-free for all students and school employees. The State Board of Education shall adopt and all local boards of education shall uniformly enforce policies that protect all students and school employees. The State Board of Education shall require local school systems to modify their policies, practices or procedures so as to ensure a safe school environment free of illegal drugs, alcohol, or weapons. Any rules and regulations adopted by the State Board of Education pursuant to this section shall be exempt from Section 41-22-3(3). These modifications shall include the formulation of a discipline plan setting forth policies, practices, and procedures dealing with students or other persons who bring illegal drugs, alcohol, or weapons on a school campus. The discipline plan shall also include uniform drug-free school policies with uniform penalties.

16-28B-5 Model policy.

The department shall develop a model policy prohibiting harassment, violence, and threats of violence on school property, on a school bus, or at any school-sponsored function. The model policy, at a minimum, shall contain all of the following components:

(1) A statement prohibiting harassment, violence, and threats of violence.

(2) Definitions of the terms harassment, as provided in subdivision (2) of Section 16-28B-3, intimidation, and threats of violence.

(3) A description of the behavior expected of each student.

(4) A series of graduated consequences for any student who commits an act of intimidation, harassment, violence, or threats of violence. Punishment shall conform with applicable federal and state disability, antidiscrimination, and education laws and school discipline policies.

(5) A procedure for reporting an act of intimidation, threat of suicide, harassment, violence, or threat of violence. An anonymous report may not be the basis for imposing formal disciplinary action against a student.

(6) A procedure for the prompt investigation of reports of serious violations and complaints, specifying that the principal, or his or her designee, is the person responsible for the investigation.

(7) A response procedure for a school to follow upon confirmation of an incident of intimidation, harassment, violence, or threats of violence.

(8) A statement prohibiting reprisal or retaliation against any person who reports an act of intimidation, violence, threat of violence, or harassment, including the consequences of and any appropriate remedial action that may be taken against a person who engages in such reprisal or retaliation.

(9) A statement of the consequences of and appropriate remedial action that may be taken against a person who has deliberately and recklessly falsely accused another.

(10) A procedure for publicizing local board policy, including providing notice that the policy applies to participation in school-sponsored functions.

(11) A clearly defined procedure for students to use in reporting harassment, including, but not limited to, written reports on local board approved complaint forms and written reports of instances of harassment, intimidation, violence, and threats of violence based on the personal characteristics of a student. The complaint form may be served in person or by mail on the principal, or his or her designee, or his or her office. The procedures shall be made known and be readily available to each student, employee, and the parent or guardian of each student. It is the sole responsibility of the affected student, or the parent or guardian of the affected student, to report incidences of harassment to the principal, or his or her designee.

(12) A procedure for promulgating rules to implement this chapter, including the development of a model student complaint form. The department shall seek public input in developing and revising the model policy, model complaint form, and any other necessary forms.

(13) A procedure for the development of a nonexhaustive list of the specific personal characteristics of a student which may often lead to harassment. Based upon experience, a local board of education may add, but not remove, characteristics from the list. The additional characteristics or perceived characteristics that cause harassment shall be identified by the local board on a case-by-case basis and added to the local board policy. The list shall be included in the code of conduct policy of each local board.

Funding appropriations

STATUTES

16-1-24.3. Local boards of education to implement policies requiring expulsion of students who possess firearms in school areas.

(a) All city and county boards of education shall develop and implement local policies and procedures requiring the expulsion of students, for a period of one year, who are determined to have brought to school or have in their possession a firearm in a school building, on school grounds, on school buses, or at other school-sponsored functions. Notwithstanding the foregoing, city and county boards of education and the local superintendent of education of each board may modify the expulsion requirement for a student on a case-by-case basis. Students who are expelled for violation of this section shall not be allowed to attend regular school classes in any public school in the state during the expulsion period. Students who are expelled from schools for firearm possession may be permitted to attend alternative schools designed to provide education services. Discipline of students with disabilities who violate the firearm possession policies of city and county boards of education shall be determined on a case-by-case basis in accordance with the requirements of the Individuals with Disabilities Education Act (IDEA) and Section 504 of the Rehabilitation Act.

(b) For the purposes of this section, the term "firearm" has the same meaning as defined in Section 921 of Title 18 of the United States Code.

(c) When there are violations of the prohibition on firearms being brought to school or the possession of firearms by students, the school principal shall notify the appropriate law enforcement authority which may include city police, county sheriffs, and the local district attorney. In addition to notification of law enforcement officials, the school principal shall notify the parents of students who violate the firearm-free school environment provided for in this section.

Law enforcement authorities involved with students charged with firearm violations shall refer the violators of this section to the appropriate authority in the judicial system when the action is feasible.

(d) Local education agencies submitting applications for federal funds to the State Department of Education shall include in the application:

(1) An affidavit to affirm that the local education agency has developed and implemented a policy to provide for a gun-free environment in all its public schools.

(2) A description of the circumstances surrounding an expulsion imposed under this section including:

a. The name of the school concerned.

b. The number of students expelled.

c. The types of weapons concerned.

The State Department of Education shall report the information collected from the local education agencies to the Secretary of Education.

16-28B-8. Implementation of standards and policies.

To the extent that the Legislature shall appropriate funds, or to the extent that any local board may provide funds from other sources, each school system shall implement the following standards and policies for programs in an effort to prevent student suicide:

(1) Foster individual, family, and group counseling services related to suicide prevention.

(2) Make referral, crisis intervention, and other related information available for students, parents, and school personnel.

(3) Foster training for school personnel who are responsible for counseling and supervising students.

(4) Increase student awareness of the relationship between drug and alcohol use and suicide.

(5) Educate students in recognizing signs of suicidal tendencies and other facts and warning signs of suicide.

(6) Inform students of available community suicide prevention services.

(7) Promote cooperative efforts between school personnel and community suicide prevention program personnel.

(8) Foster school-based or community-based, or both, alternative programs outside of the classroom.

(9) Develop a strategy to assist survivors of attempted suicide, students, and school personnel in coping with the issues relating to attempted suicide, suicide, the death of a student, and healing.

(10) Engage in any other program or activity which the local board determines is appropriate and prudent in the efforts of the school system to prevent student suicide.

(11) Provide training for school employees and volunteers who have significant contact with students on the local board policies to prevent harassment, intimidation, violence, and threats of violence.

(12) Develop a process for discussing with students local board policies relating to the prevention of student suicide and to the prevention of harassment, intimidation, violence, and threats of violence.

16-41-9 Combining of funds from various sources.

In implementing this chapter, every effort shall be made to combine funds appropriated for this purpose with funds available from all other sources, federal, state, local or private, in order to achieve maximum benefits for improving drug abuse education.

41-15B-2.2. Allocation of trust fund revenues.

(a) For each fiscal year, beginning October 1, 1999, contingent upon the Children First Trust Fund receiving tobacco revenues and upon appropriation by the Legislature, an amount of up to and including two hundred twenty-five thousand dollars ($225,000), or equivalent percentage of the total fund, shall be designated for the administration of the fund by the council and the Commissioner of Children's Affairs.

(b) For the each fiscal year, beginning October 1, 1999, contingent upon the Children First Trust Fund receiving tobacco revenues, the remainder of the Children First Trust Fund, in the amounts provided for in Section 41-15B-2.1, shall be allocated as follows:

(2) Twenty-two percent of the fund shall be allocated to the State Board of Education to one or more of the following:

a. The operation of alternative schools as defined below:

1. In the initial fiscal year funding after June 9, 1999, the State Board of Education shall distribute a pro rata share of the monies based upon the second month enrollment of the preceding school year to each local board of education which submits a plan that satisfies all of the following criteria:

(i) The local board of education shall provide a 25 percent match of all funds for alternative school programs.

(ii) The local board of education shall provide suitable facilities for housing alternative school programs.

(iii) The plan submitted by each local board of education shall provide multiple tiers of alternative school programs which include, but are not limited to, "in-school suspension," a short-term alternative school program designed to enable children to perform in the traditional classroom setting, and a long-term program which is a true alternative to expulsion.

(iv) The plan as submitted by each local board of education shall outline the educational services which shall be available to each child assigned to the short-term or long-term programs. Those services shall include, but are not limited to, all of the following:

A. Remedial education where necessary.

B. Counseling, including sessions on conflict resolution.

C. Social skills development.

(v) Each tier of the local plan shall be curriculum-based to address the goal of academic improvement and shall include, to the extent possible, mandatory parental notification and involvement.

(vi) If a local board of education can satisfactorily demonstrate that alternative school programs meeting all of the criteria in this section have been implemented, the allocation to the local board of education for alternative school programs may be directed by the State Board of Education to programs under the School Safety Enhancement Program.

(vii) Each year any monies remaining after distribution by the State Board of Education to the local boards of education which meet the criteria pursuant to subparagraph 1. and qualify for a portion of the monies, shall be allocated to those local boards of education demonstrating innovative programs with measurable improvements in academic achievement, attendance, school behavior, and parental involvement.

2. The State Board of Education shall review the programs of each local board of education receiving monies from the fund and shall annually submit a report to the council by July 1. This report shall include all of the following:

(i) The number of children served in each tier of the program.

(ii) The improvement in academic achievement.

(iii) The improvement in behavior.

(iv) The improvement in parental involvement.

(v) Financial accounting for the state and local monies expended.

3. The State Board of Education shall develop additional criteria for continued state funding of programs initiated pursuant to this chapter.

4. Sufficient safeguards shall be implemented to ensure that the new monies will increase and not supplant or decrease existing state or local support.

b. 1. The School Safety Enhancement Program. The amount of monies available to each local board of education shall be determined by the State Board of Education based upon the second month enrollment of the preceding school year. To be eligible to initially receive a portion of the monies, each local board of education shall submit a grant application pursuant to guidelines promulgated by the State Board of Education with provisions for annual renewal of the grants. Provisions for program evaluation in order to determine effectiveness and financial accountability shall be included in the guidelines. The guidelines shall include all of the following:

(i) A component to enhance parental participation in school activities and promote parental responsibility for the performance and behavior of their children.

(ii) A requirement for a local 25 percent match of funds for school safety activities, excluding pre-kindergarten programs for at-risk children listed in item (ii) of subparagraph 2.

(iii) Sufficient safeguards implemented to ensure that the new monies will increase and not supplant or decrease existing local support.

2. School Safety Enhancement Programs eligible for grants shall be designed to prevent or reduce violence in the schools and communities and reduce school disciplinary or safety problems. The programs shall relate to one or more of the following:

(i) Extended day programs with supervised activities including, but not limited to, remedial education; tutorial assistance; arts, music, or other cultural enhancement; and activities for gifted children. Each local board of education may charge a fee based upon income for participation in the programs.

(ii) Pre-kindergarten programs for "at-risk" children. These programs do not require the local 25 percent match of funds for school safety activities mandated by item (ii) of subparagraph 1.

(iii) Truancy prevention programs which may include additional school attendance personnel and a Saturday school component.

(iv) Programs to assist children in dealing with anger and emphasizing acceptable ways of dealing with violence including peer mediation, conflict resolution, and law related education.

(v) Safety plans involving the use of metal detectors, other security devices, uniforms, school safety resource officers, or other personnel employed to provide a safe school environment.

(vi) Drug, alcohol, tobacco, gang-related, or satanic worshipping-related education, prevention, detection, or enforcement programs.

(vii) At-risk identification and intervention programs designed to identify children who are at-risk and coordinate school and community services so that the mental, physical, and social capabilities of the child are enhanced.

3. The State Board of Education shall review the programs of each local board of education which receive monies from the fund and annually submit a report to the council by July 1. This report shall include all of the following:

(i) The number of children served.

(ii) The improvement in academic achievement.

(iii) The improvement in behavior.

(iv) The improvement in parental involvement.

(v) Financial accounting for the state and local monies expended.

4. The State Board of Education shall develop additional criteria for continued state funding of programs initiated pursuant to this chapter.

c. Any other children's services provided by the State Board of Education.

Other/Uncategorized

Professional immunity or liability

STATUTES

16-1-24.1. Safe school and drug-free school policy; treatment of policy violators; promulgation and distribution of discipline policy; liability limited for discipline actions; local boards may adopt more stringent guidelines.

(g) Except in the case of excessive force or cruel and unusual punishment, no certified or noncertified employee of the State Board of Education or any local board of education shall be civilly liable for any action carried out in conformity with state law and system or school rules regarding the control, discipline, suspension, and expulsion of students.

16-28A-1. Legislative findings.

Teachers are hereby given the authority and responsibility to use appropriate means of discipline up to and including corporal punishment as may be prescribed by the local board of education. So long as teachers follow approved policy in the exercise of their responsibility to maintain discipline in their classroom, such teacher shall be immune from civil or criminal liability. It shall be the responsibility of the local boards of education and the administrators employed by them to provide legal support to each teacher exercising his or her authority and responsibility to maintain order and discipline in his or her classroom as long as the teacher follows the local board of education's policy. Such support for the teacher shall include, but not be limited to, providing appropriate legal representation to defend the teacher against charges, filing of a written report pursuant to Section 16-1-24, seeking the issuance of a warrant or warrants for any person or persons threatening or assaulting a teacher, and the timely assistance and cooperation with the appropriate authorities in the prosecution of any person or persons threatening or assaulting a teacher. Local school board authorities and school administrators providing such support shall be absolutely immune from civil and criminal liability for actions authorized or required by this section.

16-28A-2. Exemption of teachers and other employees from application of Title 26.

The provisions of Title 26 shall not apply to public school teachers in relation to corporal punishment of students when the punishment is consistent with established written policies of the employing board of education. Neither shall the provisions of Title 26 apply to public school teachers or other employees while maintaining order and discipline in the classroom and on public school property, including school buses, consistent with written policies of the employing board of education.

16-28A-4. Immunity for teachers or administrators who report suspected drug abuse.

A teacher or administrator who, in good faith, reports suspected drug abuse by a student to the appropriate authorities shall be immune from civil or criminal liability.

16-28A-5. Immunity for other authorized school personnel.

It is the intent of the Legislature to include under the provisions of this chapter, principals, assistant principals and any other school personnel authorized to use corporal punishment under the policies and guidelines developed by the local board of education.

Community input or involvement

STATUTES

16-1-24.1. Safe school and drug-free school policy; treatment of policy violators; promulgation and distribution of discipline policy; liability limited for discipline actions; local boards may adopt more stringent guidelines.

(f) The local school board shall adopt and make available to all teachers, school personnel, students, and parents or guardians, at the beginning of the 1992-93 school year and each school year thereafter, a code of student conduct developed in consultation with teachers, school personnel, students, and parents or guardians. The code shall be based on the rules governing student conduct and discipline adopted by the school board and may be made available at the school level in the student handbook or similar publication. The code shall include, but not be limited to, all of the following: (1) Specific grounds for disciplinary action, (2) Procedures to be followed for acts requiring discipline, (3) An explanation of the responsibilities and rights of students with regard to attendance, respect for persons and property, knowledge and observation of rules of conduct, the right to learn, free speech and student publications, assembly, privacy, and participation in school programs and activities.

16-1-24.2. Department of Education to develop statewide violence prevention program.

(b) The Department of Education shall develop a statewide violence prevention program using such resources as law-related education and guidance counseling procedures to develop violence prevention curricula for grades K through twelve, to provide training to teachers and school administrators on violence prevention, and to develop school-community partnerships for violence prevention.

16-28B-8. Implementation of standards and policies

To the extent that the Legislature shall appropriate funds, or to the extent that any local board may provide funds from other sources, each school system shall implement the following standards and policies for programs in an effort to prevent student suicide:

(1) Foster individual, family, and group counseling services related to suicide prevention.

(2) Make referral, crisis intervention, and other related information available for students, parents, and school personnel.

(6) Inform students of available community suicide prevention services.

(7) Promote cooperative efforts between school personnel and community suicide prevention program personnel.

(8) Foster school-based or community-based, or both, alternative programs outside of the classroom.

(9) Develop a strategy to assist survivors of attempted suicide, students, and school personnel in coping with the issues relating to attempted suicide, suicide, the death of a student, and healing.

(10) Engage in any other program or activity which the local board determines is appropriate and prudent in the efforts of the school system to prevent student suicide.

(11) Provide training for school employees and volunteers who have significant contact with students on the local board policies to prevent harassment, intimidation, violence, and threats of violence.

(12) Develop a process for discussing with students local board policies relating to the prevention of student suicide and to the prevention of harassment, intimidation, violence, and threats of violence.

16-41-3. Purpose; legislative intent.

The purpose of this chapter is to insure the development of a comprehensive drug abuse education program for all children and youth in grades one through 12. It is the legislative intent that this program

shall teach the adverse and dangerous effects on the human mind and body of drugs and that such instruction shall be intensive and that it shall be given immediate emphasis, beginning with the 1971-72 school year. It is further the intent of the Legislature that the voluntary services of persons from the professions of clergy, education, medicine, law enforcement, social services and such other professionally and occupationally qualified individuals as can make a contribution to this program be utilized in its implementation so that the highest possible degree of expertise may be brought to bear.

Other/Uncategorized

No relevant statutes found.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by Alabama provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
Website		
Stop Bullying in Alabama	Homepage for Stop Bullying in Alabama website	http://alex.state.al.us/stopbullying
Documents		
No relevant resources found		
Other Resources		
No relevant resources found		

Alaska
Compilation of School Discipline Laws and Regulations

Prepared: August 12, 2013

Introduction

This compilation presents school discipline-related state statutes, school discipline-related regulations, and, where available, links to state-sponsored websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSLE). For example, one major category encompasses all state laws or regulations mandating specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of state legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in each state.

Discipline categories were not mutually exclusive. Statutes and regulations often appeared across multiple categories. For states with more extensive statutes covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. State laws, ordered by chapter and section number, appear first within each category followed by state regulations. All statutes and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists statutes by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to state-sponsored websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of May 2013, with the exception of the state laws related to seclusion and restraint, which are complete and current as of December 2012. Readers should also note that the information in this document was compiled from individual state sources that are created by each state and which are maintained and updated with varying frequencies. Readers should consult the source information provided for each state directly in order to check for updates to this state's laws and regulations or conduct further research.

For further information, including definitions of the different policy categories, please refer to the Discipline Laws and Regulations Compendium posted on the Center's website.

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Safe Supportive Learning
Engagement | Safety | Environment

Table of Contents

Alaska State Codes Cited **1**

General Provisions **3**

Authority to develop and establish rules of conduct 3
Scope 4
Communication of policy 4

In-School Discipline **5**

Use of multi-tiered discipline approaches 5
Teacher authority to remove students from classrooms 5
Alternatives to suspension 6
Use of corporal punishment 6
Use of student and locker searches 7
Other in-school disciplinary approaches 7

Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements **8**

Grounds for possible suspension or expulsion 8
Grounds for mandatory suspension or expulsion 8
Limitations, conditions or exclusions for use of suspension and expulsion 8
Administrative procedures related to suspension and expulsion 9
In-school suspension 9
Return to school following removal 9
Use of restraint and seclusion 9
Alternative placements 9

Disciplinary Approaches Addressing Specific Infractions and Conditions **10**

Firearms (as required by the Guns-Free Schools Act) 10
Other weapons 10
Students with chronic disciplinary issues 11
Attendance and truancy 11
Substance use 11
Bullying, harassment, or hazing 12
Other special infractions or conditions 13

Prevention and Behavioral Interventions (Non-Punitive) **14**

Prevention 14
Behavioral interventions and student support services 14
Professional development 14

Monitoring and Accountability **16**

Formal incident reporting of conduct violations 16
Parental notification 17
Reporting and referrals between schools and law enforcement 17
Disclosure of school records 18
Data collection, review, and reporting of disciplinary policies and actions 20

School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers 22
Authority and power to implement school arrest 22
Certification or training 22
MOUs, authorization, and/or funding 22
State Education Agency Support 23
State model policies and implementation support 23
Funding appropriations 23
Other/Uncategorized 24
Professional immunity or liability 24
Community input or involvement 24
Other/Uncategorized 25
State-Sponsored, Publicly Available Websites or Other Resources on School Discipline 26

Alaska State Codes Cited

Alaska Revised Statutes

Title 14 Education, Libraries, and Museums

Chapter 11.81. General Provisions

Article 04. General Principles of Justification

11.81.430. Justification: Use of force, special relationships

Chapter 14.03 Public Schools Generally

Article 01. General Provisions

14.03.105. Search of school lockers

14.03.160. Suspension or expulsion of students for possessing weapons

Chapter 14.30. Pupils and Educational Programs for Pupils

Article 04. Psychiatric and Behavioral Evaluations and Treatments

14.30.030. Prevention and reduction of truancy
14.30.045. Grounds for suspension or denial of admission
14.30.047. Admission or readmission when cause no longer exists
14.30.176. List of community resources

Chapter 14.33. School Safety and Discipline

Article 03. Required School Disciplinary and Safety Program

14.33.100. Required school crisis response planning
14.33.110. Purpose of school disciplinary and safety program
14.33.120. School disciplinary and safety program
14.33.130. Enforcement of approved program; additional safety obligations
14.33.140. Civil liability for enforcing disciplinary and safety program

Article 04. Harassment, Intimidation, and Bullying

14.33.200. Harassment, intimidation, and bullying policy
14.33.210. Reporting of incidents of harassment, intimidation, or bullying
14.33.220. Reporting; no reprisals
14.33.230. Immunity from suit
14.33.250. Definitions

Title 47. Welfare, Social Services and Institutions

Chapter 47.12. Delinquent Minors

Article 02. Information and Records

47.12.310. Agency records

Alaska Administrative Code

Title 4 Education and Early Development

Chapter 06. Government of Schools

4 AAC 06.172. Reporting of school disciplinary and safety programs

Chapter 07. Student Rights and Responsibilities. (4 AAC 07.010 - 4 AAC 07.900)

4 AAC 07.010. Establishment of district guidelines and procedures; prohibited discipline
4 AAC 07.030. Distribution of district policies
4 AAC 07.040. Mandatory instruction
4 AAC 07.050. Review of policies
4 AAC 07.900. Definition

General Provisions

Authority to develop and establish rules of conduct

STATUTES

14.30.030. Prevention and reduction of truancy.

The governing body of a school district, including a regional educational attendance area, shall establish procedures to prevent and reduce truancy.

14.33.100. Required school crisis response planning.

(a) Each district shall develop a model school crisis response plan for use by each school in the district. Each school in a district shall develop a school specific crisis response plan. Each school shall form a crisis response team consisting of the principal, one certified and one classified member of the school staff, and one parent whose child attends the school. The crisis response team may include one member of the governing board or advisory school board, a school counselor, a member from local law enforcement authorities, and one student in grade 10 or higher if the school has those grades. The district and each school within the district shall consult with local social services agencies and local law enforcement authorities when developing the school crisis response plan.

(b) A school specific crisis response plan must meet standards as determined by the department by regulation. A school specific crisis response plan must include (7) policies for enforcing school discipline and maintaining a safe and orderly environment during the crisis.

14.33.110. Purpose of school disciplinary and safety program.

The purpose of AS 14.33.110 - 14.33.140 is to

(1) implement and maintain community-based standards of school behavior that are developed by students, parents, teachers, school administrators, and the community;

(2) facilitate the creation of a standard of school behavior and safety by local communities for the schools in those communities;

(3) protect and support teachers who enforce standards of student behavior and safety in the classroom established under AS 14.33.120; and

(4) ensure that all schools and school districts receiving state funds, that may not have already done so, implement and maintain an effective school disciplinary and safety program.

14.33.120. School disciplinary and safety program.

(a) Each governing body shall adopt a written school disciplinary and safety program. The program required under this subsection must include written

(1) standards for student behavior and safety that reflect community standards and that include, at a minimum, basic requirements for respect and honesty; standards required under this paragraph must be developed and periodically reviewed with the collaboration of members of each school, parents, teachers, and other persons responsible for the students at a school; a governing body may require that standards developed under this paragraph be consistent for all schools in an attendance area or the district;

(2) standards relating to when a teacher is authorized to remove a student from the classroom for

(A) failure to follow student behavior and safety standards; or

(B) behavior described under AS 14.30.045(1) or (2);

(3) procedures for notifying teachers of dangerous students consistent with AS 47.12.310(b);

(4) standards relating to when a teacher, teacher's assistant, or other person responsible for students is authorized to use reasonable and appropriate force to maintain classroom safety and discipline as described under AS 11.81.430(a)(2);

(5) policies necessary to comply with provisions of state and federal law, including 20 U.S.C. 1400 - 1482 (Individuals with Disabilities Education Act);

(6) standards to address needs of students for whom mental health or substance abuse may be a contributing factor to noncompliance with the school disciplinary and safety program;

(7) policies for implementing a student conflict resolution strategy, including the nonviolent resolution or mediation of conflicts and procedures for reporting and resolving conflicts;

(8) procedures for periodic review and revision of the school disciplinary and safety program.

(b) A school district shall report information relating to school district disciplinary and safety programs as required by the department, including incidents of disruptive or violent behavior.

Scope

No relevant statutes found.

Communication of policy

ADMINISTRATIVE CODE

AAC 07.030. Distribution of district policies.

Each district shall make available to students, parents, and all staff persons who deal with students, up-to-date copies of the adopted district student rights and responsibilities policies at the start of each school year. Additionally, throughout the school year, copies of these policies must be posted in accessible locations within school facilities (e.g., bulletin board, teachers' lounges, office, etc.).

AAC 07.040. Mandatory instruction.

Each school district shall provide instruction in student rights and responsibilities to students in grades 1 through 12.

In-School Discipline

Use of multi-tiered discipline approaches

No relevant statutes found.

Teacher authority to remove students from classrooms

STATUTES

14.33.120. School disciplinary and safety program.

(a) Each governing body shall adopt a written school disciplinary and safety program. The program required under this subsection must include written

(1) standards for student behavior and safety that reflect community standards and that include, at a minimum, basic requirements for respect and honesty; standards required under this paragraph must be developed and periodically reviewed with the collaboration of members of each school, parents, teachers, and other persons responsible for the students at a school; a governing body may require that standards developed under this paragraph be consistent for all schools in an attendance area or the district;

(2) standards relating to when a teacher is authorized to remove a student from the classroom for

(A) failure to follow student behavior and safety standards; or

(B) behavior described under AS 14.30.045 (1) or (2);

(3) procedures for notifying teachers of dangerous students consistent with AS 47.12.310 (b);

(4) standards relating to when a teacher, teacher's assistant, or other person responsible for students is authorized to use reasonable and appropriate force to maintain classroom safety and discipline as described under AS 11.81.430 (a)(2);

(5) policies necessary to comply with provisions of state and federal law, including 20 U.S.C. 1400 - 1482 (Individuals with Disabilities Education Act);

(6) standards to address needs of students for whom mental health or substance abuse may be a contributing factor to noncompliance with the school disciplinary and safety program;

(7) policies for implementing a student conflict resolution strategy, including the nonviolent resolution or mediation of conflicts and procedures for reporting and resolving conflicts;

(8) procedures for periodic review and revision of the school disciplinary and safety program.

(b) A school district shall report information relating to school district disciplinary and safety programs as required by the department, including incidents of disruptive or violent behavior.

11.81.430. Justification: Use of force, special relationships.

(a) The use of force upon another person that would otherwise constitute an offense is justified under any of the following circumstances:

(1) When and to the extent reasonably necessary and appropriate to promote the welfare of the child or incompetent person, a parent, guardian, or other person entrusted with the care and supervision of a child under 18 years of age or an incompetent person may use reasonable and appropriate nondeadly force upon that child or incompetent person.

(2) When and to the extent reasonably necessary and appropriate to maintain order and when the use of force is consistent with the welfare of the students, a teacher may, if authorized by school regulations

and the principal of the school, use reasonable and appropriate nondeadly force upon a student. If authorized by school regulations and the principal of the school, a teacher may use nondeadly force under this paragraph in any situation in which the teacher is responsible for the supervision of students. A teacher employed by a school board, including a regional educational attendance area school board, may use nondeadly force under this paragraph only if the school regulations authorizing the use of force have been adopted by the school board.

(3) When and to the extent reasonably necessary and appropriate to maintain order, a person responsible for the maintenance of order in a common carrier of passengers, or a person acting under that person's direction, may use reasonable and appropriate nondeadly force.

(4) When and to the extent reasonably necessary to prevent a suicide, a person who reasonably believes that another is imminently about to commit suicide may use reasonable and appropriate nondeadly force upon that person.

(5) A licensed physician, licensed mobile intensive care paramedic, or registered nurse; or a person acting under the direction of a licensed physician, licensed mobile intensive care paramedic, or registered nurse; or any person who renders emergency care at the scene of an emergency, may use reasonable and appropriate nondeadly force for the purpose of administering a recognized and lawful form of treatment that is reasonably adapted to promoting the physical or mental health of the patient if

(A) the treatment is administered with the consent of the patient or, if the patient is a child under 18 years of age or an incompetent person, with the consent of the parent, guardian, or other person entrusted with care and supervision of the child or incompetent person; or

(B) the treatment is administered in an emergency if the person administering the treatment reasonably believes that no one competent to consent can be consulted under the circumstances and that a reasonable person, wishing to safeguard the welfare of the patient, would consent.

(b) A person who raises a defense under (a)(1) of this section and claims that the person upon whom force was used was an incompetent person has the burden of establishing by a preponderance of the evidence that, at the time force was used, the person upon whom the force was used was an incompetent person.

Alternatives to suspension

No relevant statutes found.

Use of corporal punishment

ADMINISTRATIVE CODE

AAC 07.010. Establishment of district guidelines and procedures; prohibited discipline.

(a) Each school district shall develop and adopt policies regarding student rights and responsibilities. These policies must address both substantive and procedural matters relating to standards of student behavior, treatment, and discipline. A uniform discipline policy must be in effect throughout the district for the purpose of establishing standards and procedures in matters relating to student discipline. The procedures, at a minimum, must address the following:

(1) routine discipline case procedure; and

(2) chronic or serious discipline case procedure.

(b) All district policies must be consistent with the federal and state constitutions, state statutes and regulations as written or construed by courts of competent jurisdiction.

(c) The use of corporal punishment in Alaska public schools is prohibited.

AAC 07.900. Definition.

As used in this chapter, "corporal punishment" means the application of physical force to the body of a student for disciplinary purposes. It does not include the use of reasonable and necessary physical restraint of a student to protect the student, or others, from physical injury, to obtain possession of a weapon or other dangerous object from a student, to maintain reasonable order in the classroom, or on school grounds, or to protect property from serious damage or destruction.

Use of student and locker searches

STATUTES

14.03.105. Search of school lockers.

(a) Subject to (b) of this section, a locker or other container provided in a school by the school or the school district may be searched and examined with the permission of the chief administrative officer of the school or the school district or the designee of the chief administrative officer to determine compliance with school regulations, school district regulations, and local, state, and federal laws. A search or examination under this section may not be more intrusive than reasonably necessary to meet the objectives of the search.

(b) Notices in letters at least two inches high stating the right and the intention of school and school district officers to permit searches and examinations under (a) of this section shall be posted in prominent locations throughout a school.

(c) Nothing in this section limits the ability of a peace officer, chief administrative officer, or other appropriate person, acting in compliance with local, state, or federal laws, to search a locker or other container provided in a public or private school by the school district.

Other in-school disciplinary approaches

No relevant statutes found.

Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements

Grounds for possible suspension or expulsion

STATUTES

14.30.045. Grounds for suspension or denial of admission.

A school age child may be suspended from or denied admission to the public school that the child is otherwise entitled to attend only for the following causes:

(1) continued willful disobedience or open and persistent defiance of reasonable school authority;

(2) behavior that is inimicable to the welfare, safety, or morals of other pupils or a person employed or volunteering at the school;

(3) a physical or mental condition that in the opinion of a competent medical authority will render the child unable to reasonably benefit from the programs available;

(4) a physical or mental condition that in the opinion of a competent medical authority will cause the attendance of the child to be inimicable to the welfare of other pupils;

(5) conviction of a felony that the governing body of the district determines will cause the attendance of the child to be inimicable to the welfare or education of other pupils.

15-842. Damage to school property; suspension or expulsion of pupil; liability of parent.

A. A pupil who cuts, defaces or otherwise injures any school property may be suspended or expelled.

Grounds for mandatory suspension or expulsion

STATUTES

14.03.160. Suspension or expulsion of students for possessing weapons.

(a) Notwithstanding any other provision of law, a school district shall

(1) expel for at least one year a student who violates AS 11.61.210(a)(8) while possessing a firearm, as that term is defined under 18 U.S.C. 921;

(2) suspend for at least 30 days, or expel for the school year or permanently, a student who violates AS 11.61.210(a)(8) while possessing a deadly weapon, other than a firearm as that term is defined under 18 U.S.C. 921.

(b) The administrative officer of a school district may on a case-by-case basis reduce or otherwise modify the expulsion or suspension of a student under (a) of this section.

(f) In this section,

(1) "deadly weapon" has the meaning given in AS 11.81.900; ["deadly weapon" means any firearm, or anything designed for and capable of causing death or serious physical injury, including a knife, an axe, a club, metal knuckles, or an explosive]

Limitations, conditions or exclusions for use of suspension and expulsion

No relevant statutes found.

Administrative procedures related to suspension and expulsion

STATUTES

AAC 07.010. Establishment of district guidelines and procedures; prohibited discipline.

(a) Each school district shall develop and adopt policies regarding student rights and responsibilities. These policies must address both substantive and procedural matters relating to standards of student behavior, treatment, and discipline. A uniform discipline policy must be in effect throughout the district for the purpose of establishing standards and procedures in matters relating to student discipline. The procedures, at a minimum, must address the following:

(1) routine discipline case procedure; and

(2) chronic or serious discipline case procedure.

(b) All district policies must be consistent with the federal and state constitutions, state statutes and regulations as written or construed by courts of competent jurisdiction.

(c) The use of corporal punishment in Alaska public schools is prohibited.

In-school suspension

No relevant statutes found.

Return to school following removal

STATUTES

14.30.047. Admission or readmission when cause no longer exists.

(a) A child who has been suspended from or denied admittance to a school under AS 14.30.045(3) or (4) shall be permitted to attend school when the child is obviously recovered or presents to the governing body a statement in writing from a competent medical authority that the child is no longer afflicted with, or suffering from, the physical or mental condition to the extent that it is a cause for suspension or denial of admission under AS 14.30.045(3) or (4).

(b) A child who has been suspended from or denied admittance to a school for any other cause provided by AS 14.30.045 shall be permitted to attend school when it reasonably appears that the cause has been remedied.

Use of restraint and seclusion

No relevant statutes found.

Alternative placements

No relevant statutes found.

Disciplinary Approaches Addressing Specific Infractions and Conditions

Firearms (as required by the Guns-Free Schools Act)

STATUTES

14.03.160. Suspension or expulsion of students for possessing weapons.

(a) Notwithstanding any other provision of law, a school district shall

(1) expel for at least one year a student who violates AS 11.61.210(a)(8) while possessing a firearm, as that term is defined under 18 U.S.C. 921;

(2) suspend for at least 30 days, or expel for the school year or permanently, a student who violates AS 11.61.210(a)(8) while possessing a deadly weapon, other than a firearm as that term is defined under 18 U.S.C. 921.

(b) The administrative officer of a school district may on a case-by-case basis reduce or otherwise modify the expulsion or suspension of a student under (a) of this section.

(f) In this section,

(1) "deadly weapon" has the meaning given in AS 11.81.900; ["deadly weapon" means any firearm, or anything designed for and capable of causing death or serious physical injury, including a knife, an axe, a club, metal knuckles, or an explosive]

Other weapons

STATUTES

14.03.160. Suspension or expulsion of students for possessing weapons.

(a) Notwithstanding any other provision of law, a school district shall

(1) expel for at least one year a student who violates AS 11.61.210(a)(8) while possessing a firearm, as that term is defined under 18 U.S.C. 921;

(2) suspend for at least 30 days, or expel for the school year or permanently, a student who violates AS 11.61.210(a)(8) while possessing a deadly weapon, other than a firearm as that term is defined under 18 U.S.C. 921.

(b) The administrative officer of a school district may on a case-by-case basis reduce or otherwise modify the expulsion or suspension of a student under (a) of this section.

(f) In this section,

(1) "deadly weapon" has the meaning given in AS 11.81.900; ["deadly weapon" means any firearm, or anything designed for and capable of causing death or serious physical injury, including a knife, an axe, a club, metal knuckles, or an explosive]

Students with chronic disciplinary issues

STATUTES

AAC 07.010. Establishment of district guidelines and procedures; prohibited discipline.

(a) Each school district shall develop and adopt policies regarding student rights and responsibilities. These policies must address both substantive and procedural matters relating to standards of student behavior, treatment, and discipline. A uniform discipline policy must be in effect throughout the district for the purpose of establishing standards and procedures in matters relating to student discipline. The procedures, at a minimum, must address the following:

(1) routine discipline case procedure; and

(2) chronic or serious discipline case procedure.

(b) All district policies must be consistent with the federal and state constitutions, state statutes and regulations as written or construed by courts of competent jurisdiction.

(c) The use of corporal punishment in Alaska public schools is prohibited.

Attendance and truancy

STATUTES

14.30.030. Prevention and reduction of truancy.

The governing body of a school district, including a regional educational attendance area, shall establish procedures to prevent and reduce truancy.

Substance use

STATUTES

14.33.120. School disciplinary and safety program.

(a) Each governing body shall adopt a written school disciplinary and safety program. The program required under this subsection must include written

(1) standards for student behavior and safety that reflect community standards and that include, at a minimum, basic requirements for respect and honesty; standards required under this paragraph must be developed and periodically reviewed with the collaboration of members of each school, parents, teachers, and other persons responsible for the students at a school; a governing body may require that standards developed under this paragraph be consistent for all schools in an attendance area or the district;

(2) standards relating to when a teacher is authorized to remove a student from the classroom for

(A) failure to follow student behavior and safety standards; or

(B) behavior described under AS 14.30.045(1) or (2);

(3) procedures for notifying teachers of dangerous students consistent with AS 47.12.310(b);

(4) standards relating to when a teacher, teacher's assistant, or other person responsible for students is authorized to use reasonable and appropriate force to maintain classroom safety and discipline as described under AS 11.81.430(a)(2);

(5) policies necessary to comply with provisions of state and federal law, including 20 U.S.C. 1400 - 1482 (Individuals with Disabilities Education Act);

(6) standards to address needs of students for whom mental health or substance abuse may be a contributing factor to noncompliance with the school disciplinary and safety program;

(7) policies for implementing a student conflict resolution strategy, including the nonviolent resolution or mediation of conflicts and procedures for reporting and resolving conflicts;

(8) procedures for periodic review and revision of the school disciplinary and safety program.

(b) A school district shall report information relating to school district disciplinary and safety programs as required by the department, including incidents of disruptive or violent behavior.

Bullying, harassment, or hazing

STATUTES

14.33.200. Harassment, intimidation, and bullying policy.

(a) By July 1, 2007, each school district shall adopt a policy that prohibits the harassment, intimidation, or bullying of any student. Each school district shall share this policy with parents or guardians, students, volunteers, and school employees.

(b) The policy must be adopted through the standard policy-making procedure for each district that includes the opportunity for participation by parents or guardians, school employees, volunteers, students, administrators, and community representatives. The policy must emphasize positive character traits and values, including the importance of civil and respectful speech and conduct, and the responsibility of students to comply with the district's policy prohibiting harassment, intimidation, or bullying. The policy must also include provisions for an appropriate punishment schedule up to and including expulsion and reporting of criminal activity to local law enforcement authorities. School employees, volunteers, students, and administrators shall adhere to this policy.

(c) By January 1, 2007, the department, in consultation with representatives of parents or guardians, school personnel, and other interested parties, may provide to school districts a model harassment, intimidation, and bullying prevention policy and training materials on the components that should be included in a district policy. Training materials may be disseminated in a variety of ways, including workshops and other staff developmental activities, and through the Internet website of the department. Materials included on the Internet website must include the model policy and recommended training and instructional materials. The department may provide a link to the school district's Internet website for further information.

14.33.210. Reporting of incidents of harassment, intimidation, or bullying.

Beginning with the 2007 - 2008 school year, each school district shall report to the department by November 30 all incidents resulting in suspension or expulsion for harassment, intimidation, or bullying on school premises or on transportation systems used by schools in the school year preceding the report. The department shall compile the data and report it to the appropriate committees of the Alaska House of Representatives and the Senate.

14.33.220. Reporting; no reprisals.

(a) A school employee, student, or volunteer may not engage in reprisal, retaliation, or false accusation against a victim, witness, or person with reliable information about an act of harassment, intimidation, or bullying.

(b) A school employee, student, or volunteer who has witnessed, or has reliable information that a student has been subjected to, harassment, intimidation, or bullying, whether verbal or physical, shall report the incident to an appropriate school official.

(c) This section does not prohibit discipline or other adverse action taken in compliance with school district policies against a person who falsely and in bad faith accuses a person of engaging in harassment, intimidation, or bullying or who intentionally provides false information in connection with an investigation of an alleged incident of harassment, intimidation, or bullying.

14.33.230. Immunity from suit.

A school employee, student, or volunteer who reports an incident of harassment, intimidation, or bullying to a school official and who makes this report in good faith is immune from a cause of action for damages arising from a failure to remedy the reported incident or for making the report.

14.33.250. Definitions.

In AS 14.33.200 - 14.33.250,

(1) "district" has the meaning given in AS 14.17.990;

(2) "harassment, intimidation, or bullying" means an intentional written, oral, or physical act, when the act is undertaken with the intent of threatening, intimidating, harassing, or frightening the student, and

(A) physically harms the student or damages the student's property;

(B) has the effect of substantially interfering with the student's education;

(C) is so severe, persistent, or pervasive that it creates an intimidating or threatening educational environment; or

(D) has the effect of substantially disrupting the orderly operation of the school;

(3) "school official" means an employee of a school, including a teacher, administrator, or noncertificated support staff or paraprofessional.

Other special infractions or conditions

STATUTES

6-18-512. Seizure of hand-held laser pointers.

Each school district shall adopt a policy providing for the seizure by school personnel of hand-held laser pointers in the possession of students.

Prevention and Behavioral Interventions (Non-Punitive)

Prevention

No relevant statutes found.

Behavioral interventions and student support services

STATUTES

14.30.176. List of community resources.

(a) Notwithstanding AS 14.30.171(a)(4), a school district may make available to an interested parent or guardian a list of community resources, including mental health services if the list conspicuously states the following: "This list is provided as a resource to you. The school neither recommends nor requires that you use this list or any of the services provided by individuals or entities on the list. It is for you to decide what services, if any, to use and from whom you wish to obtain them."

(b) A list provided under (a) of this section must include the name, specialty, and credential of each mental health service provider listed.

Professional development

STATUTES

14.33.200. Harassment, intimidation, and bullying policy.

(a) By July 1, 2007, each school district shall adopt a policy that prohibits the harassment, intimidation, or bullying of any student. Each school district shall share this policy with parents or guardians, students, volunteers, and school employees.

(b) The policy must be adopted through the standard policy-making procedure for each district that includes the opportunity for participation by parents or guardians, school employees, volunteers, students, administrators, and community representatives. The policy must emphasize positive character traits and values, including the importance of civil and respectful speech and conduct, and the responsibility of students to comply with the district's policy prohibiting harassment, intimidation, or bullying. The policy must also include provisions for an appropriate punishment schedule up to and including expulsion and reporting of criminal activity to local law enforcement authorities. School employees, volunteers, students, and administrators shall adhere to this policy.

(c) By January 1, 2007, the department, in consultation with representatives of parents or guardians, school personnel, and other interested parties, may provide to school districts a model harassment, intimidation, and bullying prevention policy and training materials on the components that should be included in a district policy. Training materials may be disseminated in a variety of ways, including workshops and other staff developmental activities, and through the Internet website of the department. Materials included on the Internet website must include the model policy and recommended training and instructional materials. The department may provide a link to the school district's Internet website for further information.

Legislative Intent

It is the intent of the legislature that training under this Act be provided without the need for appropriation of additional state funding for that purpose.

Mandatory Youth Suicide Awareness and Prevention Training; Immunity.

(a) A school district, regional educational attendance area, and the department shall annually provide youth suicide awareness and prevention training approved by the commissioner to each teacher, administrator, counselor, and specialist who is employed by the district, regional educational attendance area, or department to provide services to students in grades seven through 12 in a public school in the state at no cost to the teacher, administrator, counselor, or specialist.

(b) The commissioner shall approve youth suicide awareness and prevention training provided under this section if the training is not less than two hours each year, meets standards for professional continuing education credit in the state, and is periodically reviewed by a qualified person or committee for consistency with generally accepted principles of youth suicide awareness and prevention. The training may be offered through videoconferencing or an individual program of study of designated materials.

(c) A person may not bring a civil action for damages against the state or a school district, or an officer, agent, or employee of the state or a school district, for a death, personal injury, or property damage that results from an act or omission in performing or failing to perform activities or duties authorized under this section. This subsection does not apply to a civil action for damages as a result of intentional misconduct with complete disregard for the safety and property of others. In this subsection, "school district" has the meaning given "district" in AS 14.17.990.

(d) The training provided or the failure to provide training under this section may not be construed to impose a specific duty of care on any person.

Monitoring and Accountability

Formal incident reporting of conduct violations

STATUTES

14.33.120. School disciplinary and safety program.

(a) Each governing body shall adopt a written school disciplinary and safety program. The program required under this subsection must include written

(1) standards for student behavior and safety that reflect community standards and that include, at a minimum, basic requirements for respect and honesty; standards required under this paragraph must be developed and periodically reviewed with the collaboration of members of each school, parents, teachers, and other persons responsible for the students at a school; a governing body may require that standards developed under this paragraph be consistent for all schools in an attendance area or the district;

(2) standards relating to when a teacher is authorized to remove a student from the classroom for

(A) failure to follow student behavior and safety standards; or

(B) behavior described under AS 14.30.045(1) or (2);

(3) procedures for notifying teachers of dangerous students consistent with AS 47.12.310(b);

(4) standards relating to when a teacher, teacher's assistant, or other person responsible for students is authorized to use reasonable and appropriate force to maintain classroom safety and discipline as described under AS 11.81.430(a)(2);

(5) policies necessary to comply with provisions of state and federal law, including 20 U.S.C. 1400 - 1482 (Individuals with Disabilities Education Act);

(6) standards to address needs of students for whom mental health or substance abuse may be a contributing factor to noncompliance with the school disciplinary and safety program;

(7) policies for implementing a student conflict resolution strategy, including the nonviolent resolution or mediation of conflicts and procedures for reporting and resolving conflicts;

(8) procedures for periodic review and revision of the school disciplinary and safety program.

(b) A school district shall report information relating to school district disciplinary and safety programs as required by the department, including incidents of disruptive or violent behavior.

14.33.210. Reporting of incidents of harassment, intimidation, or bullying.

Beginning with the 2007 - 2008 school year, each school district shall report to the department by November 30 all incidents resulting in suspension or expulsion for harassment, intimidation, or bullying on school premises or on transportation systems used by schools in the school year preceding the report. The department shall compile the data and report it to the appropriate committees of the Alaska House of Representatives and the Senate.

14.33.220. Reporting; no reprisals.

(a) A school employee, student, or volunteer may not engage in reprisal, retaliation, or false accusation against a victim, witness, or person with reliable information about an act of harassment, intimidation, or bullying.

(b) A school employee, student, or volunteer who has witnessed, or has reliable information that a student has been subjected to, harassment, intimidation, or bullying, whether verbal or physical, shall report the incident to an appropriate school official.

(c) This section does not prohibit discipline or other adverse action taken in compliance with school district policies against a person who falsely and in bad faith accuses a person of engaging in harassment, intimidation, or bullying or who intentionally provides false information in connection with an investigation of an alleged incident of harassment, intimidation, or bullying.

ADMINISTRATIVE CODE

AAC 06.172. Reporting of school disciplinary and safety programs.

(a) A governing body of a school board shall report to the department information relating to the school district disciplinary and safety program required by AS 14.33.120 . The report shall be submitted annually with the school report required by AS 14.03.120 (a).

(b) To meet the requirements of AS 14.33.120 (a)(1) for collaboration at each school in development and review of the standards, the report must provide a description of the procedures used to develop the community-based standards of school behavior and safety contained in the school safety and discipline program, including

(1) the persons who were involved in developing the standards;

(2) the parameters for evaluation to assess the effectiveness of the standards; and

(3) the period of review and evaluation of the standards.

(c) The report must also include a description of the annual number of incidents by school of disruptive or violent student behavior, including the number of students suspended or expelled for

(1) under AS 14.03.160 , possession of deadly weapons; and

(2) discipline violations not specified in (1) of this subsection.

Parental notification

No relevant statutes found.

Reporting and referrals between schools and law enforcement

STATUTES

14.03.160. Suspension or expulsion of students for possessing weapons.

(a) Notwithstanding any other provision of law, a school district shall

(1) expel for at least one year a student who violates AS 11.61.210(a)(8) while possessing a firearm, as that term is defined under 18 U.S.C. 921;

(2) suspend for at least 30 days, or expel for the school year or permanently, a student who violates AS 11.61.210 (a)(8) while possessing a deadly weapon, other than a firearm as that term is defined under 18 U.S.C. 921.

(b) The administrative officer of a school district may on a case-by-case basis reduce or otherwise modify the expulsion or suspension of a student under (a) of this section.

(c) A prior conviction, or adjudication of delinquency or child in need of aid, for violation of AS 11.61.210 (a)(8) is not necessary for a school board to suspend or expel a student under this section.

(d) Each school district shall adopt a policy providing for the

(1) referral to law enforcement authorities of students who violate AS 11.61.210 (a)(8);

(2) identification of procedures and conditions for early reinstatement of students suspended or expelled under this section.

(e) Annually on a date set by the department, each school district shall report to the department the number of students expelled under this section and the types of weapons involved.

(f) In this section,

(1) "deadly weapon" has the meaning given in AS 11.81.900 ;

(2) "district" has the meaning given in AS 14.17.990 .

14.33.130. Enforcement of approved program; additional safety obligations.

(a) A teacher, a teacher's assistant, a principal, or another person responsible for students may not be terminated or otherwise subjected to formal disciplinary action for lawful enforcement of an approved school disciplinary and safety program, including behavior standards, adopted under AS 14.33.120. (b) A teacher, a teacher's assistant, a principal, or another person responsible for students who (1) receives information about a student under AS 47.12.310(b) or receives information that may affect the safety of students or staff shall notify the student's teacher or a school administrator; and (2) in the course of employment, observes a student committing a crime shall report the crime to the local law enforcement agency; in this paragraph, "crime" has the meaning given in AS 11.81.900.

14.33.200. Harassment, intimidation, and bullying policy.

(a) By July 1, 2007, each school district shall adopt a policy that prohibits the harassment, intimidation, or bullying of any student. Each school district shall share this policy with parents or guardians, students, volunteers, and school employees.

(b) The policy must be adopted through the standard policy-making procedure for each district that includes the opportunity for participation by parents or guardians, school employees, volunteers, students, administrators, and community representatives. The policy must emphasize positive character traits and values, including the importance of civil and respectful speech and conduct, and the responsibility of students to comply with the district's policy prohibiting harassment, intimidation, or bullying. The policy must also include provisions for an appropriate punishment schedule up to and including expulsion and reporting of criminal activity to local law enforcement authorities. School employees, volunteers, students, and administrators shall adhere to this policy.

(c) By January 1, 2007, the department, in consultation with representatives of parents or guardians, school personnel, and other interested parties, may provide to school districts a model harassment, intimidation, and bullying prevention policy and training materials on the components that should be included in a district policy. Training materials may be disseminated in a variety of ways, including workshops and other staff developmental activities, and through the Internet website of the department. Materials included on the Internet website must include the model policy and recommended training and instructional materials. The department may provide a link to the school district's Internet website for further information.

Disclosure of school records

STATUTES

47.12.310. Agency records.

(a) Except as specified in AS 47.12.315, 47.12.320, and (b) - (g) of this section, all information and social records pertaining to a minor who is subject to this chapter or AS 47.17 prepared by or in the possession

of a federal, state, or municipal agency or employee in the discharge of the agency's or employee's official duty, including driver's license actions under AS 28.15.185, are privileged and may not be disclosed directly or indirectly to anyone without a court order.

(b) A state or municipal agency or employee shall disclose

(1) information regarding a case to a federal, state, or municipal law enforcement agency for a specific investigation being conducted by that agency;

(2) appropriate information regarding a case to

(A) a guardian ad litem appointed by the court;

(B) a person or an agency requested by the department or the minor's legal custodian to provide consultation or services for a minor who is subject to the jurisdiction of the court under this chapter as necessary to enable the provision of the consultation or services;

(C) school officials as may be necessary to protect the safety of the minor who is the subject of the case and the safety of school students and staff or to enable the school to provide appropriate counseling and supportive services to meet the needs of a minor about whom information is disclosed;

(D) a governmental agency as may be necessary to obtain that agency's assistance for the department in its investigation or to obtain physical custody of a minor;

(E) a law enforcement agency of this state or another jurisdiction as may be necessary for the protection, rehabilitation, or supervision of any minor or for actions by that agency to protect the public safety;

(F) a victim or to the victim's insurance company as may be necessary to inform the victim or the insurance company about the arrest of the minor, including the minor's name and the names of the minor's parents, copies of reports, or the disposition or resolution of a case involving a minor;

(G) the state medical examiner under AS 12.65 as may be necessary to perform the duties of the state medical examiner;

(H) foster parents or relatives with whom the child is placed by the department as may be necessary to enable the foster parents or relatives to provide appropriate care for the child who is the subject of the case, to protect the safety of the child who is the subject of the case, and to protect the safety and property of family members and visitors of the foster parents or relatives;

(I) the Department of Law or its agent for use and subsequent release if necessary for collection of an order of restitution on behalf of the recipient

(J) the Violent Crimes Compensation Board established in AS 18.67.020 for use in awarding compensation under AS 18.67.080;

(K) a state, municipal, or federal agency of this state or another jurisdiction that has the authority to license adult or children's facilities and services;

(L) a child placement agency licensed under AS 47.32 as necessary to provide services for a minor who is subject to the jurisdiction of the court under this chapter; and

(M) a state or municipal agency of this state or another jurisdiction that is responsible for child protection services, as may be necessary for the administration of services, protection, rehabilitation, or supervision of a minor or for actions by the agency to protect the public safety; and

(3) to the University of Alaska under the Alaska higher education savings program for children established under AS 47.14.400 information that is necessary to support the program, but only if the information released is maintained as a confidential record by the University of Alaska.

(c) A state or municipal law enforcement agency

(1) shall disclose information regarding a case that is needed by the person or agency charged with making a preliminary investigation for the information of the court under this chapter;

(2) may disclose to the public information regarding a criminal offense in which a minor is a suspect, victim, or witness if the minor is not identified by the disclosure;

(3) may disclose to school officials information regarding a case as may be necessary to protect the safety of school students and staff or to enable the school to provide appropriate counseling and supportive services to meet the needs of a minor about whom information is disclosed;

(4) may disclose to the public information regarding a case as may be necessary to protect the safety of the public; and

(5) may disclose to a victim or to the victim's insurance company information, including copies of reports, as necessary for civil litigation or insurance claims pursued by or against the victim.

(d) Upon request of a victim, the department shall make every reasonable effort to notify the victim as soon as practicable, by telephone or in writing, when a delinquent minor is to be released from placement in a juvenile facility under AS 47.12.120(b)(1). The notice under this subsection must include the expected date of the delinquent minor's release, the geographic area in which the delinquent minor is required to reside, and other pertinent information concerning the delinquent minor's conditions of release that may affect the victim.

(e) A person may authorize the department to release information to the military or to a prospective employer about the existence of a delinquency adjudication against that person under this chapter and the offense on which it was based.

(f) The department may release to a person with a legitimate interest information relating to a minor subject to the jurisdiction of the department under this chapter. The department shall adopt regulations under AS 44.62 to implement this subsection, including regulations governing the release of information and standards for identifying a legitimate interest in the information.

(g) The department and affected law enforcement agencies shall work with school districts and private schools to develop procedures for the disclosure of information to school officials under (b)(2)(C) and (c)(3) of this section. The procedures must provide a method for informing the principal or the principal's designee of the school the student attends as soon as it is reasonably practicable.

(h) Notwithstanding (c)(3) of this section, a state or municipal law enforcement agency is not required to notify the appropriate school official of a school district or school under (c) of this section if the agency determines that notice would jeopardize an ongoing investigation.

(i) A state or municipal agency, other than a state or municipal law enforcement agency, or authorized employee may disclose to the public information regarding a case as may be necessary to protect the safety of the public provided the disclosure is authorized by regulations adopted by the department.

(j) In this section, "school" means a public or private elementary or secondary school.

(k) A person who discloses confidential information in violation of this section is guilty of a class B misdemeanor.

Data collection, review, and reporting of disciplinary policies and actions

STATUTES

14.33.120. School disciplinary and safety program.

(a) Each governing body shall adopt a written school disciplinary and safety program. The program required under this subsection must include written

(1) standards for student behavior and safety that reflect community standards and that include, at a minimum, basic requirements for respect and honesty; standards required under this paragraph must be developed and periodically reviewed with the collaboration of members of each school, parents, teachers, and other persons responsible for the students at a school; a governing body may require that standards developed under this paragraph be consistent for all schools in an attendance area or the district;

(2) standards relating to when a teacher is authorized to remove a student from the classroom for

(A) failure to follow student behavior and safety standards; or

(B) behavior described under AS 14.30.045 (1) or (2);

(3) procedures for notifying teachers of dangerous students consistent with AS 47.12.310 (b);

(4) standards relating to when a teacher, teacher's assistant, or other person responsible for students is authorized to use reasonable and appropriate force to maintain classroom safety and discipline as described under AS 11.81.430 (a)(2);

(5) policies necessary to comply with provisions of state and federal law, including 20 U.S.C. 1400 - 1482 (Individuals with Disabilities Education Act);

(6) standards to address needs of students for whom mental health or substance abuse may be a contributing factor to noncompliance with the school disciplinary and safety program;

(7) policies for implementing a student conflict resolution strategy, including the nonviolent resolution or mediation of conflicts and procedures for reporting and resolving conflicts;

(8) procedures for periodic review and revision of the school disciplinary and safety program.

(b) A school district shall report information relating to school district disciplinary and safety programs as required by the department, including incidents of disruptive or violent behavior.

ADMINISTRATIVE CODE

AAC 07.050. Review of policies.

Since student rights and responsibilities in the public schools are recognized as an ever changing and constantly developing area, each district shall review its policies and make such revisions as statutes, regulations or court decisions make necessary. District reviews shall be accomplished at least once every three years.

School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers

Authority and power to implement school arrest

No relevant statutes found.

Certification or training

No relevant statutes found.

MOUs, authorization, and/or funding

No relevant statutes found.

State Education Agency Support

State model policies and implementation support

STATUTES

14.33.200. Harassment, intimidation, and bullying policy.

(c) By January 1, 2007, the department, in consultation with representatives of parents or guardians, school personnel, and other interested parties, may provide to school districts a model harassment, intimidation, and bullying prevention policy and training materials on the components that should be included in a district policy. Training materials may be disseminated in a variety of ways, including workshops and other staff developmental activities, and through the Internet website of the department. Materials included on the Internet website must include the model policy and recommended training and instructional materials. The department may provide a link to the school district's Internet website for further information.

Funding appropriations

No relevant statutes found.

Other/Uncategorized

Professional immunity or liability

STATUTES

14.33.130. Enforcement of approved program; additional safety obligations.

(a) A teacher, a teacher's assistant, a principal, or another person responsible for students may not be terminated or otherwise subjected to formal disciplinary action for lawful enforcement of an approved school disciplinary and safety program, including behavior standards, adopted under AS 14.33.120.

(b) A teacher, a teacher's assistant, a principal, or another person responsible for students who

(1) receives information about a student under AS 47.12.310(b) or receives information that may affect the safety of students or staff shall notify the student's teacher or a school administrator; and

(2) in the course of employment, observes a student committing a crime shall report the crime to the local law enforcement agency; in this paragraph, "crime" has the meaning given in AS 11.81.900.

14.33.140. Civil liability for enforcing disciplinary and safety program.

A teacher, a teacher's assistant, a principal, or another person responsible for students is not liable for civil damage resulting from an act or omission (1) arising out of enforcement of an approved school disciplinary and safety program adopted under AS 14.33.120; and (2) arising out of and in the course of employment unless the act or omission constitutes gross negligence or reckless or intentional misconduct.

14.33.230. Immunity from suit.

A school employee, student, or volunteer who reports an incident of harassment, intimidation, or bullying to a school official and who makes this report in good faith is immune from a cause of action for damages arising from a failure to remedy the reported incident or for making the report.

Community input or involvement

STATUTES

14.33.120. School disciplinary and safety program.

(a) Each governing body shall adopt a written school disciplinary and safety program. The program required under this subsection must include written

(1) standards for student behavior and safety that reflect community standards and that include, at a minimum, basic requirements for respect and honesty; standards required under this paragraph must be developed and periodically reviewed with the collaboration of members of each school, parents, teachers, and other persons responsible for the students at a school; a governing body may require that standards developed under this paragraph be consistent for all schools in an attendance area or the district;

(2) standards relating to when a teacher is authorized to remove a student from the classroom for

(A) failure to follow student behavior and safety standards; or

(B) behavior described under AS 14.30.045(1) or (2);

(3) procedures for notifying teachers of dangerous students consistent with AS 47.12.310(b);

(4) standards relating to when a teacher, teacher's assistant, or other person responsible for students is authorized to use reasonable and appropriate force to maintain classroom safety and discipline as described under AS 11.81.430(a)(2);

(5) policies necessary to comply with provisions of state and federal law, including 20 U.S.C. 1400 - 1482 (Individuals with Disabilities Education Act);

(6) standards to address needs of students for whom mental health or substance abuse may be a contributing factor to noncompliance with the school disciplinary and safety program;

(7) policies for implementing a student conflict resolution strategy, including the nonviolent resolution or mediation of conflicts and procedures for reporting and resolving conflicts;

(8) procedures for periodic review and revision of the school disciplinary and safety program.

(b) A school district shall report information relating to school district disciplinary and safety programs as required by the department, including incidents of disruptive or violent behavior.

14.33.200. Harassment, intimidation, and bullying policy.

(a) By July 1, 2007, each school district shall adopt a policy that prohibits the harassment, intimidation, or bullying of any student. Each school district shall share this policy with parents or guardians, students, volunteers, and school employees.

(b) The policy must be adopted through the standard policy-making procedure for each district that includes the opportunity for participation by parents or guardians, school employees, volunteers, students, administrators, and community representatives. The policy must emphasize positive character traits and values, including the importance of civil and respectful speech and conduct, and the responsibility of students to comply with the district's policy prohibiting harassment, intimidation, or bullying. The policy must also include provisions for an appropriate punishment schedule up to and including expulsion and reporting of criminal activity to local law enforcement authorities. School employees, volunteers, students, and administrators shall adhere to this policy.

(c) By January 1, 2007, the department, in consultation with representatives of parents or guardians, school personnel, and other interested parties, may provide to school districts a model harassment, intimidation, and bullying prevention policy and training materials on the components that should be included in a district policy. Training materials may be disseminated in a variety of ways, including workshops and other staff developmental activities, and through the Internet website of the department. Materials included on the Internet website must include the model policy and recommended training and instructional materials. The department may provide a link to the school district's Internet website for further information.

Other/Uncategorized

No relevant statutes found.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by Alaska provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
Website		
EED School Safety	School Disciplinary law and reporting requirements	http://education.alaska.gov/tls/schoolsafety/disciplinary.html
Documents		
EED School Safety	Alaska law – Policy samples	http://education.alaska.gov/tls/schoolsafety/bullying.html
Other Resources		
No relevant resources found		

Arizona
Compilation of School Discipline Laws and Regulations

Prepared: August 12, 2013

Introduction

This compilation presents school discipline-related state statutes, school discipline-related regulations, and, where available, links to state-sponsored websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSLE). For example, one major category encompasses all state laws or regulations mandating specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of state legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in each state.

Discipline categories were not mutually exclusive. Statutes and regulations often appeared across multiple categories. For states with more extensive statutes covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. State laws, ordered by chapter and section number, appear first within each category followed by state regulations. All statutes and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists statutes by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to state-sponsored websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of May 2013, with the exception of the state laws related to seclusion and restraint, which are complete and current as of December 2012. Readers should also note that the information in this document was compiled from individual state sources that are created by each state and which are maintained and updated with varying frequencies. Readers should consult the source information provided for each state directly in order to check for updates to this state's laws and regulations or conduct further research.

For further information, including definitions of the different policy categories, please refer to the Discipline Laws and Regulations Compendium posted on the Center's website

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Safe Supportive Learning
Engagement | Safety | Environment

Table of Contents

Arizona State Codes Cited **1**

General Provisions **3**

Authority to develop and establish rules of conduct 3
Scope 3
Communication of policy 4

In-School Discipline **5**

Use of multi-tiered discipline approaches 5
Teacher authority to remove students from classrooms 5
Alternatives to suspension 5
Use of corporal punishment 6
Use of student and locker searches 6
Other in-school disciplinary approaches 6

Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements **7**

Grounds for possible suspension or expulsion 7
Grounds for mandatory suspension or expulsion 7
Limitations, conditions or exclusions for use of suspension and expulsion 8
Administrative procedures related to suspension and expulsion 9
In-school suspension 10
Return to school following removal 10
Use of restraint and seclusion 11
Alternative placements 11

Disciplinary Approaches Addressing Specific Infractions and Conditions **12**

Firearms (as required by the Guns-Free Schools Act) 12
Other weapons 12
Students with chronic disciplinary issues 12
Attendance and truancy 13
Substance use 13
Bullying, harassment, or hazing 14
Other special infractions or conditions 17

Prevention and Behavioral Interventions (Non-Punitive) **18**

Prevention 18
Behavioral interventions and student support services 19
Professional development 19

Monitoring and Accountability **20**

Formal incident reporting of conduct violations 20
Parental notification 20
Reporting and referrals between schools and law enforcement 21
Disclosure of school records 22
Data collection, review, and reporting of disciplinary policies and actions 22

School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers 23
Authority and power to implement school arrest 23
Certification or training 23
MOUs, authorization, and/or funding 23
State Education Agency Support 24
State model policies and implementation support 24
Funding appropriations 24
Other/Uncategorized 25
Professional immunity or liability 25
Community input or involvement 25
Other/Uncategorized 25
State-Sponsored, Publicly Available Websites or Other Resources on School Discipline 26

Arizona State Codes Cited

Arizona Revised Statutes

Title 13 Criminal Code

Chapter 34 Drug Offenses

13-3411. Possession, use, sale or transfer of marijuana, peyote, prescription drugs, dangerous drugs or narcotic drugs or manufacture of dangerous drugs in a drug free school zone; violation; classification; definitions

Title 15 Education

Chapter 1. General Provisions

Article 1. General Provisions

15-108. Medical marijuana; school campuses; prohibition; definition

Article 4. Educational Records

15-141. Educational records; injunction; special action

Article 5. Safety Requirements

15-153. School safety program oversight committee; membership; duties; report; definition
15-154. Public school safety program proposal; requirements; purpose; definitions

Chapter 3. Local Governance of Schools

Article 3. Powers and Duties of School District Governing Boards

15-341. General powers and duties; immunity; delegation
15-342. Discretionary powers

Chapter 5. School Employees

Article 1. General Provisions

15-515. Duty to report violations occurring on school premises

Chapter 7. Instruction

Article 1. Curriculum

15-712. Instruction on alcohol, tobacco, narcotic drugs, marijuana, date rape drugs and other dangerous drugs; chemical abuse prevention programs; definitions

Chapter 8. School Attendance

Article 1. School Year and Attendance Requirements

15-803. School attendance; exemptions; definitions
15-805. Attendance officer; powers and duties

Article 3. Suspension and Expulsion of Pupils

15-840. Definitions

15-841. Responsibilities of pupils; expulsion; alternative education programs; community service; placement review committee
15-842. Damage to school property; suspension or expulsion of pupil; liability of parent
15-843. Pupil disciplinary proceedings
15-844. Suspension and expulsion proceedings for children with disabilities

Chapter 18. Hazing Prevention Policies

Article 1 General Provisions

15-2301. Hazing prevention policies; definitions

Arizona Administrative Code

No relevant regulations found.

General Provisions

Authority to develop and establish rules of conduct

STATUTES

15-341. General powers and duties; immunity; delegation.

A. The governing board shall:

12. Hold pupils to strict account for disorderly conduct on school property.
13. Discipline students for disorderly conduct on the way to and from school.

15-841. Responsibilities of pupils; expulsion; alternative education programs; community service; placement review committee.

B. A pupil may be expelled for continued open defiance of authority, continued disruptive or disorderly behavior, violent behavior that includes use or display of a dangerous instrument or a deadly weapon as defined in section 13-105, use or possession of a gun, or excessive absenteeism. A school district may expel pupils for actions other than those listed in this subsection as the school district deems appropriate.

15-843. Pupil disciplinary proceedings.

B. The governing board of any school district, in consultation with the teachers and parents of the school district, shall prescribe rules for the discipline, suspension and expulsion of pupils. The rules shall be consistent with the constitutional rights of pupils and shall include at least the following:

1. Penalties for excessive pupil absenteeism pursuant to section 15-803, including failure in a subject, failure to pass a grade, suspension or expulsion.
2. Procedures for the use of corporal punishment if allowed by the governing board.
3. Procedures for the reasonable use of physical force by certificated or classified personnel in self-defense, defense of others and defense of property.
4. Procedures for dealing with pupils who have committed or who are believed to have committed a crime.
5. A notice and hearing procedure for cases concerning the suspension of a pupil for more than ten days.
6. Procedures and conditions for readmission of a pupil who has been expelled or suspended for more than ten days.
7. Procedures for appeal to the governing board of the suspension of a pupil for more than ten days, if the decision to suspend the pupil was not made by the governing board.
8. Procedures for appeal of the recommendation of the hearing officer or officers designated by the board as provided in subsection F of this section at the time the board considers the recommendation.

Scope

STATUTES

15-341. General powers and duties; immunity; delegation.

A. The governing board shall:

12. Hold pupils to strict account for disorderly conduct on school property.
13. Discipline students for disorderly conduct on the way to and from school.

15-342. Discretionary powers.

The governing board may:

1. Expel pupils for misconduct.

Communication of policy

No relevant statutes found.

In-School Discipline

Use of multi-tiered discipline approaches

No relevant statutes found.

Teacher authority to remove students from classrooms

STATUTES

15-841. Responsibilities of pupils; expulsion; alternative education programs; community service; placement review committee.

A. Pupils shall comply with the rules, pursue the required course of study and submit to the authority of the teachers, the administrators and the governing board. A teacher may send a pupil to the principal's office in order to maintain effective discipline in the classroom. If a pupil is sent to the principal's office pursuant to this subsection, the principal shall employ appropriate discipline management techniques that are consistent with rules adopted by the school district governing board. A teacher may remove a pupil from the classroom if either of the following conditions exists:

1. The teacher has documented that the pupil has repeatedly interfered with the teacher's ability to communicate effectively with the other pupils in the classroom or with the ability of the other pupils to learn.
2. The teacher has determined that the pupil's behavior is so unruly, disruptive or abusive that it seriously interferes with the teacher's ability to communicate effectively with the other pupils in the classroom or with the ability of the other pupils to learn.

15-843. Pupil disciplinary proceedings.

D. The governing board shall:

3. Develop procedures allowing teachers and principals to temporarily remove disruptive pupils from a class.

Alternatives to suspension

STATUTES

15-841. Responsibilities of pupils; expulsion; alternative education programs; community service; placement review committee.

E. As an alternative to suspension or expulsion, the school district may reassign any pupil to an alternative education program if the pupil does not meet the requirements for participation in the alternative to suspension program prescribed in subsection H of this section and if good cause exists for expulsion or for a long-term suspension.

H. A school district or charter school shall expel from school for at least one year a pupil who is determined to have threatened an educational institution as defined in section 13-2911, except that the school district or charter school may modify this expulsion requirement for a pupil on a case by case basis if the pupil participates in mediation, community service, restitution or other programs in which the pupil takes responsibility for the results of the threat.

I. By January 1, 2001, each school district shall establish an alternative to suspension program in consultation with local law enforcement officials or school resource officers. The school district governing board shall adopt policies to determine the requirements for participation in the alternative to suspension program. Pupils who would otherwise be subject to suspension pursuant to this article and who meet the school district's requirements for participation in the alternative to suspension program shall be transferred to a location on school premises that is isolated from other pupils or transferred to a location that is not on school premises. The alternative to suspension program shall be discipline intensive and require academic work, and may require community service, groundskeeping and litter control, parent supervision, and evaluation or other appropriate activities. The community service, groundskeeping and litter control, and other appropriate activities may be performed on school grounds or at any other designated area.

Use of corporal punishment

STATUTES

15-843. Pupil disciplinary proceedings.

B. The governing board of any school district, in consultation with the teachers and parents of the school district, shall prescribe rules for the discipline, suspension and expulsion of pupils. The rules shall be consistent with the constitutional rights of pupils and shall include at least the following:

2. Procedures for the use of corporal punishment if allowed by the governing board.

Use of student and locker searches

No relevant statutes found.

Other in-school disciplinary approaches

No relevant statutes found.

Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements

Grounds for possible suspension or expulsion

STATUTES

15-841. Responsibilities of pupils; expulsion; alternative education programs; community service; placement review committee.

B. A pupil may be expelled for continued open defiance of authority, continued disruptive or disorderly behavior, violent behavior that includes use or display of a dangerous instrument or a deadly weapon as defined in section 13-105, use or possession of a gun, or excessive absenteeism. A school district may expel pupils for actions other than those listed in this subsection as the school district deems appropriate.

15-842. Damage to school property; suspension or expulsion of pupil; liability of parent.

A. A pupil who cuts, defaces or otherwise injures any school property may be suspended or expelled.

Grounds for mandatory suspension or expulsion

STATUTES

15-841. Responsibilities of pupils; expulsion; alternative education programs; community service; placement review committee.

G. A school district or charter school shall expel from school for a period of not less than one year a pupil who is determined to have brought a firearm to a school within the jurisdiction of the school district or the charter school, except that the school district or charter school may modify this expulsion requirement for a pupil on a case by case basis. This subsection shall be construed consistently with the requirements of the individuals with disabilities education act (20 United States Code sections 1400 through 1420). For the purposes of this subsection:

1. "Expel" may include removing a pupil from a regular school setting and providing educational services in an alternative setting.
2. "Firearm" means a firearm as defined in 18 United States Code section 921.

H. A school district or charter school shall expel from school for at least one year a pupil who is determined to have threatened an educational institution as defined in section 13-2911, except that the school district or charter school may modify this expulsion requirement for a pupil on a case by case basis if the pupil participates in mediation, community service, restitution or other programs in which the pupil takes responsibility for the results of the threat. This subsection shall be construed consistently with the requirements of the individuals with disabilities education act (20 United States Code sections 1400 through 1420). A school district may reassign a pupil who is subject to expulsion pursuant to this subsection to an alternative education program pursuant to subsection E of this section if the pupil participates in mediation, community service, restitution or other programs in which the pupil takes responsibility for the threat. A school district or charter school may require the pupil's parent or guardian to participate in mediation, community service, restitution or other programs in which the parent or guardian takes responsibility with the pupil for the threat. For the purposes of this subsection, "threatened an educational institution" means to interfere with or disrupt an educational institution by doing any of the following:

1. For the purpose of causing, or in reckless disregard of causing, interference with or disruption of an educational institution, threatening to cause physical injury to any employee of an educational institution or any person attending an educational institution.

2. For the purpose of causing, or in reckless disregard of causing, interference with or disruption of an educational institution, threatening to cause damage to any educational institution, the property of any educational institution, the property of any employee of an educational institution or the property of any person attending an educational institution.

3. Going on or remaining on the property of any educational institution for the purpose of interfering with or disrupting the lawful use of the property or in any manner as to deny or interfere with the lawful use of the property by others.

4. Refusing to obey a lawful order to leave the property of an educational institution.

Limitations, conditions or exclusions for use of suspension and expulsion

STATUTES

15-841. Responsibilities of pupils; expulsion; alternative education programs; community service; placement review committee.

B. A pupil may be expelled for excessive absenteeism only if the pupil has reached the age or completed the grade after which school attendance is not required as prescribed in section 15-802.

15-843. Pupil disciplinary proceedings.

B. The governing board of any school district, in consultation with the teachers and parents of the school district, shall prescribe rules for the discipline, suspension and expulsion of pupils. The rules shall be consistent with the constitutional rights of pupils and shall include at least the following:

3. Procedures for the reasonable use of physical force by certificated or classified personnel in self-defense, defense of others and defense of property.

C. Penalties adopted pursuant to subsection B, paragraph 1 of this section for excessive absenteeism shall not be applied to pupils who have completed the course requirements and whose absence from school is due solely to illness, disease or accident as certified by a person who is licensed pursuant to title 32, chapter 7, 13, 15 or 17.

L. Rules pertaining to the discipline, suspension and expulsion of pupils shall not be based on race, color, religion, sex, national origin or ancestry. If the department of education, the auditor general or the attorney general determines that a school district is substantially and deliberately not in compliance with this subsection and if the school district has failed to correct the deficiency within ninety days after receiving notice from the department of education, the superintendent of public instruction may withhold the monies the school district would otherwise be entitled to receive from the date of the determination of noncompliance until the department of education determines that the school district is in compliance with this subsection.

Administrative procedures related to suspension and expulsion

STATUTES

15-841. Responsibilities of pupils; expulsion; alternative education programs; community service; placement review committee.

J. Each school shall establish a placement review committee to determine the placement of a pupil if a teacher refuses to readmit the pupil to the teacher's class and to make recommendations to the governing board regarding the readmission of expelled pupils. The process for determining the placement of a pupil in a new class or replacement in the existing class shall not exceed three business days from the date the pupil was first removed from the existing class. The principal shall not return a pupil to the classroom from which the pupil was removed without the teacher's consent unless the committee determines that the return of the pupil to that classroom is the best or only practicable alternative. The committee shall be composed of two teachers who are employed at the school and who are selected by the faculty members of the school and one administrator who is employed by the school and who is selected by the principal. The faculty members of the school shall select a third teacher to serve as an alternate member of the committee. If the teacher who refuses to readmit the pupil is a member of the committee, that teacher shall be excused from participating in the determination of the pupil's readmission and the alternate teacher member shall replace that teacher on the committee until the conclusion of all matters relating to that pupil's readmission.

15-843. Pupil disciplinary proceedings.

A. An action concerning discipline, suspension or expulsion of a pupil is not subject to title 38, chapter 3, article 3.1, except that the governing board of a school district shall post regular notice and shall take minutes of any hearing held by the governing board concerning the discipline, suspension or expulsion of a pupil.

B. The governing board of any school district, in consultation with the teachers and parents of the school district, shall prescribe rules for the discipline, suspension and expulsion of pupils. The rules shall be consistent with the constitutional rights of pupils and shall include at least the following:

5. A notice and hearing procedure for cases concerning the suspension of a pupil for more than ten days.
6. Procedures and conditions for readmission of a pupil who has been expelled or suspended for more than ten days.
7. Procedures for appeal to the governing board of the suspension of a pupil for more than ten days, if the decision to suspend the pupil was not made by the governing board.

D. The governing board shall:

2. Develop procedures allowing teachers and principals to recommend the suspension or expulsion of pupils.

E. If a pupil withdraws from school after receiving notice of possible action concerning discipline, expulsion or suspension, the governing board may continue with the action after the withdrawal and may record the results of such action in the pupil's permanent file.

F. In all action concerning the expulsion of a pupil, the governing board of a school district shall:

1. Be notified of the intended action.
2. Either:

(a) Decide, in executive session, whether to hold a hearing or to designate one or more hearing officers to hold a hearing to hear the evidence, prepare a record and bring a recommendation to the board for action and whether the hearing shall be held in executive session.

(b) Provide by policy or vote at its annual organizational meeting that all hearings concerning the expulsion of a pupil conducted pursuant to this section will be conducted before a hearing officer selected from a list of hearing officers approved by the governing board.

3. Give written notice, at least five working days before the hearing by the governing board or the hearing officer or officers designated by the governing board, to all pupils subject to expulsion and their parents or guardians of the date, time and place of the hearing. If the governing board decides that the hearing is to be held in executive session, the written notice shall include a statement of the right of the parents or guardians or an emancipated pupil who is subject to expulsion to object to the governing board's decision to have the hearing held in executive session. Objections shall be made in writing to the governing board.

G. If a parent or guardian or an emancipated pupil who is subject to expulsion disagrees that the hearing should be held in executive session, it shall be held in an open meeting unless:

1. If only one pupil is subject to expulsion and disagreement exists between that pupil's parents or guardians, the governing board, after consultations with the pupil's parents or guardians or the emancipated pupil, shall decide in executive session whether the hearing will be in executive session.

2. If more than one pupil is subject to expulsion and disagreement exists between the parents or guardians of different pupils, separate hearings shall be held subject to this section.

K. In all cases of suspension, it shall be for good cause and shall be reported within five days to the governing board by the superintendent or the person imposing the suspension.

15-844. Suspension and expulsion proceedings for children with disabilities.

Notwithstanding sections 15-841 and 15-842, the suspension or expulsion of children with disabilities, as defined in section 15-761, shall be in accordance with the individuals with disabilities education act (20 United States Code sections 1410 through 1485) and federal regulations issued pursuant to the individuals with disabilities education act.

In-school suspension

No relevant statutes found.

Return to school following removal

STATUTES

15-841. Responsibilities of pupils; expulsion; alternative education programs; community service; placement review committee.

C. A school district may refuse to admit any pupil who has been expelled from another educational institution or who is in the process of being expelled from another educational institution.

J. Each school shall establish a placement review committee to determine the placement of a pupil if a teacher refuses to readmit the pupil to the teacher's class and to make recommendations to the governing board regarding the readmission of expelled pupils. The process for determining the placement of a pupil in a new class or replacement in the existing class shall not exceed three business days from the date the pupil was first removed from the existing class. The principal shall not return a pupil to the classroom from which the pupil was removed without the teacher's consent unless the committee determines that the return of the pupil to that classroom is the best or only practicable alternative. The committee shall be

composed of two teachers who are employed at the school and who are selected by the faculty members of the school and one administrator who is employed by the school and who is selected by the principal. The faculty members of the school shall select a third teacher to serve as an alternate member of the committee. If the teacher who refuses to readmit the pupil is a member of the committee, that teacher shall be excused from participating in the determination of the pupil's readmission and the alternate teacher member shall replace that teacher on the committee until the conclusion of all matters relating to that pupil's readmission.

Use of restraint and seclusion

No relevant statutes found.

Alternative placements

STATUTES

15-342. Discretionary powers.

The governing board may:

3. Make such separation of groups of pupils as it deems advisable.

15-841. Responsibilities of pupils; expulsion; alternative education programs; community service; placement review committee.

F. A school district may also reassign a pupil to an alternative educational program if the pupil refuses to comply with rules, refuses to pursue the required course of study or refuses to submit to the authority of teachers, administrators or the governing board.

H. A school district may reassign a pupil who is subject to expulsion pursuant to this subsection to an alternative education program pursuant to subsection E of this section if the pupil participates in mediation, community service, restitution or other programs in which the pupil takes responsibility for the threat.

I. By January 1, 2001, each school district shall establish an alternative to suspension program in consultation with local law enforcement officials or school resource officers. The school district governing board shall adopt policies to determine the requirements for participation in the alternative to suspension program. Pupils who would otherwise be subject to suspension pursuant to this article and who meet the school district's requirements for participation in the alternative to suspension program shall be transferred to a location on school premises that is isolated from other pupils or transferred to a location that is not on school premises. The alternative to suspension program shall be discipline intensive and require academic work, and may require community service, groundskeeping and litter control, parent supervision, and evaluation or other appropriate activities. The community service, groundskeeping and litter control, and other appropriate activities may be performed on school grounds or at any other designated area.

Disciplinary Approaches Addressing Specific Infractions and Conditions

Firearms (as required by the Guns-Free Schools Act)

STATUTES

15-841. Responsibilities of pupils; expulsion; alternative education programs; community service; placement review committee.

B. A pupil may be expelled for continued open defiance of authority, continued disruptive or disorderly behavior, violent behavior that includes use or display of a dangerous instrument or a deadly weapon as defined in section 13-105, use or possession of a gun, or excessive absenteeism. A school district may expel pupils for actions other than those listed in this subsection as the school district deems appropriate.

G. A school district or charter school shall expel from school for a period of not less than one year a pupil who is determined to have brought a firearm to a school within the jurisdiction of the school district or the charter school, except that the school district or charter school may modify this expulsion requirement for a pupil on a case by case basis. This subsection shall be construed consistently with the requirements of the individuals with disabilities education act (20 United States Code sections 1400 through 1420). For the purposes of this subsection:

1. "Expel" may include removing a pupil from a regular school setting and providing educational services in an alternative setting.
2. "Firearm" means a firearm as defined in 18 United States Code section 921.

15-515. Duty to report violations occurring on school premises.

All school personnel who observe a violation of section 13-3102, subsection A, paragraph 12 or section 13-3111 on school premises shall immediately report the violation to the school administrator. The administrator shall immediately report the violation to a peace officer. The peace officer shall report this violation to the department of public safety for inclusion in the statewide and federal uniform crime reports prescribed in section 41-1750, subsection A, paragraph 2.

Other weapons

STATUTES

15-841. Responsibilities of pupils; expulsion; alternative education programs; community service; placement review committee.

B. A pupil may be expelled for continued open defiance of authority, continued disruptive or disorderly behavior, violent behavior that includes use or display of a dangerous instrument or a deadly weapon as defined in section 13-105, use or possession of a gun, or excessive absenteeism. A school district may expel pupils for actions other than those listed in this subsection as the school district deems appropriate.

Students with chronic disciplinary issues

No relevant statutes found.

Attendance and truancy

STATUTES

15-803. School attendance; exemptions; definitions.

B. A child who is habitually truant or who has excessive absences may be adjudicated an incorrigible child as defined in section 8-201. Absences may be considered excessive when the number of absent days exceeds ten per cent of the number of required attendance days prescribed in section 15-802, subsection B, paragraph 1.

15-841. Responsibilities of pupils; expulsion; alternative education programs; community service; placement review committee.

B. A pupil may be expelled for excessive absenteeism only if the pupil has reached the age or completed the grade after which school attendance is not required as prescribed in section 15-802.

15-843. Pupil disciplinary proceedings.

B. The governing board of any school district, in consultation with the teachers and parents of the school district, shall prescribe rules for the discipline, suspension and expulsion of pupils. The rules shall be consistent with the constitutional rights of pupils and shall include at least the following:

1. Penalties for excessive pupil absenteeism pursuant to section 15-803, including failure in a subject, failure to pass a grade, suspension or expulsion.

C. Penalties adopted pursuant to subsection B, paragraph 1 of this section for excessive absenteeism shall not be applied to pupils who have completed the course requirements and whose absence from school is due solely to illness, disease or accident as certified by a person who is licensed pursuant to title 32, chapter 7, 13, 15 or 17.

Substance use

STATUTES

15-108. Medical marijuana; school campuses; prohibition; definition.

A. In addition to the limitations prescribed in section 36-2802, subsection B, a person, including a cardholder as defined in section 36-2801, may not lawfully possess or use marijuana on the campus of any public university, college, community college or postsecondary educational institution.

B. A person may not lawfully possess or use marijuana on the campus of any high school, junior high school, middle school, common school or preschool in this state.

13-3411. Possession, use, sale or transfer of marijuana, peyote, prescription drugs, dangerous drugs or narcotic drugs or manufacture of dangerous drugs in a drug free school zone; violation; classification; definitions.

A. It is unlawful for a person to do any of the following:

1. Intentionally be present in a drug free school zone to sell or transfer marijuana, peyote, prescription-only drugs, dangerous drugs or narcotic drugs.
2. Possess or use marijuana, peyote, dangerous drugs or narcotic drugs in a drug free school zone.
3. Manufacture dangerous drugs in a drug free school zone.

B. A person who violates subsection A of this section is guilty of the same class of felony that the person would otherwise be guilty of had the violation not occurred within a drug free school zone, except that the

presumptive, minimum and maximum sentence shall be increased by one year. The additional sentence imposed under this subsection is in addition to any enhanced punishment that may be applicable under section 13-703, section 13-704, section 13-708, subsection D or any provision in this chapter. A person is not eligible for suspension of sentence, probation, pardon or release from confinement on any basis except pursuant to section 31-233, subsection A or B until the sentence imposed by the court has been served or commuted.

C. In addition to any other penalty prescribed by this title, the court shall order a person who is convicted of a violation of this section to pay a fine of not less than two thousand dollars or three times the value as determined by the court of the drugs involved in or giving rise to the charge, whichever is greater, and not more than the maximum authorized by chapter 8 of this title. A judge shall not suspend any part or all of the imposition of any fine required by this subsection.

D. Each school district's governing board or its designee, or the chief administrative officer in the case of a nonpublic school, shall place and maintain permanently affixed signs located in a visible manner at the main entrance of each school that identifies the school and its accompanying grounds as a drug free school zone.

E. The drug free school zone map prepared pursuant to title 15 shall constitute an official record as to the location and boundaries of each drug free school zone. The school district's governing board or its designee, or the chief administrative officer in the case of any nonpublic school, shall promptly notify the county attorney of any changes in the location and boundaries of any school property and shall file with the county recorder the original map prepared pursuant to title 15.

F. All school personnel who observe a violation of this section shall immediately report the violation to a school administrator. The administrator shall immediately report the violation to a peace officer. It is unlawful for any school personnel or school administrator to fail to report a violation as prescribed in this section.

G. School personnel having custody or control of school records of a student involved in an alleged violation of this section shall make the records available to a peace officer upon written request signed by a magistrate. Records disclosed pursuant to this subsection are confidential and may be used only in a judicial or administrative proceeding. A person furnishing records required under this subsection or a person participating in a judicial or administrative proceeding or investigation resulting from the furnishing of records required under this subsection is immune from civil or criminal liability by reason of such action unless the person acted with malice.

H. A person who violates subsection F of this section is guilty of a class 3 misdemeanor.

I. For the purposes of this section:

1. "Drug free school zone" means the area within three hundred feet of a school or its accompanying grounds, any public property within one thousand feet of a school or its accompanying grounds, a school bus stop or on any school bus or bus contracted to transport pupils to any school.
2. "School" means any public or nonpublic kindergarten program, common school or high school.

Bullying, harassment, or hazing

STATUTES

15-341. General powers and duties; immunity; delegation.

37. Prescribe and enforce policies and procedures to prohibit pupils from harassing, intimidating and bullying other pupils on school grounds, on school property, on school buses, at school bus stops, at school sponsored events and activities and through the use of electronic technology or electronic

communication on school computers, networks, forums and mailing lists that include the following components:

(a) A procedure for pupils, parents and school district employees to confidentially report to school officials incidents of harassment, intimidation or bullying. The school shall make available written forms designed to provide a full and detailed description of the incident and any other relevant information about the incident.

(b) A requirement that school district employees report in writing suspected incidents of harassment, intimidation or bullying to the appropriate school official and a description of appropriate disciplinary procedures for employees who fail to report suspected incidents that are known to the employee.

(c) A requirement that, at the beginning of each school year, school officials provide all pupils with a written copy of the rights, protections and support services available to a pupil who is an alleged victim of an incident reported pursuant to this paragraph.

(d) If an incident is reported pursuant to this paragraph, a requirement that school officials provide a pupil who is an alleged victim of the incident with a written copy of the rights, protections and support services available to that pupil.

(e) A formal process for the documentation of reported incidents of harassment, intimidation or bullying and for the confidentiality, maintenance and disposition of this documentation. School districts shall maintain documentation of all incidents reported pursuant to this paragraph for at least six years. The school shall not use that documentation to impose disciplinary action unless the appropriate school official has investigated and determined that the reported incidents of harassment, intimidation or bullying occurred. If a school provides documentation of reported incidents to persons other than school officials or law enforcement, all individually identifiable information shall be redacted.

(f) A formal process for the investigation by the appropriate school officials of suspected incidents of harassment, intimidation or bullying, including procedures for notifying the alleged victim on completion and disposition of the investigation.

(g) Disciplinary procedures for pupils who have admitted or been found to have committed incidents of harassment, intimidation or bullying.

(h) A procedure that sets forth consequences for submitting false reports of incidents of harassment, intimidation or bullying.

(i) Procedures designed to protect the health and safety of pupils who are physically harmed as the result of incidents of harassment, intimidation and bullying, including, if appropriate, procedures to contact emergency medical services or law enforcement agencies, or both.

(j) Definitions of harassment, intimidation and bullying.

15-2301. Hazing prevention policies; definitions.

A. Every public educational institution in this state shall adopt, post and enforce a hazing prevention policy. The hazing prevention policy shall be printed in every student handbook for distribution to parents and students. Each hazing prevention policy shall include:

1. A definition of hazing pursuant to subsection C, paragraph 2 of this section.
2. A statement that hazing is prohibited.
3. A statement that any solicitation to engage in hazing is prohibited.
4. A statement that aiding and abetting another person who is engaged in hazing is prohibited.
5. A statement that it is not a defense to a violation of the hazing prevention policy if the hazing victim consented to or acquiesced in the hazing activity.

6. A statement that all students, teachers and staff shall take reasonable measures within the scope of their individual authority to prevent violations of the hazing prevention policy.

7. A description of the procedures for students, teachers and staff to report violations of the hazing prevention policy and the procedures to file a complaint for a violation of the hazing prevention policy.

8. Procedures to investigate reports of violations of the hazing prevention policy and to investigate complaints for a violation of the hazing prevention policy.

9. A description of the circumstances under which a violation of the hazing prevention policy shall be reported to the appropriate law enforcement agency.

10. A description of appropriate penalties, sanctions and appeals mechanisms for persons and organizations that violate the hazing prevention policy. The sanctions shall include the revocation or suspension of an organization's permission to conduct operations at the educational institution if the organization knowingly permitted, authorized or condoned the hazing activity. Any teacher or staff who knowingly permitted, authorized or condoned the hazing activity is subject to disciplinary action by the educational institution.

B. Violations of hazing prevention policies adopted pursuant to this section do not include either of the following:

1. Customary athletic events, contests or competitions that are sponsored by an educational institution.

2. Any activity or conduct that furthers the goals of a legitimate educational curriculum, a legitimate extracurricular program or a legitimate military training program.

C. For purposes of this section:

1. "Educational institution" means any of the following:

(a) A public school that provides instruction to pupils in any combination of kindergarten programs and grades one through twelve.

(b) A public community college or a vocational education program that provides academic instruction or training not exceeding two years' duration in the arts, sciences and humanities beyond the twelfth grade of the public or private high school course of study.

(c) Any public college or university that provides academic instruction beyond the twelfth grade of the public or private high school course of study and that offers any combination of baccalaureate, master's or doctoral degrees to students that complete specified academic requirements.

2. "Hazing" means any intentional, knowing or reckless act committed by a student, whether individually or in concert with other persons, against another student, and in which both of the following apply:

(a) The act was committed in connection with an initiation into, an affiliation with or the maintenance of membership in any organization that is affiliated with an educational institution.

(b) The act contributes to a substantial risk of potential physical injury, mental harm or degradation or causes physical injury, mental harm or personal degradation.

3. "Organization" means an athletic team, association, order, society, corps, cooperative, club or other similar group that is affiliated with an educational institution and whose membership consists primarily of students enrolled at that educational institution.

4. "Student" means any person who is enrolled at an educational institution, any person who has been promoted or accepted for enrollment at an educational institution or any person who intends to enroll at or be promoted to an educational institution within the next twelve calendar months. The hazing prevention policy of the educational institution where a person has been accepted for or promoted to enrollment, or where a person intends to enroll or be promoted to within the next twelve calendar months, shall be the effective policy. A person who meets the definition of a student for purposes of this

paragraph shall continue to be defined as a student for purposes of this section until the person graduates, transfers, is promoted or withdraws from the educational institution.

Other special infractions or conditions

No relevant statutes found.

Prevention and Behavioral Interventions (Non-Punitive)

Prevention

STATUTES

15-153. School safety program oversight committee; membership; duties; report; definition.

A. The school safety program oversight committee is established consisting of the following members:

1. Two members of the senate who are from different political parties and who are appointed by the president of the senate. These members serve as advisory members. The president of the senate shall select one member to cochair the committee.
2. Two members of the house of representatives who are from different political parties and who are appointed by the speaker of the house of representatives. These members serve as advisory members. The speaker of the house of representatives shall select one member to cochair the committee.
3. The governor, or the governor's designee.
4. The superintendent of public instruction, or the superintendent's designee.
5. A law enforcement officer who is appointed by the speaker of the house of representatives.
6. A juvenile probation officer who is appointed by the chief justice of the supreme court.
7. A public school principal who is appointed by the superintendent of public instruction.
8. A representative from the field of law related education who is appointed by the governor.

B. Members serve at the pleasure of the appointing entity.

C. The committee shall review plans submitted by the applicants for participation in the school safety program and shall select sites that are eligible to receive funding based on school safety needs. The committee shall also review renewal applications from participating sites.

D. The committee shall evaluate the program and report annually to the president of the senate, the speaker of the house of representatives, the governor and the joint legislative audit committee by November 1 and shall provide a copy of this report to the secretary of state.

E. For purposes of this section, "advisory member" means a member who advises the committee but who is not eligible to vote and is not a member for the purposes of determining a quorum.

15-712. Instruction on alcohol, tobacco, narcotic drugs, marijuana, date rape drugs and other dangerous drugs; chemical abuse prevention programs; definitions.

A. Instruction on the nature and harmful effects of alcohol, tobacco, narcotic drugs, marijuana, date rape drugs and other dangerous drugs on the human system and instruction on the laws related to the control of these substances and the nonuse and prevention of use and abuse of alcohol, tobacco, narcotic drugs, marijuana, date rape drugs and other dangerous drugs may be included in the courses of study in common and high schools, with emphasis on grades four through nine. Instruction on the nature and harmful effects of alcohol, tobacco, narcotic drugs, marijuana, date rape drugs and other dangerous drugs on a human fetus may be included in the courses of study in grades six through twelve. The instruction may be integrated into existing health, science, citizenship or similar studies and shall meet the criteria for chemical abuse prevention education programs developed pursuant to subsection C of this section.

B. At the request of a school district, the department of education shall provide technical assistance to school districts that choose to implement programs to prevent chemical abuse.

LEGISLATIVE INTENT

It is the intent of the legislature that training under this Act be provided without the need for appropriation of additional state funding for that purpose.

Mandatory Youth Suicide Awareness and Prevention Training; Immunity.

(a) A school district, regional educational attendance area, and the department shall annually provide youth suicide awareness and prevention training approved by the commissioner to each teacher, administrator, counselor, and specialist who is employed by the district, regional educational attendance area, or department to provide services to students in grades seven through 12 in a public school in the state at no cost to the teacher, administrator, counselor, or specialist.

(b) The commissioner shall approve youth suicide awareness and prevention training provided under this section if the training is not less than two hours each year, meets standards for professional continuing education credit in the state, and is periodically reviewed by a qualified person or committee for consistency with generally accepted principles of youth suicide awareness and prevention. The training may be offered through videoconferencing or an individual program of study of designated materials.

(c) A person may not bring a civil action for damages against the state or a school district, or an officer, agent, or employee of the state or a school district, for a death, personal injury, or property damage that results from an act or omission in performing or failing to perform activities or duties authorized under this section. This subsection does not apply to a civil action for damages as a result of intentional misconduct with complete disregard for the safety and property of others. In this subsection, "school district" has the meaning given "district" in AS 14.17.990.

(d) The training provided or the failure to provide training under this section may not be construed to impose a specific duty of care on any person.

Behavioral interventions and student support services

No relevant statutes found.

Professional development

No relevant statutes found.

Monitoring and Accountability

Formal incident reporting of conduct violations

STATUTES

15-341. General powers and duties; immunity; delegation.

37. Prescribe and enforce policies and procedures to prohibit pupils from harassing, intimidating and bullying other pupils on school grounds, on school property, on school buses, at school bus stops, at school sponsored events and activities and through the use of electronic technology or electronic communication on school computers, networks, forums and mailing lists that include the following components:

(a) A procedure for pupils, parents and school district employees to confidentially report to school officials incidents of harassment, intimidation or bullying. The school shall make available written forms designed to provide a full and detailed description of the incident and any other relevant information about the incident.

(b) A requirement that school district employees report in writing suspected incidents of harassment, intimidation or bullying to the appropriate school official and a description of appropriate disciplinary procedures for employees who fail to report suspected incidents that are known to the employee.

13-3411. Possession, use, sale or transfer of marijuana, peyote, prescription drugs, dangerous drugs or narcotic drugs or manufacture of dangerous drugs in a drug free school zone; violation; classification; definitions.

A. It is unlawful for a person to do any of the following:

1. Intentionally be present in a drug free school zone to sell or transfer marijuana, peyote, prescription-only drugs, dangerous drugs or narcotic drugs.
2. Possess or use marijuana, peyote, dangerous drugs or narcotic drugs in a drug free school zone.
3. Manufacture dangerous drugs in a drug free school zone.

F. All school personnel who observe a violation of this section shall immediately report the violation to a school administrator. The administrator shall immediately report the violation to a peace officer. It is unlawful for any school personnel or school administrator to fail to report a violation as prescribed in this section.

Parental notification

STATUTES

15-841. Responsibilities of pupils; expulsion; alternative education programs; community service; placement review committee.

H. A school district or charter school may require the pupil's parent or guardian to participate in mediation, community service, restitution or other programs in which the parent or guardian takes responsibility with the pupil for the threat.

Reporting and referrals between schools and law enforcement

STATUTES

15-843. Pupil disciplinary proceedings.

B. The governing board of any school district, in consultation with the teachers and parents of the school district, shall prescribe rules for the discipline, suspension and expulsion of pupils. The rules shall be consistent with the constitutional rights of pupils and shall include at least the following:

4. Procedures for dealing with pupils who have committed or who are believed to have committed a crime.

15-341. General powers and duties; immunity; delegation

A. The governing board shall:

31. Report to local law enforcement agencies any suspected crime against a person or property that is a serious offense as defined in section 13-706 or that involves a deadly weapon or dangerous instrument or serious physical injury and any conduct that poses a threat of death or serious physical injury to employees, students or anyone on the property of the school. This paragraph does not limit or preclude the reporting by a school district or an employee of a school district of suspected crimes other than those required to be reported by this paragraph. For the purposes of this paragraph, "dangerous instrument", "deadly weapon" and "serious physical injury" have the same meanings prescribed in section 13-105.

15-515. Duty to report violations occurring on school premises.

All school personnel who observe a violation of section 13-3102, subsection A, paragraph 12 or section 13-3111 on school premises shall immediately report the violation to the school administrator. The administrator shall immediately report the violation to a peace officer. The peace officer shall report this violation to the department of public safety for inclusion in the statewide and federal uniform crime reports prescribed in section 41-1750, subsection A, paragraph 2.

13-3411. Possession, use, sale or transfer of marijuana, peyote, prescription drugs, dangerous drugs or narcotic drugs or manufacture of dangerous drugs in a drug free school zone; violation; classification; definitions.

A. It is unlawful for a person to do any of the following:

1. Intentionally be present in a drug free school zone to sell or transfer marijuana, peyote, prescription-only drugs, dangerous drugs or narcotic drugs.
2. Possess or use marijuana, peyote, dangerous drugs or narcotic drugs in a drug free school zone.
3. Manufacture dangerous drugs in a drug free school zone.

F. All school personnel who observe a violation of this section shall immediately report the violation to a school administrator. The administrator shall immediately report the violation to a peace officer. It is unlawful for any school personnel or school administrator to fail to report a violation as prescribed in this section.

G. School personnel having custody or control of school records of a student involved in an alleged violation of this section shall make the records available to a peace officer upon written request signed by a magistrate. Records disclosed pursuant to this subsection are confidential and may be used only in a judicial or administrative proceeding. A person furnishing records required under this subsection or a person participating in a judicial or administrative proceeding or investigation resulting from the furnishing

of records required under this subsection is immune from civil or criminal liability by reason of such action unless the person acted with malice.

Disclosure of school records

STATUTES

15-141. Educational records; injunction; special action.

C. Notwithstanding any financial debt owed by the pupil, the governing board of a school district shall release to the department of juvenile corrections all educational records relating to a pupil who is awarded to the department of juvenile corrections within ten working days after the date the request is received.

E. A school district may release pupil attendance, disciplinary and other educational records to a law enforcement agency and county attorney pursuant to an intergovernmental agreement among the school district, law enforcement agency, county attorney and other state, local or tribal government agencies to create a local or tribal governmental juvenile justice network for the purpose of:

1. Providing appropriate programs and services to intervene with juveniles currently involved in the juvenile justice system.
2. Providing appropriate programs and services designed to deter at-risk juveniles from dropping out of school or other delinquent behavior.
3. Increasing the safety and security of the community and its children by reducing juvenile crime.

F. Educational records provided pursuant to an intergovernmental agreement entered into pursuant to subsection E shall be used solely for the purposes of the agreement and shall not be disclosed to any other party, except as provided by law.

Data collection, review, and reporting of disciplinary policies and actions

No relevant statutes found.

School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers

Authority and power to implement school arrest

STATUTES

15-805. Attendance officer; powers and duties.

A. The attendance officer may enforce the law relating to:

1. School attendance of children between the ages of six and sixteen years.
2. The provisions of section 15-802, subsection E, and section 15-803.
3. Employment of children between the ages of six and sixteen years.

B. The attendance officer may:

1. Issue a citation to an adult or child who is alleged to be in violation of laws specified in subsection A of this section to appear before a court of competent jurisdiction and shall advise the person to whom the citation is issued that failure to appear at the time and place specified in the citation may result in the issuance of a warrant for the person's arrest. A citation that is issued to a child under eighteen years of age shall require the child's parent or person having custody to appear with the child at the time and place specified in the citation. The attendance officer shall notify the child's parent or person having custody that the citation was issued and that the parent or person having custody is required to appear in court with the child and shall give proof of the notice to the court.
2. Issue a citation on an Arizona traffic ticket and complaint form for any violation of laws specified in subsection A of this section.
3. Report a violation of a law specified in subsection A of this section to the local law enforcement agency and request an investigation of the violation. The law enforcement agency shall, when sufficient cause exists, refer the matter for prosecution.
4. Enter all places where children may be employed to investigate and enforce the law.

15-841. Responsibilities of pupils; expulsion; alternative education programs; community service; placement review committee.

I. By January 1, 2001, each school district shall establish an alternative to suspension program in consultation with local law enforcement officials or school resource officers.

Certification or training

No relevant statutes found.

MOUs, authorization, and/or funding

No relevant statutes found.

State Education Agency Support

State model policies and implementation support

No relevant statutes found.

Funding appropriations

STATUTES

15-154. Public school safety program proposal; requirements; purpose; definitions.

A. A public school district may apply to participate in the school safety program as provided in this section for up to three fiscal years by submitting by April 15 a program proposal to the school safety program oversight committee. The program proposal shall contain:

1. A detailed description of the school safety needs of the public school or school district.
2. A plan for implementing a law related education program or a plan that demonstrates the existence of a law related education program as a school safety prevention strategy.
3. A plan to use trained school resource officers or juvenile probation officers in the schools, or both.

B. The state board of education shall administer the program in cooperation with the courts, law enforcement agencies and law related education providers. Representatives from the state board of education shall use relevant crime statistics and shall visit schools located in school districts that submit program proposals in order to verify the information contained in the program proposals.

C. The department of education, at the direction of the state board of education, shall distribute monies to the school districts that are in compliance with program requirements and whose plans have been approved by the school safety program oversight committee.

D. Any appropriations that are made to the department of education for the school safety program are exempt from the provisions of section 35-190 relating to the lapsing of appropriations. All monies that are not used for an approved school safety plan during the fiscal year for which the monies were appropriated revert to the department of education for distribution to the program in the following fiscal year.

E. Monies received by a school district under the program shall be spent to implement the approved plans.

F. For the purposes of this section:

1. "Law related education" means interactive education to equip children and youth with knowledge and skills pertaining to the law, school safety and effective citizenship.
2. "Law related education program" means a program designed to provide children and youth with knowledge, skills and activities pertaining to the law and legal process and to promote law-abiding behavior with the purpose of preventing children and youth from engaging in delinquency or violence and enabling them to become productive citizens.

Other/Uncategorized

Professional immunity or liability

No relevant statutes found.

Community input or involvement

STATUTES

15-841. Responsibilities of pupils; expulsion; alternative education programs; community service; placement review committee.

I. By January 1, 2001, each school district shall establish an alternative to suspension program in consultation with local law enforcement officials or school resource officers.

Other/Uncategorized

No relevant statutes found.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by Arizona provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
Website		
Safe and Supportive Schools Arizona	The Safe and Supportive Schools (S3) website provides information on PBIS, prevention training on anti-bullying, threat assessment, emergency management, etc.	http://www.s3az.org/
Documents		
No relevant resources found		
Other Resources		
Community Service as an Alternative to Suspensions: A Practical Program Toolkit	This toolkit provides step-by-step guidance and materials for educators who would like to implement community service as part of alternatives to suspension in their school or district.	http://www.serviceoptions.org/Documents/manual.pdf

Arkansas Compilation of School Discipline Laws and Regulations

Prepared: August 12, 2013

Introduction

This compilation presents school discipline-related state statutes, school discipline-related regulations, and, where available, links to state-sponsored websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSLE). For example, one major category encompasses all state laws or regulations mandating specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of state legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in each state.

Discipline categories were not mutually exclusive. Statutes and regulations often appeared across multiple categories. For states with more extensive statutes covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. State laws, ordered by chapter and section number, appear first within each category followed by state regulations. All statutes and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists statutes by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to state-sponsored websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of May 2013, with the exception of the state laws related to seclusion and restraint, which are complete and current as of December 2012. Readers should also note that the information in this document was compiled from individual state sources that are created by each state and which are maintained and updated with varying frequencies. Readers should consult the source information provided for each state directly in order to check for updates to this state's laws and regulations or conduct further research.

For further information, including definitions of the different policy categories, please refer to the Discipline Laws and Regulations Compendium posted on the Center's website.

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Safe Supportive Learning
Engagement | Safety | Environment

Table of Contents

Arkansas State Codes Cited **1**

General Provisions **3**

Authority to develop and establish rules of conduct 3
Scope 5
Communication of policy 6

In-School Discipline **7**

Use of multi-tiered discipline approaches 7
Teacher authority to remove students from classrooms 8
Alternatives to suspension 9
Use of corporal punishment 14
Use of student and locker searches 15
Other in-school disciplinary approaches 15

Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements **16**

Grounds for possible suspension or expulsion 16
Grounds for mandatory suspension or expulsion 17
Limitations, conditions or exclusions for use of suspension and expulsion 18
Administrative procedures related to suspension and expulsion 19
In-school suspension 22
Return to school following removal 23
Use of restraint and seclusion 23
Alternative placements 25

Disciplinary Approaches Addressing Specific Infractions and Conditions **28**

Firearms (as required by the Guns-Free Schools Act) 28
Other weapons 29
Students with chronic disciplinary issues 29
Attendance and truancy 35
Substance use 38
Bullying, harassment, or hazing 40
Other special infractions or conditions 42

Prevention and Behavioral Interventions (Non-Punitive) **45**

Prevention 45
Behavioral interventions and student support services 45
Professional development 50

Monitoring and Accountability **51**

Formal incident reporting of conduct violations 51
Parental notification 52
Reporting and referrals between schools and law enforcement 53
Disclosure of school records 54
Data collection, review, and reporting of disciplinary policies and actions 55

School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers 56
Authority and power to implement school arrest 56
Certification or training 56
MOUs, authorization, and/or funding 56
State Education Agency Support 57
State model policies and implementation support 57
Funding appropriations 58
Other/Uncategorized 59
Professional immunity or liability 59
Community input or involvement 59
Other/Uncategorized 60
State-Sponsored, Publicly Available Websites or Other Resources on School Discipline 61

Arkansas State Codes Cited

Arkansas Revised Statutes

Note: All hyperlinks below take you to Arkansas' statute search engine, offered by LexisNexis, redirected from http://www.arkleg.state.ar.us/assembly/2013/2013R/Pages/Home.aspx.

Title 5. Criminal Offenses

Subtitle 6. Offenses Against Public Health, Safety, Or Welfare

Chapter 71. Riots, Disorderly Conduct, Etc.

Subchapter 2. Offenses Generally

A.C.A. § 5-71-217.	Cyberbullying

Chapter 73. Weapons

A.C.A. § 5-73-119.	Handguns -- Possession by minor or possession on school property

Title 6 Education

Subtitle 2. Elementary And Secondary Education Generally

Chapter 17 Personnel

Subchapter 1. General Provisions

A.C.A. § 6-17-112	Corporal punishment -- Immunity from liability
A.C.A. § 6-17-113	Duty to report and investigate student criminal acts

Chapter 18. Students

Subchapter 2. Attendance

A.C.A. §6-18-209.	Adoption of student attendance policies -- Effect of excessive absences
A.C.A. §6-18-211.	Mandatory attendance for students in grades nine through twelve
A.C.A. §6-18-220.	Additional absences granted for participation in FFA, FHA, and 4-H programs -- Equal treatment
A.C.A. §6-18-222.	Penalty for excessive absences -- Revocation of driving privilege

Subchapter 5. Discipline

A.C.A. § 6-18-501.	Duty of teachers, classified school employees, and volunteers
A.C.A. § 6-18-502	Guidelines for development of school district student discipline policies
A.C.A. § 6-18-503	Written student discipline policies required
A.C.A. § 6-18-504	Compliance with §§ 6-18-502 and 6-18-503
A.C.A. § 6-18-505.	School Discipline Act
A.C.A. § 6-18-506.	School Dismissal Act
A.C.A. § 6-18-507.	Suspension -- Expulsion
A.C.A. § 6-18-510.	Enrollment during expulsion -- School policy
A.C.A. § 6-18-511.	Removal by teacher
A.C.A. § 6-18-512.	Seizure of hand-held laser pointers
A.C.A. § 6-18-513.	Parental notification

A.C.A. § 6-18-514. Antibullying policies

Subchapter 6. Sororities, Fraternities, Etc.

A.C.A. § 6-18-603. Unlawful organizations
A.C.A. § 6-18-605. Suspension or expulsion of members

Subchapter 9. Student Records

A.C.A. § 6-18-901. Maintenance of permanent student records

Subchapter 10. Public School Student Services Act

A.C.A. § 6-18-1001. Title
A.C.A. § 6-18-1002. Purpose
A.C.A. § 6-18-1003. Rules and regulations
A.C.A. § 6-18-1004. School district plan
A.C.A. § 6-18-1005. Student services program defined
A.C.A. § 6-18-1006. Occupational and placement specialist
A.C.A. § 6-18-1007. School student services status report.

Chapter 27. Educational Access for Military Children

A.C.A. §6-27-113. Absence due to military deployment.

Subtitle 3. Special Educational Programs

Chapter 48. Alternative Learning Environments

A.C.A. § 6-48-101. Definitions
A.C.A. § 6-48-102. Alternative learning environment required -- Reporting
A.C.A. § 6-48-103. Assessment and intervention services
A.C.A. § 6-48-104. Department of Education responsibilities

Arkansas Administrative Code

005.19 Arkansas Department of Education Guidelines for the Development, Review, and Revision of School District Student Discipline and School Safety Policies

4.00. General guidelines and minimum requirements

Special Education Procedural Requirements and Program Standards

Time-Out Seclusion Room

20.01. General
20.02. Definition
20.03. Restrictions on the use of a time-out seclusion room
20.04. Guidelines for appropriate use of a time-out seclusion room

General Provisions

Authority to develop and establish rules of conduct

STATUTES

6-18-501. Duty of teachers, classified school employees, and volunteers.

(a) Every teacher shall seek to exercise wholesome discipline in his or her school and endeavor by precept and otherwise to instill and cultivate in the pupils good morals and gentle manners.

(b) Classified school employees and volunteers shall have as a minimum the responsibility to appropriately assist and support teachers in these efforts.

6-18-502. Guidelines for development of school district student discipline policies.

(a) The Department of Education shall establish guidelines for the development of school district student discipline policies.

(b) Such guidelines shall include, but not be limited to, the following requirements:

(1) Parents, students, and school district personnel, including teachers, shall be involved in the development of school district student discipline policies;

(2) (A) The student discipline policies shall be reviewed annually by the school district's committee on personnel policies.

(B) The committee may recommend changes in the policies to the board of directors of the local school district; and

(3) Student discipline policies shall include, but not be limited to, the following offenses:

(A) Willfully and intentionally assaulting or threatening to assault or abuse any student or teacher, principal, superintendent, or other employee of a school system;

(B) Possession by students of any firearm or other weapon prohibited upon the school campus by law or by policies adopted by the school board of directors;

(C) Using, offering for sale, or selling beer, alcoholic beverages, or other illicit drugs by students on school property;

(D) Possession by a student of any paging device, beeper, or similar electronic communication device on the school campus, however:

(i) The policy may provide an exemption for possession of such a device by a student who is required to use such a device for health or other compelling reasons; and

(ii) The policy may exempt possession of such a device after normal school hours for extracurricular activities; and

(E) Willfully or intentionally damaging, destroying, or stealing school property by students.

(c) The school discipline policies shall:

(1) Prescribe minimum and maximum penalties, including students' suspension or dismissal from school, for violations of each of the aforementioned offenses and for violations of other practices prohibited by school discipline policies;

(2) (A) Prescribe expulsion from school for a period of not less than one (1) year for possession of any firearm or other weapon prohibited upon the school campus by law.

(B) Provided, however, that the superintendent shall have discretion to modify such expulsion requirement for a student on a case-by-case basis;

(3) Establish procedures for notice to students and parents of charges, hearings, and other due process proceedings to be applicable in the enforcement and administration of such policies by the school administrator and by the school board of directors;

(4) Include prevention, intervention, and conflict resolution provisions; and

(5) Set forth the role and authority of public school employees and volunteers as provided in this subchapter.

(d) Student discipline policies shall provide that parents and students will be advised of the rules and regulations by which the school is governed and will be made aware of the behavior that will call for disciplinary action and the types of corrective actions that may be imposed.

(e) Each school district shall develop a procedure for written notification to all parents and students of the district's student discipline policies and for documentation of the receipt of the policies by all parents and students.

(f) Teachers and administrators, classified school employees, and volunteers shall be provided with appropriate student discipline training.

(g) If a school employee believes that any action taken by the school district to discipline a student referred by that employee does not follow school district discipline policies, the school employee may appeal under the district's grievance procedure as provided under § 6-17-208.

(h) In developing the state guidelines for school district discipline policies, the department shall involve parents, students, teachers, and administrators.

6-18-503. Written student discipline policies required.

(a) (1) (A) Each school district in this state shall develop written student discipline policies in compliance with the guidelines established by the Department of Education and shall file such policies with the department.

(B) Guidelines shall include minimum standards of quality, experimentation with innovative programs, and a system to judge the effectiveness of the program.

(C) The discipline policy shall include provisions for:

(i) Placement of a student with disciplinary, socially dysfunctional, or behavioral problems not associated with a handicapping condition in an alternative learning environment provided by the district; and

(ii) Expulsion from school for a period of not less than one (1) year for possession of any firearm or other weapon prohibited upon the school campus by law; provided, however, that the superintendent shall have discretion to modify such expulsion requirement for a student on a case-by-case basis.

(2) Behavioral problems shall include those at risk of not satisfactorily completing a high school education.

(b) (1) A school district that authorizes use of corporal punishment in its discipline policy shall include provisions for administration of the punishment, including that it be administered only for cause, be reasonable, follow warnings that the misbehavior will not be tolerated, and be administered by a teacher or a school administrator and only in the presence of a school administrator or his or her designee, who shall be a teacher or an administrator employed by the school district.

(2) As used in this section, "teachers and administrators" means those persons employed by a school district and required to have a state-issued certificate as a condition of their employment.

(c) (1) A school district shall include in its student discipline policies a provision prohibiting students from wearing, while on the grounds of a public school during the regular school day and at school-sponsored activities and events, clothing that exposes underwear, buttocks, or the breast of a female.

(2) Subdivision (c)(1) of this section shall not apply to a costume or uniform worn by a student while participating in a school-sponsored activity or event.

(3) A school district shall specify in its student discipline policies the disciplinary actions that will be taken against a student for a violation of subdivision (c)(1) of this section.

(4) Subdivision (c)(1) of this section shall not be enforced in a manner that discriminates against a student on the basis of his or her race, color, religion, sex, disability, or national origin.

(d) Any amendments or revisions to a school district's student discipline policies shall be developed and adopted in the same manner as the original policies required by § 6-18-502 and shall be consistent with the guidelines established by the department.

(e) Any amendment or revision to the student discipline policies adopted by a school district shall be submitted to the department within thirty (30) days after the adoption of such amendment or revision.

6-18-505. School Discipline Act.

(a) This section may be cited as the "School Discipline Act".

(b) Every teacher is authorized to hold every pupil strictly accountable for any disorderly conduct in school or on the playground of the school, or on any school bus going to or returning from school, or during intermission or recess.

(c) (1) Any teacher or school administrator in a school district that authorizes use of corporal punishment in the district's written student discipline policy may use corporal punishment, provided only that the punishment is administered in accord with the district's written student discipline policy, against any pupil in order to maintain discipline and order within the public schools.

(2) As used in subdivision (c)(1) of this section, "teachers and administrators" means those persons employed by a school district and required to have a state-issued certificate as a condition of their employment.

6-18-506. School Dismissal Act.

(a) This section may be cited as the "School Dismissal Act".

(b) Every school district board of directors shall adopt and file with the Department of Education written policies concerning the violation of school standards such as disrespect for teachers and classified school employees, vandalism, and other undesirable behavioral patterns.

(c) Every school district board of directors in this state shall hold its pupils strictly accountable for any disorderly conduct in school, on the school grounds, in a school bus, or at any school function.

6-18-512. Seizure of hand-held laser pointers.

Each school district shall adopt a policy providing for the seizure by school personnel of hand-held laser pointers in the possession of students.

Scope

STATUTES

6-18-505. School Discipline Act.

(a) This section may be cited as the "School Discipline Act".

(b) Every teacher is authorized to hold every pupil strictly accountable for any disorderly conduct in school or on the playground of the school, or on any school bus going to or returning from school, or during intermission or recess.

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(c) Every school district board of directors in this state shall hold its pupils strictly accountable for any disorderly conduct in school, on the school grounds, in a school bus, or at any school function.

Communication of policy

STATUTES

6-18-502. Guidelines for development of school district student discipline policies.

(d) Student discipline policies shall provide that parents and students will be advised of the rules and regulations by which the school is governed and will be made aware of the behavior that will call for disciplinary action and the types of corrective actions that may be imposed.

(e) Each school district shall develop a procedure for written notification to all parents and students of the district's student discipline policies and for documentation of the receipt of the policies by all parents and students.

In-School Discipline

Use of multi-tiered discipline approaches

STATUTES

6-18-502. Guidelines for development of school district student discipline policies.

(a) The Department of Education shall establish guidelines for the development of school district student discipline policies.

(b) Such guidelines shall include, but not be limited to, the following requirements:

(1) Parents, students, and school district personnel, including teachers, shall be involved in the development of school district student discipline policies;

(2) (A) The student discipline policies shall be reviewed annually by the school district's committee on personnel policies.

(B) The committee may recommend changes in the policies to the board of directors of the local school district; and

(3) Student discipline policies shall include, but not be limited to, the following offenses:

(A) Willfully and intentionally assaulting or threatening to assault or abuse any student or teacher, principal, superintendent, or other employee of a school system;

(B) Possession by students of any firearm or other weapon prohibited upon the school campus by law or by policies adopted by the school board of directors;

(C) Using, offering for sale, or selling beer, alcoholic beverages, or other illicit drugs by students on school property;

(D) Possession by a student of any paging device, beeper, or similar electronic communication device on the school campus, however:

(i) The policy may provide an exemption for possession of such a device by a student who is required to use such a device for health or other compelling reasons; and

(ii) The policy may exempt possession of such a device after normal school hours for extracurricular activities; and

(E) Willfully or intentionally damaging, destroying, or stealing school property by students.

(c) The school discipline policies shall:

(1) Prescribe minimum and maximum penalties, including students' suspension or dismissal from school, for violations of each of the aforementioned offenses and for violations of other practices prohibited by school discipline policies;

(2) (A) Prescribe expulsion from school for a period of not less than one (1) year for possession of any firearm or other weapon prohibited upon the school campus by law.

(B) Provided, however, that the superintendent shall have discretion to modify such expulsion requirement for a student on a case-by-case basis;

(3) Establish procedures for notice to students and parents of charges, hearings, and other due process proceedings to be applicable in the enforcement and administration of such policies by the school administrator and by the school board of directors;

(4) Include prevention, intervention, and conflict resolution provisions; and

(5) Set forth the role and authority of public school employees and volunteers as provided in this subchapter.

(d) Student discipline policies shall provide that parents and students will be advised of the rules and regulations by which the school is governed and will be made aware of the behavior that will call for disciplinary action and the types of corrective actions that may be imposed.

(e) Each school district shall develop a procedure for written notification to all parents and students of the district's student discipline policies and for documentation of the receipt of the policies by all parents and students.

(f) Teachers and administrators, classified school employees, and volunteers shall be provided with appropriate student discipline training.

(g) If a school employee believes that any action taken by the school district to discipline a student referred by that employee does not follow school district discipline policies, the school employee may appeal under the district's grievance procedure as provided under § 6-17-208.

(h) In developing the state guidelines for school district discipline policies, the department shall involve parents, students, teachers, and administrators.

Teacher authority to remove students from classrooms

STATUTES

6-18-511. Removal by teacher.

(a) Consistent with state and federal law, a teacher may remove a student from class and send him or her to the principal's or principal's designee's office in order to maintain effective discipline in the classroom.

(b) A teacher may remove from class a student:

(1) Who has been documented by the teacher as repeatedly interfering with the teacher's ability to teach the students in the class or with the ability of the student's classmates to learn; or

(2) Whose behavior the teacher determines is so unruly, disruptive, or abusive that it seriously interferes with the teacher's ability to teach the students in the class or with the ability of the student's classmates to learn.

(c) If a teacher removes a student from class in accordance with subsection (b) of this section, the principal or his or her designee may:

(1) Place the student into another appropriate classroom, into in-school suspension, or into the district's alternative learning environment established in accordance with § 6-18-508, so long as such placement is consistent with the school district's written student discipline policy;

(2) Return the student to the class; or

(3) Take other appropriate action consistent with the school district's discipline policy, state law, and federal law.

(d) (1) If a teacher removes a student from class two (2) times during any nine-week grading period or its equivalent as determined by the Department of Education, the principal or the principal's designee may not return the student to the teacher's class unless a conference is held for the purpose of determining the causes of the problem and possible solutions, with the following individuals present:

(A) The principal or the principal's designee;

(B) The teacher;

(C) The school counselor;

(D) The parents, guardians, or persons in loco parentis; and

(E) The student, if appropriate.

(2) The failure of the parents, guardians, or persons in loco parentis to attend the conference provided for in this subsection (d) shall not prevent the conference from being held nor prevent any action from being taken as a result of that conference.

Alternatives to suspension

STATUTES

6-18-209. Adoption of student attendance policies -- Effect of excessive absences.

(a) The board of directors of each school district in this state shall adopt student attendance policies.

(b) Each school district, as a part of its six-year educational plan, shall develop strategies for promoting maximum student attendance, including, but not limited to, the use of alternative classrooms and in-school suspensions in lieu of suspension from school.

(c) A student attendance policy may include excessive absences as a mandatory basis for denial of promotion or graduation.

6-18-1001. Title.

This subchapter shall be known and may be cited as the "Public School Student Services Act".

6-18-1002. Purpose.

It is the intent of the General Assembly to articulate the functions served by each of the components of a program of student services. It is further the intent of the General Assembly that each school district develop and implement a plan for providing student services to all students in the public school system, including area vocational-technical schools. Such plan shall be implemented no later than the 1991-1992 school year. It is the intent of the General Assembly that student services coordinators be given time to fulfill their responsibilities under this subchapter.

6-18-1003. Rules and regulations.

The State Board of Education is authorized to adopt rules to carry out the intent of this legislation; such rules shall include, but need not be limited to:

(1) A description of the student services program at all educational levels for which the school board of directors is responsible;

(2) Criteria for the development by each school of a building-based student services plan which reflects input from parents, teachers, principals, students, and other agencies;

(3) Identification of alternative student services personnel who do not meet traditional graduate school requirements and who may be used by the school board of directors in providing the recommended student services, including, but not limited to, paraprofessionals, teachers, parents, and representatives of business and industry; and

(4) Establishment of minimum standards for all areas of student services personnel.

6-18-1004. School district plan.

(a) (1) Each school district shall develop and implement a plan that ensures that individual student services are coordinated in a manner utilizing such techniques as differentiated staffing so as to make maximum use of the contribution of each service.

(2) Only those trained and certified in the appropriate specialty or following a Department of Education's deficiency removal plan will be assigned to carry out the duties of each service.

(b) Each school district plan shall reflect the use of alternative methods of classroom management. Such methods may include, but are not limited to, the following:

(1) Behavioral contracting;

(2) Dispute resolution;

(3) Classroom meetings;

(4) Logical consequences;

(5) Assertive discipline;

(6) Behavior modification; and

(7) Career and academic counseling.

(c) (1) Each school district plan shall provide for a district-level tracking system for school dropouts and for students who fail to reach proficiency on state-mandated assessments.

(2) The tracking system shall include provisions for student services personnel in all schools to conduct exit interviews of students who are dropping out of school and for follow-up of such students when possible.

(d) The superintendent of a school district not in substantial compliance with the terms of its plan may be requested to appear before the Senate Interim Committee on Education and the House Interim Committee on Education.

6-18-1005. Student services program defined.

(a) "Student services program" means a coordinated effort, which shall include, but is not limited to:

(1) Guidance and counseling services, which shall include, but are not limited to:

(A) The availability of individual and group counseling to all students;

(B) Orientation programs for new students at each level of education and for transferring students;

(C) Academic advisement for class selection by establishing academic goals in elementary, middle, and high school;

(D) Consultation with parents, faculty, and out-of-school agencies concerning student problems and needs;

(E) Utilization of student records and files;

(F) Interpretation of augmented, criterion-referenced, or norm-referenced assessments and dissemination of results to the school, students, parents, and community;

(G) The following up of early school dropouts and graduates;

(H) A school-initiated system of parental involvement;

(I) An organized system of informational resources on which to base educational and vocational decision making;

(J) Educational, academic assessment, and career counseling, including advising students on the national college assessments, workforce opportunities, and alternative programs that ould provide successful high school completion and postsecondary opportunities for students;

(K) Coordinating administration of the Test for Adult Basic Education or the General Educational Development pretest to students by designating appropriate personnel, other than the school guidance counselor, to administer the tests;

(L) Classroom guidance, which shall be limited to forty-minute class sessions, not to exceed three (3) per day or ten (10) per week; and

(M) Guidance in understanding the relationship between classroom performance and success in school;

(2) Psychological services, which shall include, but are not limited to, the following:

(A) Evaluation of students with learning or adjustment problems;

(B) Evaluation of students in exceptional child education programs;

(C) Consultation and counseling with parents, students, and school personnel to ensure that all students are ready to succeed and that all students are preparing for college and work;

(D) A system for the early identification of learning potential and factors that affect the child's educational performance;

(E) A system of liaison and referrals, with resources available outside the school; and

(F) Written policies that assure ethical procedures in psychological activities;

(3) Visiting teacher and school social work services, which shall include, but are not limited to, the following:

(A) Providing casework to assist in the prevention and remediation of problems of attendance, behavior, adjustment, and learning; and

(B) Serving as liaison between the home and school by making home visits and referring students and parents to appropriate school and community agencies for assistance;

(4) Career services, which shall include, but are not limited to, the dissemination of career education information, appropriate course-taking patterns, and the effect of taking more rigorous courses so that students are better prepared for college and work success;

(5) Group conflict resolution services, which shall include, but are not limited to, the following:

(A) Educational and social programs that help students develop skills enabling them to resolve differences and conflicts between groups;

(B) Programs designed to promote understanding, positive communication, and greater utilization of a race relations specialist or human relations specialist to assist in the development of intergroup skills; and

(C) Programs designed to prevent bullying;

(6) Health services, which shall include, but are not limited to, the following:

(A) Students with special health care needs, including the chronically ill, medically fragile, and technology-dependent, and students with other health impairments shall have individualized health care plans;

(B) (i) Invasive medical procedures required by students and provided at the school shall be performed by trained, licensed personnel who are licensed to perform the task subject to § 17-87-102(6)(D) or other professional licensure statutes, unless permitted under § 17-87-103(10) and (11).

(ii) The regular classroom teacher shall not perform these tasks, except that public school employees may volunteer to be trained and administer glucagon to a student with type 1 diabetes in an emergency situation permitted under § 17-87-103(11); and

(C) Custodial health care services required by students under individualized health care plans shall be provided by trained school employees other than the regular classroom teachers; and

(7) The distribution of a suicide prevention public awareness program developed for distribution by the Arkansas Youth Suicide Prevention Task Force.

(b) School counselors shall spend at least seventy-five percent (75%) of work time each month during the school year providing direct counseling related to students and shall devote no more than twenty-five

percent (25%) of work time each month during the school year to administrative activities provided that the activities relate to the provision of guidance services.

6-18-1006. Occupational and placement specialist.

(a) The occupational and placement specialist shall serve as liaison between employers and the school.

(b) It is the responsibility of the district placement to make written board recommendations to the superintendent for consideration by the district school board of directors concerning areas of curriculum deficiency having an adverse effect on the employability of job candidates or progress in subsequent education experiences.

(c) Furthermore, district administrative personnel shall report to the school board of directors concerning adjustments in program outcomes, curricula, and delivery of instruction as they are made with the use of placement and follow-up information.

(d) The follow-up studies conducted by occupational and placement services shall be on a statistically valid random-sampling basis when appropriate and shall be stratified to reflect the appropriate vocational programs of students graduating from or leaving the public school system.

6-18-1007. School student services status report.

(a) By January 1, 1994, and each year thereafter, the Department of Education shall compile and present to the Governor, the State Board of Education, the Senate Interim Committee on Education, and the House Interim Committee on Education a report outlining monitoring findings and the status of implementing each of the provisions of this subchapter by the various school districts, including which districts are in substantial compliance with the plan required under this subchapter.

(b) (1) (A) By January 1, 1998, the department shall have in place a staffing structure which assures that the department's administration and field service staff are responsible for monitoring the department and local school district implementation and compliance with the provisions of this subchapter.

(B) The department shall employ one (1) or more persons who shall have a minimum qualification of certification as a school counselor.

(2) Each school district shall be responsible for submitting an annual report to the Assistant Director for School Improvement and Instructional Support of the Department of Education outlining its compliance with and implementation of plans for the provisions of this section.

(3) (A) The Commissioner of Education, in consultation with the appropriate assistant director, shall designate an individual or individuals who shall have a minimum qualification of certification as a school counselor to be responsible for coordinating the monitoring of compliance with this section.

(B) The monitoring shall include interviews with administrators, counselors, students, and teachers.

6-48-101. Definitions.

As used in this chapter:

(1) (A) (i) "Alternative learning environment" means an alternate class or school that affords all students an environment that seeks to eliminate barriers to learning for students whose academic and social progress are negatively affected by the student's personal characteristics or situation.

(ii) The Department of Education shall by rule more fully define the student's personal characteristics and situations applicable under this chapter.

(B) An alternative learning environment is not a punitive environment but one that is conducive to learning; and

(2) "Intervention services" means activities within or outside a school that will eliminate traditional barriers to learning.

6-48-102. Alternative learning environment required -- Reporting.

(a) (1) A school district shall provide one (1) or more alternative learning environments for all students who meet the minimum criteria established by the Department of Education.

(2) A school district complies with this section if the school district provides an alternative learning environment by one (1) or more of the following methods:

(A) Establishes and operates an alternative learning environment;

(B) Cooperates with one (1) or more other school districts to establish and operate an alternative learning environment; or

(C) Uses an alternative learning environment operated by an education service cooperative established under The Education Service Cooperative Act of 1985, § 6-13-1001 et seq.

(b) Annually, a school district shall submit to the department:

(1) Information on race and gender of the students educated in the alternative learning environment;

(2) Any other information regarding students educated in alternative learning environments that the department requires by rule; and

(3) An assurance statement that the school district is in compliance with this chapter.

6-48-103. Assessment and intervention services.

(a) An alternative learning environment shall:

(1) Assess a student either before or upon entry into the alternative learning environment; and

(2) Provide intervention services designed to address a student's specific educational needs.

(b) (1) A student assigned to an alternative learning environment for behavioral reasons shall receive intervention services designed to address the student's behavioral needs.

(2) The intervention services shall not be punitive in nature but shall be designed for long-term improvement of the student's ability to control his or her behavior.

6-48-104. Department of Education responsibilities.

(a) The Department of Education shall promulgate rules to implement this chapter, including without limitation rules that establish:

(1) (A) The criteria for distributing state funding for alternative learning environment programs.

(B) The criteria shall identify the characteristics of students who may be counted for the purpose of funding an alternative learning environment program including without limitation that a student is educated in the alternative learning environment for a minimum of twenty (20) consecutive days.

(C) If a student is educated in the alternative learning environment for fewer than twenty (20) days, the department may provide funding to a school district based on the actual number of days the student is educated in the alternative learning environment if the student:

(i) Leaves the school district to transfer to another alternative learning environment; or

(ii) Is placed in a residential treatment program;

(2) (A) The criteria for teacher training for teachers in alternative learning environments, including without limitation:

(i) In-service training in classroom management; and

(ii) Training in additional areas related to the specific needs and characteristics of students who are educated in alternative learning environments.

(B) The department shall award professional development credit for the training under this subdivision (a)(2); and

(3) Measures of effectiveness for alternative learning environments that measure:

(A) For the students educated in the alternative learning environment the effect on the students':

(i) School performance;

(ii) Need for intervention; and

(iii) School attendance and dropout rate; and

(B) Any other characteristic of alternative learning environments deemed necessary by the department.

(b) (1) As part of the department's accreditation review of a school district under § 6-15-202, the department shall evaluate each alternative learning environment to ensure that the alternative learning environment is:

(A) Established and operated in compliance with this chapter; and

(B) Effective under the measurements established by the department under this section.

(2) The department shall identify a school district's noncompliance with this chapter on the school district's annual report card.

(c) The department shall identify information concerning best practices for educating students in alternative learning environments and disseminate that information to teachers and administrators working in alternative learning environments.

(d) Annually by September 15 the department shall provide to the House Interim Committee on Education and the Senate Interim Committee on Education a report on:

(1) The information reported to it under § 6-48-102; and

(2) The effectiveness of alternative learning environments evaluated under this chapter.

Use of corporal punishment

STATUTES

6-17-112. Corporal punishment -- Immunity from liability.

(a) Teachers and administrators in a school district that authorizes use of corporal punishment in the school district's written student discipline policy shall be immune from any civil liability for administering corporal punishment to students, provided only that the corporal punishment is administered in substantial compliance with the school district's written student discipline policy.

(b) As used in subsection (a) of this section, "teachers and administrators" means those persons employed by a school district and required to have a state-issued license as a condition of their employment.

6-18-503. Written student discipline policies required.

(b) (1) A school district that authorizes use of corporal punishment in its discipline policy shall include provisions for administration of the punishment, including that it be administered only for cause, be reasonable, follow warnings that the misbehavior will not be tolerated, and be administered by a teacher or a school administrator and only in the presence of a school administrator or his or her designee, who shall be a teacher or an administrator employed by the school district.

(2) As used in this section, “teachers and administrators” mans those person employed by a school district and required to have a state-issued certificate as a condition of their employment.

6-18-505. School Discipline Act.

(c) (1) Any teacher or school administrator in a school district that authorizes use of corporal punishment in the district's written student discipline policy may use corporal punishment, provided only that the punishment is administered in accord with the district's written student discipline policy, against any pupil in order to maintain discipline and order within the public schools.

(2) As used in subdivision (c)(1) of this section, "teachers and administrators" means those persons employed by a school district and required to have a state-issued certificate as a condition of their employment.

ADMINISTRATIVE CODE

4.00. General guidelines and minimum requirements.

4.11. A school district that authorizes the use of corporal punishment in its discipline policy shall include provisions for administration of the punishment, including that it be administered only for cause, be reasonable, follow warnings that the misbehavior will not be tolerated, and be administered by a teacher or a school administrator and only in the presence of a school administrator or his or her designee, who shall be a teacher or an administrator employed by the school district.

4.11.1. “Teachers and administrators” means those persons employed by a school district and required to have a state-issued license as a condition of their employment.

4.11.2. Any teacher or school administrator in a school district that authorizes use of corporal punishment in the district’s written student discipline policy may use corporal punishment, provided only that the punishment is administered in accord with the district’s written student discipline policy, against any pupil in order to maintain discipline and order within the public schools.

Use of student and locker searches

No relevant statutes found.

Other in-school disciplinary approaches

No relevant statutes found.

Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements

Grounds for possible suspension or expulsion

STATUTES

6-18-502. Guidelines for development of school district student discipline policies.

(a) The Department of Education shall establish guidelines for the development of school district student discipline policies.

(b) Such guidelines shall include, but not be limited to, the following requirements:

(1) Parents, students, and school district personnel, including teachers, shall be involved in the development of school district student discipline policies;

(2) (A) The student discipline policies shall be reviewed annually by the school district's committee on personnel policies.

(B) The committee may recommend changes in the policies to the board of directors of the local school district; and

(3) Student discipline policies shall include, but not be limited to, the following offenses:

(A) Willfully and intentionally assaulting or threatening to assault or abuse any student or teacher, principal, superintendent, or other employee of a school system;

(B) Possession by students of any firearm or other weapon prohibited upon the school campus by law or by policies adopted by the school board of directors;

(C) Using, offering for sale, or selling beer, alcoholic beverages, or other illicit drugs by students on school property;

(D) Possession by a student of any paging device, beeper, or similar electronic communication device on the school campus, however:

(i) The policy may provide an exemption for possession of such a device by a student who is required to use such a device for health or other compelling reasons; and

(ii) The policy may exempt possession of such a device after normal school hours for extracurricular activities; and

(E) Willfully or intentionally damaging, destroying, or stealing school property by students.

(c) The school discipline policies shall:

(1) Prescribe minimum and maximum penalties, including students' suspension or dismissal from school, for violations of each of the aforementioned offenses and for violations of other practices prohibited by school discipline policies;

(2) (A) Prescribe expulsion from school for a period of not less than one (1) year for possession of any firearm or other weapon prohibited upon the school campus by law.

(B) Provided, however, that the superintendent shall have discretion to modify such expulsion requirement for a student on a case-by-case basis;

(3) Establish procedures for notice to students and parents of charges, hearings, and other due process proceedings to be applicable in the enforcement and administration of such policies by the school administrator and by the school board of directors;

(4) Include prevention, intervention, and conflict resolution provisions; and

(5) Set forth the role and authority of public school employees and volunteers as provided in this subchapter.

(d) Student discipline policies shall provide that parents and students will be advised of the rules and regulations by which the school is governed and will be made aware of the behavior that will call for disciplinary action and the types of corrective actions that may be imposed.

(e) Each school district shall develop a procedure for written notification to all parents and students of the district's student discipline policies and for documentation of the receipt of the policies by all parents and students.

(f) Teachers and administrators, classified school employees, and volunteers shall be provided with appropriate student discipline training.

(g) If a school employee believes that any action taken by the school district to discipline a student referred by that employee does not follow school district discipline policies, the school employee may appeal under the district's grievance procedure as provided under § 6-17-208.

(h) In developing the state guidelines for school district discipline policies, the department shall involve parents, students, teachers, and administrators.

Grounds for mandatory suspension or expulsion

STATUTES

6-18-502. Guidelines for development of school district student discipline policies.

(a) The Department of Education shall establish guidelines for the development of school district student discipline policies.

(b) Such guidelines shall include, but not be limited to, the following requirements:

(1) Parents, students, and school district personnel, including teachers, shall be involved in the development of school district student discipline policies;

(2) (A) The student discipline policies shall be reviewed annually by the school district's committee on personnel policies.

(B) The committee may recommend changes in the policies to the board of directors of the local school district; and

(3) Student discipline policies shall include, but not be limited to, the following offenses:

(A) Willfully and intentionally assaulting or threatening to assault or abuse any student or teacher, principal, superintendent, or other employee of a school system;

(B) Possession by students of any firearm or other weapon prohibited upon the school campus by law or by policies adopted by the school board of directors;

(C) Using, offering for sale, or selling beer, alcoholic beverages, or other illicit drugs by students on school property;

(D) Possession by a student of any paging device, beeper, or similar electronic communication device on the school campus, however:

(i) The policy may provide an exemption for possession of such a device by a student who is required to use such a device for health or other compelling reasons; and

(ii) The policy may exempt possession of such a device after normal school hours for extracurricular activities; and

(E) Willfully or intentionally damaging, destroying, or stealing school property by students.

(c) The school discipline policies shall:

(1) Prescribe minimum and maximum penalties, including students' suspension or dismissal from school, for violations of each of the aforementioned offenses and for violations of other practices prohibited by school discipline policies;

(2) (A) Prescribe expulsion from school for a period of not less than one (1) year for possession of any firearm or other weapon prohibited upon the school campus by law.

(B) Provided, however, that the superintendent shall have discretion to modify such expulsion requirement for a student on a case-by-case basis;

(3) Establish procedures for notice to students and parents of charges, hearings, and other due process proceedings to be applicable in the enforcement and administration of such policies by the school administrator and by the school board of directors;

(4) Include prevention, intervention, and conflict resolution provisions; and

(5) Set forth the role and authority of public school employees and volunteers as provided in this subchapter.

(d) Student discipline policies shall provide that parents and students will be advised of the rules and regulations by which the school is governed and will be made aware of the behavior that will call for disciplinary action and the types of corrective actions that may be imposed.

(e) Each school district shall develop a procedure for written notification to all parents and students of the district's student discipline policies and for documentation of the receipt of the policies by all parents and students.

(f) Teachers and administrators, classified school employees, and volunteers shall be provided with appropriate student discipline training.

(g) If a school employee believes that any action taken by the school district to discipline a student referred by that employee does not follow school district discipline policies, the school employee may appeal under the district's grievance procedure as provided under § 6-17-208.

(h) In developing the state guidelines for school district discipline policies, the department shall involve parents, students, teachers, and administrators.

6-18-605. Suspension or expulsion of members.

It shall be the duty of school directors and boards of education, school inspectors, and other corporate authority managing and controlling any of the public schools of the state to suspend or expel from the schools under their control any pupil who shall:

(1) Be or remain a member, promise to join, become a member, or solicit other persons to join, promise to join, or pledge to become a member of any such public school fraternity, sorority, or secret society or organization;

(2) Wear or display any insignia of such fraternity, sorority, or secret society or organization while in and attending public schools.

Limitations, conditions or exclusions for use of suspension and expulsion

No relevant statutes found.

Administrative procedures related to suspension and expulsion

STATUTES

6-18-502. Guidelines for development of school district student discipline policies.

(a) The Department of Education shall establish guidelines for the development of school district student discipline policies.

(b) Such guidelines shall include, but not be limited to, the following requirements:

(1) Parents, students, and school district personnel, including teachers, shall be involved in the development of school district student discipline policies;

(2) (A) The student discipline policies shall be reviewed annually by the school district's committee on personnel policies.

(B) The committee may recommend changes in the policies to the board of directors of the local school district; and

(3) Student discipline policies shall include, but not be limited to, the following offenses:

(A) Willfully and intentionally assaulting or threatening to assault or abuse any student or teacher, principal, superintendent, or other employee of a school system;

(B) Possession by students of any firearm or other weapon prohibited upon the school campus by law or by policies adopted by the school board of directors;

(C) Using, offering for sale, or selling beer, alcoholic beverages, or other illicit drugs by students on school property;

(D) Possession by a student of any paging device, beeper, or similar electronic communication device on the school campus, however:

(i) The policy may provide an exemption for possession of such a device by a student who is required to use such a device for health or other compelling reasons; and

(ii) The policy may exempt possession of such a device after normal school hours for extracurricular activities; and

(E) Willfully or intentionally damaging, destroying, or stealing school property by students.

(c) The school discipline policies shall:

(1) Prescribe minimum and maximum penalties, including students' suspension or dismissal from school, for violations of each of the aforementioned offenses and for violations of other practices prohibited by school discipline policies;

(2) (A) Prescribe expulsion from school for a period of not less than one (1) year for possession of any firearm or other weapon prohibited upon the school campus by law.

(B) Provided, however, that the superintendent shall have discretion to modify such expulsion requirement for a student on a case-by-case basis;

(3) Establish procedures for notice to students and parents of charges, hearings, and other due process proceedings to be applicable in the enforcement and administration of such policies by the school administrator and by the school board of directors;

(4) Include prevention, intervention, and conflict resolution provisions; and

(5) Set forth the role and authority of public school employees and volunteers as provided in this subchapter.

(d) Student discipline policies shall provide that parents and students will be advised of the rules and regulations by which the school is governed and will be made aware of the behavior that will call for disciplinary action and the types of corrective actions that may be imposed.

(e) Each school district shall develop a procedure for written notification to all parents and students of the district's student discipline policies and for documentation of the receipt of the policies by all parents and students.

(f) Teachers and administrators, classified school employees, and volunteers shall be provided with appropriate student discipline training.

(g) If a school employee believes that any action taken by the school district to discipline a student referred by that employee does not follow school district discipline policies, the school employee may appeal under the district's grievance procedure as provided under § 6-17-208.

(h) In developing the state guidelines for school district discipline policies, the department shall involve parents, students, teachers, and administrators.

6-18-507. Suspension -- Expulsion.

(a) As used in this section:

(1) "Course time" means the number of hours of instruction devoted to a single subject during the school week;

(2) "Expulsion" means dismissal from school for a period of time that exceeds ten (10) days;

(3) "Nontraditional scheduling" means block or other alternative scheduling as defined by the Department of Education; and

(4) "Suspension" means dismissal from school for a period of time that does not exceed ten (10) days.

(b) The board of directors of a school district may suspend or expel any student from school for violation of the school district's written discipline policies.

(c) (1) The board of directors may authorize a teacher or an administrator to suspend any student for a maximum of ten (10) school days for violation of the school district's written discipline policies, subject to appeal to the superintendent or his or her designee; however, schools that utilize nontraditional scheduling may not suspend students from more course time than would result from a ten-day suspension under the last traditional schedule used by the school district.

(2) If the superintendent initiates the suspension process, the decision may be appealed to the board of directors.

(d) (1) A superintendent may recommend the expulsion of a student for more than ten (10) days for violation of the school district's written discipline policies, subject to appeal to the board of directors and to requirements of the federal Individuals with Disabilities Education Act.

(2) (A) After hearing all testimony and debate on a suspension, expulsion, or appeal, the board of directors may consider its decision in executive session without the presence of anyone other than the board members.

(B) At the conclusion of an executive session, the board of directors shall reconvene in public session to vote on the suspension, expulsion, or appeal.

(3) A school district board of directors meeting entertaining an appeal shall be conducted in executive session if requested by the parent or guardian of the student provided that after hearing all testimony and debate, the board of directors shall conclude the executive session and reconvene in public session to vote on such appeal.

(e) (1) The superintendent of any school district shall recommend the expulsion of any student from school for a period of not less than one (1) year for possession of any firearm or other weapon

prohibited upon the school campus by law; provided, however, that the superintendent shall have discretion to modify such expulsion requirement for a student on a case-by-case basis.

(2) All school districts shall adopt a written policy regarding expulsion of a student for possessing a firearm or other prohibited weapon on school property that shall require parents, guardians, or other persons in loco parentis of a student expelled under this subsection to sign a statement acknowledging that the parents have read and understand current laws regarding the possibility of parental responsibility for allowing a child to possess a weapon on school property. The statement shall be signed by the parents, guardians, or other persons in loco parentis prior to readmitting a student or enrolling a student in any public school immediately after the expiration of an expulsion period pursuant to this subsection.

(3) (A) The school administrators and the local school board of directors shall complete the expulsion process of any student that was initiated because the student possessed a firearm or other prohibited weapon on school property regardless of the enrollment status of the student.

(B) The principal of each school shall report within a week to the department the name, current address, and social security number of any student who is expelled for possessing a firearm or other prohibited weapon on school property or for committing other acts of violence.

(C) The expulsion shall be noted on the student's permanent school record.

(D) Nothing in this subdivision (e)(3) shall be construed to limit a superintendent's discretion to modify the expulsion requirement for a student on a case-by-case basis as set out in this subsection.

(4) (A) The department shall establish and maintain a registry of students who are expelled for possessing a firearm or other prohibited weapon on school property or for committing other acts of violence.

(B) The names, addresses, and social security numbers of all students listed in the registry shall be available by phone, facsimile, or mail to any school principal in the state.

(f) (1) Upon suspension of a student, the school shall immediately contact the student's parent or legal guardian to notify the parent or legal guardian of the suspension.

(2) Each parent or legal guardian shall provide the school:

(A) (i) A primary call number.

(ii) If the call number changes, the parent or legal guardian shall notify the school of the new primary call number;

(B) An email address if the parent or guardian does not have a telephone; or

(C) A current mailing address if the parent or guardian does not have a telephone or email address.

(3) The contact required in subsection (f) of this section is sufficient if made by:

(A) Direct contact with the parent or legal guardian at the primary call number or in person;

(B) Leaving a voice mail at the primary call number;

(C) Sending a text message to the primary call number;

(D) Email if the school is unable to make contact through the primary call number; or

(E) Regular first-class mail if the school is unable to make contact through the primary call number or email.

(4) The school shall keep a notification log of contacts attempted and made to the parent or legal guardian.

In-school suspension

STATUTES

6-18-209. Adoption of student attendance policies -- Effect of excessive absences.

(a) The board of directors of each school district in this state shall adopt student attendance policies.

(b) Each school district, as a part of its six-year educational plan, shall develop strategies for promoting maximum student attendance, including, but not limited to, the use of alternative classrooms and in-school suspensions in lieu of suspension from school.

(c) A student attendance policy may include excessive absences as a mandatory basis for denial of promotion or graduation.

6-18-511. Removal by teacher.

(a) Consistent with state and federal law, a teacher may remove a student from class and send him or her to the principal's or principal's designee's office in order to maintain effective discipline in the classroom.

(b) A teacher may remove from class a student:

(1) Who has been documented by the teacher as repeatedly interfering with the teacher's ability to teach the students in the class or with the ability of the student's classmates to learn; or

(2) Whose behavior the teacher determines is so unruly, disruptive, or abusive that it seriously interferes with the teacher's ability to teach the students in the class or with the ability of the student's classmates to learn.

(c) If a teacher removes a student from class in accordance with subsection (b) of this section, the principal or his or her designee may:

(1) Place the student into another appropriate classroom, into in-school suspension, or into the district's alternative learning environment established in accordance with § 6-18-508, so long as such placement is consistent with the school district's written student discipline policy;

(2) Return the student to the class; or

(3) Take other appropriate action consistent with the school district's discipline policy, state law, and federal law.

(d) (1) If a teacher removes a student from class two (2) times during any nine-week grading period or its equivalent as determined by the Department of Education, the principal or the principal's designee may not return the student to the teacher's class unless a conference is held for the purpose of determining the causes of the problem and possible solutions, with the following individuals present:

(A) The principal or the principal's designee;

(B) The teacher;

(C) The school counselor;

(D) The parents, guardians, or persons in loco parentis; and

(E) The student, if appropriate.

(2) The failure of the parents, guardians, or persons in loco parentis to attend the conference provided for in this subsection (d) shall not prevent the conference from being held nor prevent any action from being taken as a result of that conference.

Return to school following removal

STATUTES

6-18-510. Enrollment during expulsion -- School policy.

The board of directors of any school district may adopt a policy that, after a hearing before the board of directors, any person who has been expelled as a student from any other school district may not enroll as a student until the time of the person's expulsion has expired.

Use of restraint and seclusion

ADMINISTRATIVE CODE

20.01. General.

1. The time-out seclusion room is an extension of such techniques as turning a chair away from a group or placing a student in a corner or in the hallway.

2. Time-out is only effective if the classroom environment from which the student is removed is more reinforcing than the isolation area in which he is placed.

20.02. Definition.

1. Time-out As used in these regulations, time-out is defined as the removal of the opportunity to engage in reinforced behavior.

20.03. Restrictions on the use of a time-out seclusion room.

1. Time-out seclusion should be used only for behaviors that are destructive to property, aggressive toward others or severely disruptive to the class environment. General noncompliance, selfstimulation, academic refusal, etc., can be responded to with less stringent and restrictive techniques.

2. The time-out seclusion room should be used only as a last resort if and when less restrictive means of controlling behavior have proven ineffective.

3. The necessity of using physical force to place a student in a timeout seclusion room is inappropriate beyond that reasonably managed by the classroom teacher.

3.1 Involuntary time-out must not be used with such students and, in general, time-out is not an appropriate intervention for classroom use with any students older than 12 unless they have made a contractual agreement for its use.

3.2 It is important that teachers realistically evaluate their ability to physically remove a student to the time-out room.

3.3 If there is a reasonable doubt concerning the capability of the teacher to physically remove the resistant student, the teacher should not begin to attempt the time-out procedure. In such a case, an alternative strategy should be implemented.

4. Time-out seclusion rooms must meet structural guidelines and provide for continuous monitoring, visually and auditorily, of the student’s behavior by an adult. (Refer to § 20.04.9 of this part for structural guidelines.)

20.04. Guidelines for appropriate use of a time-out seclusion room.

1. The teacher or behavioral specialist should have documentation that milder forms of time-out or other reduction techniques have proven ineffective in suppressing the inappropriate behavior.

2. The use of seclusion time-out and the behaviors which will result in its use must be explicitly stated in the student's IEP. Parent consent for the use of a time-out seclusion procedure should be documented.

3. Time-out must be paired with a behavioral plan to provide positive reinforcement for appropriate behaviors. This must also be included in the student's IEP.

4. Written procedures must be developed and followed for each student whose IEP includes the use of time-out.

5. The following guidelines should be adhered to for effective use of the timeout seclusion room.

5.1. Avoid lengthy verbal explanations. Behaviors resulting in time-out should be clearly explained prior to implementing the time-out program. Explanations provided during use of time-out should be brief, but should adequately inform the student of his/her misbehavior, such as, "Because you _____, you must go to time-out for _____minutes." All other verbal interaction should be avoided.

5.2. To maximize opportunities to exercise self-control, students should be given the opportunity to take their own time-out after receiving instructions from the teacher. However, if students refuse to take their own time-out, or if they fail to respond to the teacher's instructions within a reasonable time interval (5 to 10 seconds), the teacher should physically remove them to the time-out area. (Refer to § 20.03.3 of these regulations regarding physically removing the child to the time-out area.)

5.3. For high intensity behavior (e.g., kicking, screaming), the student should immediately be escorted to the time-out room.

6. Time Spent In Time-Out Seclusion Room

6.1. Length of time spent in the time-out seclusion room must be documented and kept within the specified time limits -

A. Preschool - no more than 5 minutes for each exclusion.

B. Lower elementary - no more than 15 minutes for each exclusion.

C. Middle/upper elementary - no more than 20 minutes for each exclusion.

6.2. At the end of the prescribed time, the student should be offered the opportunity to rejoin the class. If the student chooses to stay in time-out, the door must be left open at this time. When a student consistently chooses to stay in the time-out seclusion room beyond the prescribed time limit, the use of this procedure must be reviewed. The time-out room may be providing more reinforcement than the environment from which the student was removed.

6.3. Should there be a need for a time-out period to extend past the prescribed time limits, the appropriateness of continuing the time-out procedure should be evaluated immediately by knowledgeable professionals (i.e., principal, counselor, special education staff).

6.4. Careful consideration must be taken in extending the prescribed length of the time-out seclusion. The effectiveness of the time-out procedure is the result of its consistent use, rather than the length of stay in the timeout seclusion room.

7. Records Must Be Kept Of Each Occasion When Time-Out Seclusion Is Used. The Records Should Include -

7.1. The student's name;

7.2. The behavior for which time-out is being used, as specified in the IEP; and

7.3. The time of day the student was placed in and released from time-out.

8. When the use of time-out seclusion is included in a student's IEP, it is recommended that the use of time-out to address specific student behaviors be reviewed by a knowledgeable professional(s) twice monthly.

8.1. The use of the time-out seclusion procedure shall be altered or discontinued as a behavioral management technique if data do not support its effectiveness.

8.2. The continued and/or frequent need for this type of behavioral intervention could indicate that behavioral objectives, management techniques or other factors affecting the learning environment are not appropriately matched with the student's needs and behaviors.

9. If A Time-Out Room Is To Be Employed, The Time-Out Room Should -

9.1. Be at least 4' X 4' and no larger than 6' X 6' in size;

9.2. Be properly lighted (preferably recessed lighting, with switches outside the room). Lighting should remain on at all times;

9.3. Be properly ventilated;

9.4. Be free of objects and fixtures;

9.5. Provide the means by which an adult can continuously monitor, visually and auditorily, the student's behavior;

9.6. The door should be such that it cannot be locked; and

9.7. Meet state and county fire and safety codes.

10. In addition, it is necessary that all personnel involved in designing and implementing behavioral management procedures, including the use of timeout seclusion, be adequately trained and supervised. It is imperative that these persons have attained levels of skill and competency so that their qualifications correspond to their responsibilities.

Alternative placements

STATUTES

6-48-101. Definitions.

As used in this chapter:

(1) (A) (i) "Alternative learning environment" means an alternate class or school that affords all students an environment that seeks to eliminate barriers to learning for students whose academic and social progress are negatively affected by the student's personal characteristics or situation.

(ii) The Department of Education shall by rule more fully define the student's personal characteristics and situations applicable under this chapter.

(B) An alternative learning environment is not a punitive environment but one that is conducive to learning; and

(2) "Intervention services" means activities within or outside a school that will eliminate traditional barriers to learning.

6-48-102. Alternative learning environment required -- Reporting.

(a) (1) A school district shall provide one (1) or more alternative learning environments for all students who meet the minimum criteria established by the Department of Education.

(2) A school district complies with this section if the school district provides an alternative learning environment by one (1) or more of the following methods:

(A) Establishes and operates an alternative learning environment;

(B) Cooperates with one (1) or more other school districts to establish and operate an alternative learning environment; or

(C) Uses an alternative learning environment operated by an education service cooperative established under The Education Service Cooperative Act of 1985, § 6-13-1001 et seq.

(b) Annually, a school district shall submit to the department:

(1) Information on race and gender of the students educated in the alternative learning environment;

(2) Any other information regarding students educated in alternative learning environments that the department requires by rule; and

(3) An assurance statement that the school district is in compliance with this chapter.

6-48-103. Assessment and intervention services.

(a) An alternative learning environment shall:

(1) Assess a student either before or upon entry into the alternative learning environment; and

(2) Provide intervention services designed to address a student's specific educational needs.

(b) (1) A student assigned to an alternative learning environment for behavioral reasons shall receive intervention services designed to address the student's behavioral needs.

(2) The intervention services shall not be punitive in nature but shall be designed for long-term improvement of the student's ability to control his or her behavior.

6-48-104. Department of Education responsibilities.

(a) The Department of Education shall promulgate rules to implement this chapter, including without limitation rules that establish:

(1) (A) The criteria for distributing state funding for alternative learning environment programs.

(B) The criteria shall identify the characteristics of students who may be counted for the purpose of funding an alternative learning environment program including without limitation that a student is educated in the alternative learning environment for a minimum of twenty (20) consecutive days.

(C) If a student is educated in the alternative learning environment for fewer than twenty (20) days, the department may provide funding to a school district based on the actual number of days the student is educated in the alternative learning environment if the student:

(i) Leaves the school district to transfer to another alternative learning environment; or

(ii) Is placed in a residential treatment program;

(2) (A) The criteria for teacher training for teachers in alternative learning environments, including without limitation:

(i) In-service training in classroom management; and

(ii) Training in additional areas related to the specific needs and characteristics of students who are educated in alternative learning environments.

(B) The department shall award professional development credit for the training under this subdivision (a)(2); and

(3) Measures of effectiveness for alternative learning environments that measure:

(A) For the students educated in the alternative learning environment the effect on the students':

(i) School performance;

(ii) Need for intervention; and

(iii) School attendance and dropout rate; and

(B) Any other characteristic of alternative learning environments deemed necessary by the department.

(b) (1) As part of the department's accreditation review of a school district under § 6-15-202, the department shall evaluate each alternative learning environment to ensure that the alternative learning environment is:

(A) Established and operated in compliance with this chapter; and

(B) Effective under the measurements established by the department under this section.

(2) The department shall identify a school district's noncompliance with this chapter on the school district's annual report card.

(c) The department shall identify information concerning best practices for educating students in alternative learning environments and disseminate that information to teachers and administrators working in alternative learning environments.

(d) Annually by September 15 the department shall provide to the House Interim Committee on Education and the Senate Interim Committee on Education a report on:

(1) The information reported to it under § 6-48-102; and

(2) The effectiveness of alternative learning environments evaluated under this chapter.

Disciplinary Approaches Addressing Specific Infractions and Conditions

Firearms (as required by the Guns-Free Schools Act)

STATUTES

5-73-119. Handguns -- Possession by minor or possession on school property.

(a) (1) No person in this state under eighteen (18) years of age shall possess a handgun.

(2) (A) A violation of subdivision (a)(1) of this section is a Class A misdemeanor.

(B) A violation of subdivision (a)(1) of this section is a Class D felony if the person has previously:

(i) Been adjudicated delinquent for a violation of subdivision (a)(1) of this section;

(ii) Been adjudicated delinquent for any offense that would be a felony if committed by an adult; or

(iii) Pleaded guilty or nolo contendere to or been found guilty of a felony in circuit court while under eighteen (18) years of age.

(b) (1) No person in this state shall possess a firearm:

(A) Upon the developed property of a public or private school, K-12;

(B) In or upon any school bus; or

(C) At a designated bus stop as identified on the route list published by a school district each year.

(2) (A) A violation of subdivision (b)(1) of this section is a Class D felony.

(B) No sentence imposed for a violation of subdivision (b)(1) of this section shall be suspended or probated or treated as a first offense under § 16-93-301 et seq.

(c) (1) No person in this state shall possess a handgun upon the property of any private institution of higher education or a publicly supported institution of higher education in this state on or about his or her person, in a vehicle occupied by him or her, or otherwise readily available for use with a purpose to employ the handgun as a weapon against a person.

(2) A violation of subdivision (c)(1) of this section is a Class D felony.

(d) "Handgun" means a firearm capable of firing rimfire ammunition or centerfire ammunition and designed or constructed to be fired with one (1) hand.

(e) It is a defense to prosecution under this section that at the time of the act of possessing a handgun or firearm:

(1) The person is in his or her own dwelling or place of business or on property in which he or she has a possessory or proprietary interest, except upon the property of a public or private institution of higher learning;

(2) The person is a law enforcement officer, correctional officer, or member of the armed forces acting in the course and scope of his or her official duties;

(3) The person is assisting a law enforcement officer, correctional officer, or member of the armed forces acting in the course and scope of his or her official duties pursuant to the direction or request of the law enforcement officer, correctional officer, or member of the armed forces;

(4) The person is a licensed security guard acting in the course and scope of his or her duties;

(5) The person is hunting game with a handgun or firearm that may be hunted with a handgun or firearm under the rules and regulations of the Arkansas State Game and Fish Commission or is en route to or from a hunting area for the purpose of hunting game with a handgun or firearm;

(6) The person is a certified law enforcement officer;

(7) The person is on a journey, unless the person is eighteen (18) years of age or less;

(8) The person is participating in a certified hunting safety course sponsored by the commission or a firearm safety course recognized and approved by the commission or by a state or national nonprofit organization qualified and experienced in firearm safety;

(9) The person is participating in a school-approved educational course or sporting activity involving the use of firearms; or

(10) The person is a minor engaged in lawful marksmanship competition or practice or other lawful recreational shooting under the supervision of his or her parent, legal guardian, or other person twenty-one (21) years of age or older standing in loco parentis or is traveling to or from this activity with an unloaded handgun or firearm accompanied by his or her parent, legal guardian, or other person twenty-one (21) years of age or older standing in loco parentis.

6-18-502. Guidelines for development of school district student discipline policies.

(a) The Department of Education shall establish guidelines for the development of school district student discipline policies.

(c) The school discipline policies shall:

(2) (A) Prescribe expulsion from school for a period of not less than one (1) year for possession of any firearm or other weapon prohibited upon the school campus by law.

(B) Provided, however, that the superintendent shall have discretion to modify such expulsion requirement for a student on a case-by-case basis;

6-18-507. Suspension -- Expulsion.

(3) (A) The school administrators and the local school board of directors shall complete the expulsion process of any student that was initiated because the student possessed a firearm or other prohibited weapon on school property regardless of the enrollment status of the student.

(B) The principal of each school shall report within a week to the department the name, current address, and social security number of any student who is expelled for possessing a firearm or other prohibited weapon on school property or for committing other acts of violence.

Other weapons

STATUTES

6-18-512. Seizure of hand-held laser pointers.

Each school district shall adopt a policy providing for the seizure by school personnel of hand-held laser pointers in the possession of students.

Students with chronic disciplinary issues

STATUTES

6-18-1001. Title.

This subchapter shall be known and may be cited as the "Public School Student Services Act".

6-18-1002. Purpose.

It is the intent of the General Assembly to articulate the functions served by each of the components of a program of student services. It is further the intent of the General Assembly that each school district develop and implement a plan for providing student services to all students in the public school system, including area vocational-technical schools. Such plan shall be implemented no later than the 1991-1992 school year. It is the intent of the General Assembly that student services coordinators be given time to fulfill their responsibilities under this subchapter.

6-18-1003. Rules and regulations.

The State Board of Education is authorized to adopt rules to carry out the intent of this legislation; such rules shall include, but need not be limited to:

(1) A description of the student services program at all educational levels for which the school board of directors is responsible;

(2) Criteria for the development by each school of a building-based student services plan which reflects input from parents, teachers, principals, students, and other agencies;

(3) Identification of alternative student services personnel who do not meet traditional graduate school requirements and who may be used by the school board of directors in providing the recommended student services, including, but not limited to, paraprofessionals, teachers, parents, and representatives of business and industry; and

(4) Establishment of minimum standards for all areas of student services personnel.

6-18-1004. School district plan.

(a) (1) Each school district shall develop and implement a plan that ensures that individual student services are coordinated in a manner utilizing such techniques as differentiated staffing so as to make maximum use of the contribution of each service.

(2) Only those trained and certified in the appropriate specialty or following a Department of Education's deficiency removal plan will be assigned to carry out the duties of each service.

(b) Each school district plan shall reflect the use of alternative methods of classroom management. Such methods may include, but are not limited to, the following:

(1) Behavioral contracting;

(2) Dispute resolution;

(3) Classroom meetings;

(4) Logical consequences;

(5) Assertive discipline;

(6) Behavior modification; and

(7) Career and academic counseling.

(c) (1) Each school district plan shall provide for a district-level tracking system for school dropouts and for students who fail to reach proficiency on state-mandated assessments.

(2) The tracking system shall include provisions for student services personnel in all schools to conduct exit interviews of students who are dropping out of school and for follow-up of such students when possible.

(d) The superintendent of a school district not in substantial compliance with the terms of its plan may be requested to appear before the Senate Interim Committee on Education and the House Interim Committee on Education.

6-18-1005. Student services program defined.

(a) "Student services program" means a coordinated effort, which shall include, but is not limited to:

(1) Guidance and counseling services, which shall include, but are not limited to:

(A) The availability of individual and group counseling to all students;

(B) Orientation programs for new students at each level of education and for transferring students;

(C) Academic advisement for class selection by establishing academic goals in elementary, middle, and high school;

(D) Consultation with parents, faculty, and out-of-school agencies concerning student problems and needs;

(E) Utilization of student records and files;

(F) Interpretation of augmented, criterion-referenced, or norm-referenced assessments and dissemination of results to the school, students, parents, and community;

(G) The following up of early school dropouts and graduates;

(H) A school-initiated system of parental involvement;

(I) An organized system of informational resources on which to base educational and vocational decision making;

(J) Educational, academic assessment, and career counseling, including advising students on the national college assessments, workforce opportunities, and alternative programs that could provide successful high school completion and postsecondary opportunities for students;

(K) Coordinating administration of the Test for Adult Basic Education or the General Educational Development pretest to students by designating appropriate personnel, other than the school guidance counselor, to administer the tests;

(L) Classroom guidance, which shall be limited to forty-minute class sessions, not to exceed three (3) per day or ten (10) per week; and

(M) Guidance in understanding the relationship between classroom performance and success in school;

(2) Psychological services, which shall include, but are not limited to, the following:

(A) Evaluation of students with learning or adjustment problems;

(B) Evaluation of students in exceptional child education programs;

(C) Consultation and counseling with parents, students, and school personnel to ensure that all students are ready to succeed and that all students are preparing for college and work;

(D) A system for the early identification of learning potential and factors that affect the child's educational performance;

(E) A system of liaison and referrals, with resources available outside the school; and

(F) Written policies that assure ethical procedures in psychological activities;

(3) Visiting teacher and school social work services, which shall include, but are not limited to, the following:

(A) Providing casework to assist in the prevention and remediation of problems of attendance, behavior, adjustment, and learning; and

(B) Serving as liaison between the home and school by making home visits and referring students and parents to appropriate school and community agencies for assistance;

(4) Career services, which shall include, but are not limited to, the dissemination of career education information, appropriate course-taking patterns, and the effect of taking more rigorous courses so that students are better prepared for college and work success;

(5) Group conflict resolution services, which shall include, but are not limited to, the following:

(A) Educational and social programs that help students develop skills enabling them to resolve differences and conflicts between groups;

(B) Programs designed to promote understanding, positive communication, and greater utilization of a race relations specialist or human relations specialist to assist in the development of intergroup skills; and

(C) Programs designed to prevent bullying;

(6) Health services, which shall include, but are not limited to, the following:

(A) Students with special health care needs, including the chronically ill, medically fragile, and technology-dependent, and students with other health impairments shall have individualized health care plans;

(B) (i) Invasive medical procedures required by students and provided at the school shall be performed by trained, licensed personnel who are licensed to perform the task subject to § 17-87-102(6)(D) or other professional licensure statutes, unless permitted under § 17-87-103(10) and (11).

(ii) The regular classroom teacher shall not perform these tasks, except that public school employees may volunteer to be trained and administer glucagon to a student with type 1 diabetes in an emergency situation permitted under § 17-87-103(11); and

(C) Custodial health care services required by students under individualized health care plans shall be provided by trained school employees other than the regular classroom teachers; and

(7) The distribution of a suicide prevention public awareness program developed for distribution by the Arkansas Youth Suicide Prevention Task Force.

(b) School counselors shall spend at least seventy-five percent (75%) of work time each month during the school year providing direct counseling related to students and shall devote no more than twenty-five percent (25%) of work time each month during the school year to administrative activities provided that the activities relate to the provision of guidance services.

6-18-1006. Occupational and placement specialist.

(a) The occupational and placement specialist shall serve as liaison between employers and the school.

(b) It is the responsibility of the district placement to make written board recommendations to the superintendent for consideration by the district school board of directors concerning areas of curriculum deficiency having an adverse effect on the employability of job candidates or progress in subsequent education experiences.

(c) Furthermore, district administrative personnel shall report to the school board of directors concerning adjustments in program outcomes, curricula, and delivery of instruction as they are made with the use of placement and follow-up information.

(d) The follow-up studies conducted by occupational and placement services shall be on a statistically valid random-sampling basis when appropriate and shall be stratified to reflect the appropriate vocational programs of students graduating from or leaving the public school system.

6-18-1007. School student services status report.

(a) By January 1, 1994, and each year thereafter, the Department of Education shall compile and present to the Governor, the State Board of Education, the Senate Interim Committee on Education, and the House Interim Committee on Education a report outlining monitoring findings and the status of implementing each of the provisions of this subchapter by the various school districts, including which districts are in substantial compliance with the plan required under this subchapter.

(b) (1) (A) By January 1, 1998, the department shall have in place a staffing structure which assures that the department's administration and field service staff are responsible for monitoring the department and local school district implementation and compliance with the provisions of this subchapter.

(B) The department shall employ one (1) or more persons who shall have a minimum qualification of certification as a school counselor.

(2) Each school district shall be responsible for submitting an annual report to the Assistant Director for School Improvement and Instructional Support of the Department of Education outlining its compliance with and implementation of plans for the provisions of this section.

(3) (A) The Commissioner of Education, in consultation with the appropriate assistant director, shall designate an individual or individuals who shall have a minimum qualification of certification as a school counselor to be responsible for coordinating the monitoring of compliance with this section.

(B) The monitoring shall include interviews with administrators, counselors, students, and teachers.

6-48-101. Definitions.

As used in this chapter:

(1) (A) (i) "Alternative learning environment" means an alternate class or school that affords all students an environment that seeks to eliminate barriers to learning for students whose academic and social progress are negatively affected by the student's personal characteristics or situation.

(ii) The Department of Education shall by rule more fully define the student's personal characteristics and situations applicable under this chapter.

(B) An alternative learning environment is not a punitive environment but one that is conducive to learning; and

(2) "Intervention services" means activities within or outside a school that will eliminate traditional barriers to learning.

6-48-102. Alternative learning environment required -- Reporting.

(a) (1) A school district shall provide one (1) or more alternative learning environments for all students who meet the minimum criteria established by the Department of Education.

(2) A school district complies with this section if the school district provides an alternative learning environment by one (1) or more of the following methods:

(A) Establishes and operates an alternative learning environment;

(B) Cooperates with one (1) or more other school districts to establish and operate an alternative learning environment; or

(C) Uses an alternative learning environment operated by an education service cooperative established under The Education Service Cooperative Act of 1985, § 6-13-1001 et seq.

(b) Annually, a school district shall submit to the department:

(1) Information on race and gender of the students educated in the alternative learning environment;

(2) Any other information regarding students educated in alternative learning environments that the department requires by rule; and

(3) An assurance statement that the school district is in compliance with this chapter.

6-48-103. Assessment and intervention services.

(a) An alternative learning environment shall:

(1) Assess a student either before or upon entry into the alternative learning environment; and

(2) Provide intervention services designed to address a student's specific educational needs.

(b) (1) A student assigned to an alternative learning environment for behavioral reasons shall receive intervention services designed to address the student's behavioral needs.

(2) The intervention services shall not be punitive in nature but shall be designed for long-term improvement of the student's ability to control his or her behavior.

6-48-104. Department of Education responsibilities.

(a) The Department of Education shall promulgate rules to implement this chapter, including without limitation rules that establish:

(1) (A) The criteria for distributing state funding for alternative learning environment programs.

(B) The criteria shall identify the characteristics of students who may be counted for the purpose of funding an alternative learning environment program including without limitation that a student is educated in the alternative learning environment for a minimum of twenty (20) consecutive days.

(C) If a student is educated in the alternative learning environment for fewer than twenty (20) days, the department may provide funding to a school district based on the actual number of days the student is educated in the alternative learning environment if the student:

(i) Leaves the school district to transfer to another alternative learning environment; or

(ii) Is placed in a residential treatment program;

(2) (A) The criteria for teacher training for teachers in alternative learning environments, including without limitation:

(i) In-service training in classroom management; and

(ii) Training in additional areas related to the specific needs and characteristics of students who are educated in alternative learning environments.

(B) The department shall award professional development credit for the training under this subdivision (a)(2); and

(3) Measures of effectiveness for alternative learning environments that measure:

(A) For the students educated in the alternative learning environment the effect on the students':

(i) School performance;

(ii) Need for intervention; and

(iii) School attendance and dropout rate; and

(B) Any other characteristic of alternative learning environments deemed necessary by the department.

(b) (1) As part of the department's accreditation review of a school district under § 6-15-202, the department shall evaluate each alternative learning environment to ensure that the alternative learning environment is:

(A) Established and operated in compliance with this chapter; and

(B) Effective under the measurements established by the department under this section.

(2) The department shall identify a school district's noncompliance with this chapter on the school district's annual report card.

(c) The department shall identify information concerning best practices for educating students in alternative learning environments and disseminate that information to teachers and administrators working in alternative learning environments.

(d) Annually by September 15 the department shall provide to the House Interim Committee on Education and the Senate Interim Committee on Education a report on:

(1) The information reported to it under § 6-48-102; and

(2) The effectiveness of alternative learning environments evaluated under this chapter.

Attendance and truancy

STATUTES

6-18-209. Adoption of student attendance policies -- Effect of excessive absences.

(a) The board of directors of each school district in this state shall adopt student attendance policies.

(b) Each school district, as a part of its six-year educational plan, shall develop strategies for promoting maximum student attendance, including, but not limited to, the use of alternative classrooms and in-school suspensions in lieu of suspension from school.

(c) A student attendance policy may include excessive absences as a mandatory basis for denial of promotion or graduation.

6-18-211. Mandatory attendance for students in grades nine through twelve.

(a) Beginning with the 2004-2005 school year, students in grades nine through twelve (9-12) shall be required to schedule and attend a full school day.

(b) (1) No later than January 30, 2004, the State Board of Education shall promulgate regulations that require students in grades nine through twelve (9-12) to enroll in no less than three hundred fifty (350) minutes of planned instructional time each day as a requirement for graduation.

(2) (A) The regulations shall allow local school boards of directors to develop policies to allow:

(i) Students to be assigned to no more than one (1) class period each day for a study hall period that the student shall be required to attend and participate in for a full class period of self-study or organized tutoring in the school building; and

(ii) (a) No more than one (1) class period each day for organized and scheduled student extracurricular classes to be included as planned instructional time.

(b) If the extracurricular class is related to a seasonal activity, the class must continue to meet after the season ends to be counted toward the requirement of planned instructional time.

(B) The regulations shall allow local school boards of directors to develop policies for granting waivers to students who would experience proven financial hardships if required to attend a full school day.

(c) Enrollment and attendance in vocational-educational training courses, college courses, school work programs, and other Department of Education-sanctioned educational programs may be used to satisfy the requirements of this section even if the programs are not located at the public schools.

(d) Nothing in this section and § 6-18-210:

(1) Precludes a student who has met all graduation requirements from graduating early; or

(2) Requires a student who has graduated early from high school to continue to attend school.

6-18-220. Additional absences granted for participation in FFA, FHA, and 4-H programs -- Equal treatment.

(a) The General Assembly finds and declares that:

(1) The FFA, FHA, and 4-H programs in the state involve an education and learning process that is not otherwise available in the regular curriculum of secondary education in Arkansas;

(2) The principles and practices learned by school students in the FFA, FHA, and 4-H programs are highly beneficial to students;

(3) Participation in such programs should be encouraged; and

(4) One method of encouraging participation in such programs is to grant additional absences to students who participate in officially sanctioned activities of those organizations.

(b) Therefore, it is the purpose and intent of this section to assure that class absences of students who are participating in sanctioned FFA, FHA, and 4-H activities are excused to such extent as may be determined by the boards of directors of the respective districts, with the participants in the three (3) programs being treated equally with respect to such absences.

(c) Any school district that grants additional absences of FFA member students who attend officially sanctioned FFA activities shall afford equal treatment to FHA and 4-H member students who attend the same or similar officially sanctioned activities.

6-18-222. Penalty for excessive absences -- Revocation of driving privilege.

(a) (1) (A) (i) The board of directors of each school district in this state shall adopt a student attendance policy, as provided for in § 6-18-209, which shall include a certain number of excessive absences that may be used as a basis for denial of course credit, promotion, or graduation.

(ii) However, excessive absences shall not be a basis for expulsion or dismissal of a student.

(B) The legislative intent is that a student having excessive absences because of illness, accident, or other unavoidable reasons should be given assistance in obtaining credit for the courses.

(2) The State Board of Career Education shall adopt a student attendance policy for sixteen-year-olds and seventeen-year-olds enrolled in an adult education program. The policy shall require a minimum attendance of ten (10) hours per week to remain in the program.

(3) A copy of the school district's student attendance policy or the State Board of Career Education's student attendance policy for sixteen-year-olds and seventeen-year-olds enrolled in adult education shall be provided to the parent, guardian, or person in loco parentis of each student enrolled in an adult education program at the beginning of the school year or upon enrollment, whichever event first occurs.

(4) (A) (i) A student's parent, guardian, or person in loco parentis and the community truancy board, if the community truancy board has been created, shall be notified when the student has accumulated excessive absences equal to one-half (1/2) the total number of absences permitted per semester under the school district's or the State Board of Career Education's student attendance policy.

(ii) Notice shall be by telephonic contact with the student's parent, guardian, or person in loco parentis by the end of the school day in which the absence occurred or by regular mail with a return address on the envelope sent no later than the following school day.

(iii) Notice to the community truancy board, if the community truancy board has been created, shall be by letter to the chair of the community truancy board.

(B) If a community truancy board has been created, the community truancy board shall schedule a conference with the parent, guardian, or person in loco parentis to establish a plan to take steps to eliminate or reduce the student's absences.

(C) If the community truancy board has scheduled a conference and the student's parent, guardian, or person in loco parentis does not attend the conference, the conference may be conducted with the student and a school official. However, the parent, guardian, or person in loco parentis shall be notified of the steps to be taken to eliminate or reduce the student's absences.

(D) (i) Before a student accumulates the maximum number of absences allowed in a school district's student attendance policy, the student or the student's parent, guardian, or person in loco parentis may petition the school administration or school district administration for special arrangements to address the student's absences.

(ii) If special arrangements are granted by the school administration or the school district administration, the arrangements will be formalized into a written agreement to include the conditions of the agreement and the consequences for failing to fulfill the requirements of the agreement.

(iii) The agreement shall be signed by the:

(a) Designee of the school administration or of the school district administration;

(b) Student's parent, guardian, or person in loco parentis; and

(c) Student.

(5) (A) When a student exceeds the number of excessive absences provided for in the district's or the State Board of Career Education's student attendance policy, or when a student has violated the conditions of an agreement granting special arrangements under subdivision (a)(4)(D) of this section, the school district or the adult education program shall notify the prosecuting authority and the community truancy board, if a community truancy board has been created, and the student's parent, guardian, or person in loco parentis shall be subject to a civil penalty through a family in need of services action in circuit court, as authorized under subdivision (a)(6)(A) of this section, but not to exceed five hundred dollars ($500) plus costs of court and any reasonable fees assessed by the court.

(B) The penalty shall be forwarded by the court to the school or the adult education program attended by the student.

(6) (A) (i) Upon notification by the school district or the adult education program to the prosecuting authority, the prosecuting authority shall file in circuit court a family in need of services petition pursuant to § 9-27-310 or enter into a diversion agreement with the student pursuant to § 9-27-323.

(ii) For any action filed in circuit court to impose the civil penalty set forth in subdivision (a)(5) of this section, the prosecuting authority shall be exempt from all filing fees and shall take whatever action is necessary to collect the penalty provided for in subdivision (a)(5) of this section.

(B) Municipal attorneys may practice in circuit court for the limited purpose of filing petitions or entering into diversion agreements as authorized by this subdivision (a)(6)(B) if agreed upon by all of the parties pursuant to subdivision (a)(6)(A) of this section.

(7) (A) The purpose of the penalty set forth in this subsection is to impress upon the parents, guardians, or persons in loco parentis the importance of school or adult education attendance, and the penalty is not to be used primarily as a source of revenue.

(B) (i) When assessing penalties, the court shall be aware of any available programs designed to improve the parent-child relationship or parenting skills.

(ii) When practicable and appropriate, the court may utilize mandatory attendance at the programs as well as community service requirements in lieu of monetary penalties.

(8) As used in this section, "prosecuting authority" means:

(A) The elected district prosecuting attorney or his or her appointed deputy for schools located in unincorporated areas of the county or within cities not having a police or district court; and

(B) The prosecuting attorney of the city for schools located within the city limits of cities having either a police court or a district court in which a city prosecutor represents the city for violations of city ordinances or traffic violations.

(9) In any instance in which it is found that the school district, the adult education program, or the prosecuting authority is not complying with the provisions of this section, the State Board of Education may petition the circuit court to issue a writ of mandamus.

(b) (1) (A) Each public, private, or parochial school shall notify the Department of Finance and Administration whenever a student fourteen (14) years of age or older is no longer in school.

(B) Each adult education program shall notify the department whenever a student sixteen (16) or seventeen (17) years of age has left the program without receiving a high school equivalency certificate.

(2) (A) Upon receipt of notification, the department shall notify the licensee by certified mail, return receipt requested, that his or her motor vehicle operator's license will be suspended unless a hearing is requested in writing within thirty (30) days from the date of notice.

(B) The licensee shall be entitled to retain or regain his or her license by providing the department with adequate evidence that:

(i) The licensee is eighteen (18) years of age;

(ii) The licensee is attending school or an adult education program; or

(iii) The licensee has obtained a high school diploma or its equivalent.

(C) (i) In cases in which demonstrable financial hardship would result from the suspension of the learner's permit or driver's license, the department may grant exceptions only to the extent necessary to ameliorate the hardship.

(ii) If it can be demonstrated that the conditions for granting a hardship were fraudulent, the parent, guardian, or person in loco parentis shall be subject to all applicable perjury statutes.

(3) The department shall have the power to promulgate rules and regulations to carry out the intent of this section and shall distribute to each public, private, and parochial school and each adult education program a copy of all rules and regulations adopted under this section.

6-27-113. Absence due to military deployment.

A student shall be granted additional absences at the discretion of the local educational agency superintendent to visit with his or her parent or legal guardian if the parent or legal guardian is a member of the uniformed services and has:

(1) Been called to active duty or is on leave from active duty; or

(2) Returned from deployment to a combat zone or combat support posting.

Substance use

STATUTES

6-18-502. Guidelines for development of school district student discipline policies.

(a) The Department of Education shall establish guidelines for the development of school district student discipline policies.

(b) Such guidelines shall include, but not be limited to, the following requirements:

(1) Parents, students, and school district personnel, including teachers, shall be involved in the development of school district student discipline policies;

(2) (A) The student discipline policies shall be reviewed annually by the school district's committee on personnel policies.

(B) The committee may recommend changes in the policies to the board of directors of the local school district; and

(3) Student discipline policies shall include, but not be limited to, the following offenses:

(A) Willfully and intentionally assaulting or threatening to assault or abuse any student or teacher, principal, superintendent, or other employee of a school system;

(B) Possession by students of any firearm or other weapon prohibited upon the school campus by law or by policies adopted by the school board of directors;

(C) Using, offering for sale, or selling beer, alcoholic beverages, or other illicit drugs by students on school property;

(D) Possession by a student of any paging device, beeper, or similar electronic communication device on the school campus, however:

(i) The policy may provide an exemption for possession of such a device by a student who is required to use such a device for health or other compelling reasons; and

(ii) The policy may exempt possession of such a device after normal school hours for extracurricular activities; and

(E) Willfully or intentionally damaging, destroying, or stealing school property by students.

(c) The school discipline policies shall:

(1) Prescribe minimum and maximum penalties, including students' suspension or dismissal from school, for violations of each of the aforementioned offenses and for violations of other practices prohibited by school discipline policies;

(2) (A) Prescribe expulsion from school for a period of not less than one (1) year for possession of any firearm or other weapon prohibited upon the school campus by law.

(B) Provided, however, that the superintendent shall have discretion to modify such expulsion requirement for a student on a case-by-case basis;

(3) Establish procedures for notice to students and parents of charges, hearings, and other due process proceedings to be applicable in the enforcement and administration of such policies by the school administrator and by the school board of directors;

(4) Include prevention, intervention, and conflict resolution provisions; and

(5) Set forth the role and authority of public school employees and volunteers as provided in this subchapter.

(d) Student discipline policies shall provide that parents and students will be advised of the rules and regulations by which the school is governed and will be made aware of the behavior that will call for disciplinary action and the types of corrective actions that may be imposed.

(e) Each school district shall develop a procedure for written notification to all parents and students of the district's student discipline policies and for documentation of the receipt of the policies by all parents and students.

(f) Teachers and administrators, classified school employees, and volunteers shall be provided with appropriate student discipline training.

(g) If a school employee believes that any action taken by the school district to discipline a student referred by that employee does not follow school district discipline policies, the school employee may appeal under the district's grievance procedure as provided under § 6-17-208.

(h) In developing the state guidelines for school district discipline policies, the department shall involve parents, students, teachers, and administrators.

Bullying, harassment, or hazing

STATUTES

5-71-217. Cyberbullying.

(a) As used in this section:

(1) "Communication" means the electronic communication of information of a person's choosing between or among points specified by the person without change in the form or content of the information as sent and received; and

(2) "Electronic means" means any textual, visual, written, or oral communication of any kind made through the use of a computer online service, Internet service, telephone, or any other means of electronic communication, including without limitation to a local bulletin board service, an Internet chat room, electronic mail, a social networking site, or an online messaging service.

(b) A person commits the offense of cyberbullying if:

(1) He or she transmits, sends, or posts a communication by electonic means with the purpose to frighten, coerce, intimidate, threaten, abuse, harass, or alarm another person; and

(2) The transmission was in furtherance of severe, repeated, or hostile behavior toward the other person.

(c) The offense of cyberbullying may be prosecuted in the county where the defendant was located when he or she transmitted, sent, or posted a communication by electronic means, in the county where the communication by electronic means was received by the person, or in the county where the person targeted by the electronic communications resides.

(d) Cyberbullying is a Class B misdemeanor.

6-18-514. Antibullying policies.

(a) The General Assembly finds that every public school student in this state has the right to receive his or her public education in a public school educational environment that is reasonably free from substantial intimidation, harassment, or harm or threat of harm by another student.

(b) As used in this section:

(1) "Attribute" means an actual or perceived personal characteristic including without limitation race, color, religion, ancestry, national origin, socioeconomic status, academic status, disability, gender, gender identity, physical appearance, health condition, or sexual orientation;

(2) "Bullying" means the intentional harassment, intimidation, humiliation, ridicule, defamation, or threat or incitement of violence by a student against another student or public school employee by a written, verbal, electronic, or physical act that may address an attribute of the other student, public school employee, or person with whom the other student or public school employee is associated and that causes or creates actual or reasonably foreseeable:

(A) Physical harm to a public school employee or student or damage to the public school employee's or student's property;

(B) Substantial interference with a student's education or with a public school employee's role in education;

(C) A hostile educational environment for one (1) or more students or public school employees due to the severity, persistence, or pervasiveness of the act; or

(D) Substantial disruption of the orderly operation of the school or educational environment;

(3) "Electronic act" means without limitation a communication or image transmitted by means of an electronic device, including without limitation a telephone, wireless phone or other wireless communications device, computer, or pager;

(4) "Harassment" means a pattern of unwelcome verbal or physical conduct relating to another person's constitutionally or statutorily protected status that causes, or reasonably should be expected to cause, substantial interference with the other's performance in the school environment; and

(5) "Substantial disruption" means without limitation that any one (1) or more of the following occur as a result of the bullying:

(A) Necessary cessation of instruction or educational activities;

(B) Inability of students or educational staff to focus on learning or function as an educational unit because of a hostile environment;

(C) Severe or repetitive disciplinary measures are needed in the classroom or during educational activities; or

(D) Exhibition of other behaviors by students or educational staff that substantially interfere with the learning environment.

(c) Bullying of a public school student or a public school employee is prohibited.

(d) A school principal or his or her designee who receives a credible report or complaint of bullying shall promptly investigate the complaint or report and make a record of the investigation and any action taken as a result of the investigation.

(e) (1) The board of directors of every school district shall adopt policies to prevent bullying.

(2) The policies shall:

(A) (i) Clearly define conduct that constitutes bullying.

(ii) The definition shall include without limitation the definition contained in subsection (b) of this section;

(B) Prohibit bullying:

(i) While in school, on school equipment or property, in school vehicles, on school buses, at designated school bus stops, at school-sponsored activities, at school-sanctioned events; or

(ii) (a) By an electronic act that results in the substantial disruption of the orderly operation of the school or educational environment.

(b) This section shall apply to an electronic act whether or not the electronic act originated on school property or with school equipment, if the electronic act is directed specifically at students or school personnel and maliciously intended for the purpose of disrupting school and has a high likelihood of succeeding in that purpose;

(C) State the consequences for engaging in the prohibited conduct, which may vary depending on the age or grade of the student involved;

(D) Require that a school employee who has witnessed or has reliable information that a pupil has been a victim of bullying as defined by the district shall report the incident to the principal;

(E) Require that the person or persons who file a complaint will not be subject to retaliation or reprisal in any form;

(F) Require that notice of what constitutes bullying, that bullying is prohibited, and that the consequences of engaging in bullying be conspicuously posted in every classroom, cafeteria, restroom, gymnasium, auditorium, and school bus in the district; and

(G) Require that copies of the notice of what constitutes bullying, that bullying is prohibited, and that the consequences of engaging in bullying be provided to parents, students, school volunteers, and employees. Each policy shall require that a full copy of the policy be made available upon request.

(f) A school district shall provide training on compliance with the antibullying policies to all public school district employees responsible for reporting or investigating bullying under this section.

(g) A school employee who has reported violations under the school district's policy shall be immune from any tort liability that may arise from the failure to remedy the reported incident.

(h) The board of directors of a school district may provide opportunities for school employees to participate in programs or other activities designed to develop the knowledge and skills to prevent and respond to acts covered by this policy.

(i) (1) The school district shall file with the Department of Education a copy of the policies adopted in compliance with this section.

(2) The State Board of Education shall review the policies provided by the school districts and may recommend changes or improvements to the districts if the state board determines that the policies need improvement.

(j) This section is not intended to:

(1) Restrict a public school district from adopting and implementing policies against bullying or school violence or policies to promote civility and student dignity that are more inclusive than the antibullying policies required under this section; or

(2) Unconstitutionally restrict protected rights of freedom of speech, freedom of religious exercise, or freedom of assembly.

6-18-1005. Student services program defined.

(a) “Student services program” means a coordinated effort, which shall include, but is not limited to:

(5) Group conflict resolution services, which shall include, but are not limited to, the following:

(C) Programs designed to prevent bullying;

Other special infractions or conditions

STATUTES

6-18-502. Guidelines for development of school district student discipline policies.

(a) The Department of Education shall establish guidelines for the development of school district student discipline policies.

(b) Such guidelines shall include, but not be limited to, the following requirements:

(1) Parents, students, and school district personnel, including teachers, shall be involved in the development of school district student discipline policies;

(2) (A) The student discipline policies shall be reviewed annually by the school district's committee on personnel policies.

(B) The committee may recommend changes in the policies to the board of directors of the local school district; and

(3) Student discipline policies shall include, but not be limited to, the following offenses:

(A) Willfully and intentionally assaulting or threatening to assault or abuse any student or teacher, principal, superintendent, or other employee of a school system;

(B) Possession by students of any firearm or other weapon prohibited upon the school campus by law or by policies adopted by the school board of directors;

(C) Using, offering for sale, or selling beer, alcoholic beverages, or other illicit drugs by students on school property;

(D) Possession by a student of any paging device, beeper, or similar electronic communication device on the school campus, however:

(i) The policy may provide an exemption for possession of such a device by a student who is required to use such a device for health or other compelling reasons; and

(ii) The policy may exempt possession of such a device after normal school hours for extracurricular activities; and

(E) Willfully or intentionally damaging, destroying, or stealing school property by students.

(c) The school discipline policies shall:

(1) Prescribe minimum and maximum penalties, including students' suspension or dismissal from school, for violations of each of the aforementioned offenses and for violations of other practices prohibited by school discipline policies;

(2) (A) Prescribe expulsion from school for a period of not less than one (1) year for possession of any firearm or other weapon prohibited upon the school campus by law.

(B) Provided, however, that the superintendent shall have discretion to modify such expulsion requirement for a student on a case-by-case basis;

(3) Establish procedures for notice to students and parents of charges, hearings, and other due process proceedings to be applicable in the enforcement and administration of such policies by the school administrator and by the school board of directors;

(4) Include prevention, intervention, and conflict resolution provisions; and

(5) Set forth the role and authority of public school employees and volunteers as provided in this subchapter.

(d) Student discipline policies shall provide that parents and students will be advised of the rules and regulations by which the school is governed and will be made aware of the behavior that will call for disciplinary action and the types of corrective actions that may be imposed.

(e) Each school district shall develop a procedure for written notification to all parents and students of the district's student discipline policies and for documentation of the receipt of the policies by all parents and students.

(f) Teachers and administrators, classified school employees, and volunteers shall be provided with appropriate student discipline training.

(g) If a school employee believes that any action taken by the school district to discipline a student referred by that employee does not follow school district discipline policies, the school employee may appeal under the district's grievance procedure as provided under § 6-17-208.

(h) In developing the state guidelines for school district discipline policies, the department shall involve parents, students, teachers, and administrators.

6-18-512. Seizure of hand-held laser pointers.

Each school district shall adopt a policy providing for the seizure by school personnel of hand-held laser pointers in the possession of students.

6-18-603. Unlawful organizations.

Any public school fraternity, sorority, or secret society or organization as defined in this subchapter is declared to be inimical to public free schools and therefore unlawful.

Prevention and Behavioral Interventions (Non-Punitive)

Prevention

STATUTES

6-18-502. Guidelines for development of school district student discipline policies.

(a) The Department of Education shall establish guidelines for the development of school district student discipline policies.

(c) The school discipline policies shall:

(4) Include prevention, intervention, and conflict resolution provisions;

6-18-1005. Student services program defined.

(a) "Student services program" means a coordinated effort, which shall include, but is not limited to:

(7) The distribution of a suicide prevention public awareness program developed for distribution by the Arkansas Youth Suicide Prevention Task Force.

Behavioral interventions and student support services

STATUTES

6-18-1001. Title.

This subchapter shall be known and may be cited as the "Public School Student Services Act".

6-18-1002. Purpose.

It is the intent of the General Assembly to articulate the functions served by each of the components of a program of student services. It is further the intent of the General Assembly that each school district develop and implement a plan for providing student services to all students in the public school system, including area vocational-technical schools. Such plan shall be implemented no later than the 1991-1992 school year. It is the intent of the General Assembly that student services coordinators be given time to fulfill their responsibilities under this subchapter.

6-18-1003. Rules and regulations.

The State Board of Education is authorized to adopt rules to carry out the intent of this legislation; such rules shall include, but need not be limited to:

(1) A description of the student services program at all educational levels for which the school board of directors is responsible;

(2) Criteria for the development by each school of a building-based student services plan which reflects input from parents, teachers, principals, students, and other agencies;

(3) Identification of alternative student services personnel who do not meet traditional graduate school requirements and who may be used by the school board of directors in providing the recommended student services, including, but not limited to, paraprofessionals, teachers, parents, and representatives of business and industry; and

(4) Establishment of minimum standards for all areas of student services personnel.

6-18-1004. School district plan.

(a) (1) Each school district shall develop and implement a plan that ensures that individual student services are coordinated in a manner utilizing such techniques as differentiated staffing so as to make maximum use of the contribution of each service.

(2) Only those trained and certified in the appropriate specialty or following a Department of Education's deficiency removal plan will be assigned to carry out the duties of each service.

(b) Each school district plan shall reflect the use of alternative methods of classroom management. Such methods may include, but are not limited to, the following:

(1) Behavioral contracting;

(2) Dispute resolution;

(3) Classroom meetings;

(4) Logical consequences;

(5) Assertive discipline;

(6) Behavior modification; and

(7) Career and academic counseling.

(c) (1) Each school district plan shall provide for a district-level tracking system for school dropouts and for students who fail to reach proficiency on state-mandated assessments.

(2) The tracking system shall include provisions for student services personnel in all schools to conduct exit interviews of students who are dropping out of school and for follow-up of such students when possible.

(d) The superintendent of a school district not in substantial compliance with the terms of its plan may be requested to appear before the Senate Interim Committee on Education and the House Interim Committee on Education.

6-18-1005. Student services program defined.

(a) "Student services program" means a coordinated effort, which shall include, but is not limited to:

(1) Guidance and counseling services, which shall include, but are not limited to:

(A) The availability of individual and group counseling to all students;

(B) Orientation programs for new students at each level of education and for transferring students;

(C) Academic advisement for class selection by establishing academic goals in elementary, middle, and high school;

(D) Consultation with parents, faculty, and out-of-school agencies concerning student problems and needs;

(E) Utilization of student records and files;

(F) Interpretation of augmented, criterion-referenced, or norm-referenced assessments and dissemination of results to the school, students, parents, and community;

(G) The following up of early school dropouts and graduates;

(H) A school-initiated system of parental involvement;

(I) An organized system of informational resources on which to base educational and vocational decision making;

(J) Educational, academic assessment, and career counseling, including advising students on the national college assessments, workforce opportunities, and alternative programs that could provide successful high school completion and postsecondary opportunities for students;

(K) Coordinating administration of the Test for Adult Basic Education or the General Educational Development pretest to students by designating appropriate personnel, other than the school guidance counselor, to administer the tests;

(L) Classroom guidance, which shall be limited to forty-minute class sessions, not to exceed three (3) per day or ten (10) per week; and

(M) Guidance in understanding the relationship between classroom performance and success in school;

(2) Psychological services, which shall include, but are not limited to, the following:

(A) Evaluation of students with learning or adjustment problems;

(B) Evaluation of students in exceptional child education programs;

(C) Consultation and counseling with parents, students, and school personnel to ensure that all students are ready to succeed and that all students are preparing for college and work;

(D) A system for the early identification of learning potential and factors that affect the child's educational performance;

(E) A system of liaison and referrals, with resources available outside the school; and

(F) Written policies that assure ethical procedures in psychological activities;

(3) Visiting teacher and school social work services, which shall include, but are not limited to, the following:

(A) Providing casework to assist in the prevention and remediation of problems of attendance, behavior, adjustment, and learning; and

(B) Serving as liaison between the home and school by making home visits and referring students and parents to appropriate school and community agencies for assistance;

(4) Career services, which shall include, but are not limited to, the dissemination of career education information, appropriate course-taking patterns, and the effect of taking more rigorous courses so that students are better prepared for college and work success;

(5) Group conflict resolution services, which shall include, but are not limited to, the following:

(A) Educational and social programs that help students develop skills enabling them to resolve differences and conflicts between groups;

(B) Programs designed to promote understanding, positive communication, and greater utilization of a race relations specialist or human relations specialist to assist in the development of intergroup skills; and

(C) Programs designed to prevent bullying;

(6) Health services, which shall include, but are not limited to, the following:

(A) Students with special health care needs, including the chronically ill, medically fragile, and technology-dependent, and students with other health impairments shall have individualized health care plans;

(B) (i) Invasive medical procedures required by students and provided at the school shall be performed by trained, licensed personnel who are licensed to perform the task subject to § 17-87-102(6)(D) or other professional licensure statutes, unless permitted under § 17-87-103(10) and (11).

(ii) The regular classroom teacher shall not perform these tasks, except that public school employees may volunteer to be trained and administer glucagon to a student with type 1 diabetes in an emergency situation permitted under § 17-87-103(11); and

(C) Custodial health care services required by students under individualized health care plans shall be provided by trained school employees other than the regular classroom teachers; and

(7) The distribution of a suicide prevention public awareness program developed for distribution by the Arkansas Youth Suicide Prevention Task Force.

(b) School counselors shall spend at least seventy-five percent (75%) of work time each month during the school year providing direct counseling related to students and shall devote no more than twenty-five percent (25%) of work time each month during the school year to administrative activities provided that the activities relate to the provision of guidance services.

6-18-1006. Occupational and placement specialist.

(a) The occupational and placement specialist shall serve as liaison between employers and the school.

(b) It is the responsibility of the district placement to make written board recommendations to the superintendent for consideration by the district school board of directors concerning areas of curriculum deficiency having an adverse effect on the employability of job candidates or progress in subsequent education experiences.

(c) Furthermore, district administrative personnel shall report to the school board of directors concerning adjustments in program outcomes, curricula, and delivery of instruction as they are made with the use of placement and follow-up information.

(d) The follow-up studies conducted by occupational and placement services shall be on a statistically valid random-sampling basis when appropriate and shall be stratified to reflect the appropriate vocational programs of students graduating from or leaving the public school system.

6-18-1007. School student services status report.

(a) By January 1, 1994, and each year thereafter, the Department of Education shall compile and present to the Governor, the State Board of Education, the Senate Interim Committee on Education, and the House Interim Committee on Education a report outlining monitoring findings and the status of implementing each of the provisions of this subchapter by the various school districts, including which districts are in substantial compliance with the plan required under this subchapter.

(b) (1) (A) By January 1, 1998, the department shall have in place a staffing structure which assures that the department's administration and field service staff are responsible for monitoring the department and local school district implementation and compliance with the provisions of this subchapter.

(B) The department shall employ one (1) or more persons who shall have a minimum qualification of certification as a school counselor.

(2) Each school district shall be responsible for submitting an annual report to the Assistant Director for School Improvement and Instructional Support of the Department of Education outlining its compliance with and implementation of plans for the provisions of this section.

(3) (A) The Commissioner of Education, in consultation with the appropriate assistant director, shall designate an individual or individuals who shall have a minimum qualification of certification as a school counselor to be responsible for coordinating the monitoring of compliance with this section.

6-48-101. Definitions.

As used in this chapter:

(1) (A) (i) "Alternative learning environment" means an alternate class or school that affords all students an environment that seeks to eliminate barriers to learning for students whose academic and social progress are negatively affected by the student's personal characteristics or situation.

(ii) The Department of Education shall by rule more fully define the student's personal characteristics and situations applicable under this chapter.

(B) An alternative learning environment is not a punitive environment but one that is conducive to learning; and

(2) "Intervention services" means activities within or outside a school that will eliminate traditional barriers to learning.

6-48-102. Alternative learning environment required -- Reporting.

(a) (1) A school district shall provide one (1) or more alternative learning environments for all students who meet the minimum criteria established by the Department of Education.

(2) A school district complies with this section if the school district provides an alternative learning environment by one (1) or more of the following methods:

(A) Establishes and operates an alternative learning environment;

(B) Cooperates with one (1) or more other school districts to establish and operate an alternative learning environment; or

(C) Uses an alternative learning environment operated by an education service cooperative established under The Education Service Cooperative Act of 1985, § 6-13-1001 et seq.

(b) Annually, a school district shall submit to the department:

(1) Information on race and gender of the students educated in the alternative learning environment;

(2) Any other information regarding students educated in alternative learning environments that the department requires by rule; and

(3) An assurance statement that the school district is in compliance with this chapter.

6-48-103. Assessment and intervention services.

(a) An alternative learning environment shall:

(1) Assess a student either before or upon entry into the alternative learning environment; and

(2) Provide intervention services designed to address a student's specific educational needs.

(b) (1) A student assigned to an alternative learning environment for behavioral reasons shall receive intervention services designed to address the student's behavioral needs.

(2) The intervention services shall not be punitive in nature but shall be designed for long-term improvement of the student's ability to control his or her behavior.

6-48-104. Department of Education responsibilities.

(a) The Department of Education shall promulgate rules to implement this chapter, including without limitation rules that establish:

(1) (A) The criteria for distributing state funding for alternative learning environment programs.

(B) The criteria shall identify the characteristics of students who may be counted for the purpose of funding an alternative learning environment program including without limitation that a student is educated in the alternative learning environment for a minimum of twenty (20) consecutive days.

(C) If a student is educated in the alternative learning environment for fewer than twenty (20) days, the department may provide funding to a school district based on the actual number of days the student is educated in the alternative learning environment if the student:

(i) Leaves the school district to transfer to another alternative learning environment; or

(ii) Is placed in a residential treatment program;

(2) (A) The criteria for teacher training for teachers in alternative learning environments, including without limitation:

(i) In-service training in classroom management; and

(ii) Training in additional areas related to the specific needs and characteristics of students who are educated in alternative learning environments.

(B) The department shall award professional development credit for the training under this subdivision (a)(2); and

(3) Measures of effectiveness for alternative learning environments that measure:

(A) For the students educated in the alternative learning environment the effect on the students':

(i) School performance;

(ii) Need for intervention; and

(iii) School attendance and dropout rate; and

(B) Any other characteristic of alternative learning environments deemed necessary by the department.

(b) (1) As part of the department's accreditation review of a school district under § 6-15-202, the department shall evaluate each alternative learning environment to ensure that the alternative learning environment is:

(A) Established and operated in compliance with this chapter; and

(B) Effective under the measurements established by the department under this section.

(2) The department shall identify a school district's noncompliance with this chapter on the school district's annual report card.

(c) The department shall identify information concerning best practices for educating students in alternative learning environments and disseminate that information to teachers and administrators working in alternative learning environments.

(d) Annually by September 15 the department shall provide to the House Interim Committee on Education and the Senate Interim Committee on Education a report on:

(1) The information reported to it under § 6-48-102; and

(2) The effectiveness of alternative learning environments evaluated under this chapter.

Professional development

STATUTES

6-18-502. Guidelines for development of school district student discipline policies.

(f) Teachers and administrators, classified school employees, and volunteers shall be provided with appropriate student discipline training.

Monitoring and Accountability

Formal incident reporting of conduct violations

STATUTES

6-17-113. Duty to report and investigate student criminal acts.

(a) As used in this section:

(1) "Act of violence" means any violation of Arkansas law where a person purposely or knowingly causes or threatens to cause death or serious physical injury to another person;

(2) "Deadly weapon" means:

(A) A firearm or anything manifestly designed, made, or adapted for the purpose of inflicting death or serious physical injury; or

(B) Anything that in the manner of its use or intended use is capable of causing death or serious physical injury; and

(3) "Firearm" means any device designed, made, or adapted to expel a projectile by the action of an explosive or any device readily convertible to that use, including such a device that is not loaded or lacks a clip or other component to render it immediately operable, and components that can readily be assembled into such a device.

(b) Whenever the principal or other person in charge of a public school has personal knowledge or has received information leading to a reasonable belief that any person has committed or has threatened to commit an act of violence or any crime involving a deadly weapon on school property or while under school supervision, the principal or the person in charge shall immediately report the incident or threat to the superintendent of the school district and the appropriate local law enforcement agency. The report shall be by telephone or in person immediately after the incident or threat and shall be followed by a written report within three (3) business days. The principal shall notify any school employee or other person who initially reported the incident that a report has been made to the appropriate law enforcement agency. The superintendent or his designee shall notify the local school board of directors of any report made to law enforcement under this section.

(c) (1) Whenever a law enforcement officer receives a report of an incident pursuant to subsection (b) of this section, that officer shall immediately report the incident to the office of the prosecuting attorney and shall immediately initiate an investigation of the incident.

(2) The investigation shall be conducted with all reasonable haste and, upon completion, shall be referred to the prosecuting attorney.

(3) The prosecuting attorney shall implement the appropriate course of action and within thirty (30) calendar days after receipt of the file, the prosecuting attorney shall provide a written report to the principal. The report shall state:

(A) Whether the investigation into the reported incident is ongoing;

(B) Whether any charges have been filed in either circuit court or the juvenile division of circuit court as a result of the reported incident; and

(C) The disposition of the case.

(4) Upon receipt of the report from the prosecuting attorney, the principal shall notify any school employee or any other person who initially reported the incident that a report has been received from the prosecuting attorney.

(d) Excluding the reporting requirement set out in subdivision (c)(3) of this section, any person who purposely fails to report as required by this section shall be guilty of a Class C misdemeanor.

(e) The State Board of Education shall promulgate rules and regulations to ensure uniform compliance with the requirements of this section and shall consult with the office of the Attorney General concerning the development of these rules and regulations.

Parental notification

STATUTES

6-18-502. Guidelines for development of school district student discipline policies.

(a) The Department of Education shall establish guidelines for the development of school district student discipline policies.

(c) The school discipline policies shall:

(3) Establish procedures for notice to students and parents of charges, hearings, and other due process proceedings to be applicable in the enforcement and administration of such policies by the school administrator and by the school board of directors;

6-18-513. Parental notification.

(a) A school or school district shall comply with subsection (b) of this section if the school or school district with respect to a student under the age of eighteen (18):

(1) Makes a report to any law enforcement agency concerning student misconduct;

(2) Grants law enforcement personnel other than a school resource officer acting in the normal course and scope of his or her assigned duties access to a student; or

(3) Knows that a student has been taken into custody by law enforcement personnel during the school day or while under school supervision.

(b) (1) The principal or, in the principal's absence, the principal's designee shall make a reasonable, good faith effort to notify the student's parent, legal guardian, or other person having lawful control of the student by court order or person acting in loco parentis listed on student enrollment forms of the occurrence of any of the events in subsection (a) of this section.

(2) The principal or the principal's designee shall notify the student's parent, legal guardian, or other person having lawful control of the student under an order of court or person acting in loco parentis that the student has been reported to, interviewed by, or taken into custody by law enforcement personnel.

(3) If the principal or the principal's designee is unable to reach the parent, he or she shall make a reasonable, good faith effort to get a message to the parent to call either the principal or the principal's designee and leave both a day and an after-hours telephone number.

(c) Notification required by subsection (b) of this section is not required if school personnel make a report or file a complaint based on suspected child maltreatment as required under § 12-18-401 et seq. or if a law enforcement officer, investigator of the Crimes Against Children Division of the Department of Arkansas State Police, or Department of Human Services investigator or personnel member interviews a student during the course of an investigation of suspected child maltreatment.

(d) (1) The principal or the principal's designee shall not provide notification under subsection (b) of this section if a request is made to interview a student during the course of an investigation of suspected child maltreatment and a parent, guardian, custodian, or person standing in loco parentis is named as an alleged offender.

(2) The investigator shall provide the school with documentation that notification to the parent, guardian, custodian, or person standing in loco parentis is prohibited.

(e) Subsection (d) of this section shall only apply to interview requests made by:

(1) A law enforcement officer;

(2) An investigator of the Crimes Against Children Division of the Department of Arkansas State Police; or

(3) An investigator or employee of the Department of Human Services.

Reporting and referrals between schools and law enforcement

STATUTES

6-17-113. Duty to report and investigate student criminal acts.

(a) As used in this section:

(1) "Act of violence" means any violation of Arkansas law where a person purposely or knowingly causes or threatens to cause death or serious physical injury to another person;

(2) "Deadly weapon" means:

(A) A firearm or anything manifestly designed, made, or adapted for the purpose of inflicting death or serious physical injury; or

(B) Anything that in the manner of its use or intended use is capable of causing death or serious physical injury; and

(3) "Firearm" means any device designed, made, or adapted to expel a projectile by the action of an explosive or any device readily convertible to that use, including such a device that is not loaded or lacks a clip or other component to render it immediately operable, and components that can readily be assembled into such a device.

(b) Whenever the principal or other person in charge of a public school has personal knowledge or has received information leading to a reasonable belief that any person has committed or has threatened to commit an act of violence or any crime involving a deadly weapon on school property or while under school supervision, the principal or the person in charge shall immediately report the incident or threat to the superintendent of the school district and the appropriate local law enforcement agency. The report shall be by telephone or in person immediately after the incident or threat and shall be followed by a written report within three (3) business days. The principal shall notify any school employee or other person who initially reported the incident that a report has been made to the appropriate law enforcement agency. The superintendent or his designee shall notify the local school board of directors of any report made to law enforcement under this section.

(c) (1) Whenever a law enforcement officer receives a report of an incident pursuant to subsection (b) of this section, that officer shall immediately report the incident to the office of the prosecuting attorney and shall immediately initiate an investigation of the incident.

(2) The investigation shall be conducted with all reasonable haste and, upon completion, shall be referred to the prosecuting attorney.

(3) The prosecuting attorney shall implement the appropriate course of action and within thirty (30) calendar days after receipt of the file, the prosecuting attorney shall provide a written report to the principal. The report shall state:

(A) Whether the investigation into the reported incident is ongoing;

(B) Whether any charges have been filed in either circuit court or the juvenile division of circuit court as a result of the reported incident; and

(C) The disposition of the case.

(4) Upon receipt of the report from the prosecuting attorney, the principal shall notify any school employee or any other person who initially reported the incident that a report has been received from the prosecuting attorney.

(d) Excluding the reporting requirement set out in subdivision (c)(3) of this section, any person who purposely fails to report as required by this section shall be guilty of a Class C misdemeanor.

(e) The State Board of Education shall promulgate rules and regulations to ensure uniform compliance with the requirements of this section and shall consult with the office of the Attorney General concerning the development of these rules and regulations.

Disclosure of school records

STATUTES

6-18-901. Maintenance of permanent student records.

(a) The Department of Education, at the direction of the State Board of Education and in cooperation with any other appropriate state agencies, shall develop and publish an itemized listing of all information to be maintained in a student's permanent record during enrollment in a school district in this state.

(b) The permanent student record shall include all information concerning educational programming provided a student who fails to achieve mastery level performance on all administrations of the basic competency tests required under the Arkansas Comprehensive Testing, Assessment, and Accountability Program Act, § 6-15-401 et seq.

(c) Each school district shall maintain a permanent student record for each student.

(d) (1) (A) A copy of the permanent student record shall be provided to the receiving school district upon the transfer of a student to another district.

(B) The school district shall provide the copy of the student's permanent student record to the receiving school district within ten (10) school days after the date a request from the receiving school district is received.

(C) The school district shall not fail or refuse to provide a copy of the student's permanent student record to the receiving school district because the student owes money to the school district for school-related charges, including without limitation charges for:

(i) Food services;

(ii) Unreturned library books; or

(iii) Fees.

(2) Upon request by the Division of Youth Services of the Department of Human Services, a copy of the education record, as defined by regulations promulgated by the Department of Education, shall be transmitted to the division within ten (10) school days.

(e) The permanent student record shall be maintained by each school district until the student receives a high school diploma or its equivalent or is beyond the age for compulsory attendance under § 6-18-201.

(f) Nothing in this section shall be construed to prevent the maintenance of a permanent student record by electronic database provided that a copy of the record can be produced for transmittal to another district upon the transfer of the student.

Data collection, review, and reporting of disciplinary policies and actions

STATUTES

6-18-503. Written student discipline policies required.

(a) (1) (A) Each school district in this state shall develop written student discipline policies in compliance with the guidelines established by the Department of Education and shall file such policies with the department.

(e) Any amendment or revision to the student discipline policies adopted by a school district shall be submitted to the department within thirty (30) days after the adoption of such amendment or revision.

6-18-504. Compliance with §§ 6-18-502 and 6-18-503.

(a) The Department of Education shall monitor compliance with the requirements of §§ 6-18-502 and 6-18-503, and the State Board of Education shall adopt rules and regulations for the administration of the requirements thereof.

(b) Any school district failing to file the disciplinary policy required by § 6-18-503 with the department shall have all state aid funds withheld until such disciplinary policy is filed with the department.

(c) Nothing in § 6-18-502, § 6-18-503, or this section, or any student discipline policies promulgated under § 6-18-502, shall limit or restrict the bringing of criminal charges against any person for violating the criminal laws of this state.

School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers

Authority and power to implement school arrest

No relevant statutes found.

Certification or training

No relevant statutes found.

MOUs, authorization, and/or funding

No relevant statutes found.

State Education Agency Support

State model policies and implementation support

STATUTES

6-18-502. Guidelines for development of school district student discipline policies.

(a) The Department of Education shall establish guidelines for the development of school district student discipline policies.

(b) Such guidelines shall include, but not be limited to, the following requirements:

(1) Parents, students, and school district personnel, including teachers, shall be involved in the development of school district student discipline policies;

(2) (A) The student discipline policies shall be reviewed annually by the school district's committee on personnel policies.

(B) The committee may recommend changes in the policies to the board of directors of the local school district; and

(3) Student discipline policies shall include, but not be limited to, the following offenses:

(A) Willfully and intentionally assaulting or threatening to assault or abuse any student or teacher, principal, superintendent, or other employee of a school system;

(B) Possession by students of any firearm or other weapon prohibited upon the school campus by law or by policies adopted by the school board of directors;

(C) Using, offering for sale, or selling beer, alcoholic beverages, or other illicit drugs by students on school property;

(D) Possession by a student of any paging device, beeper, or similar electronic communication device on the school campus, however:

(i) The policy may provide an exemption for possession of such a device by a student who is required to use such a device for health or other compelling reasons; and

(ii) The policy may exempt possession of such a device after normal school hours for extracurricular activities; and

(E) Willfully or intentionally damaging, destroying, or stealing school property by students.

(c) The school discipline policies shall:

(1) Prescribe minimum and maximum penalties, including students' suspension or dismissal from school, for violations of each of the aforementioned offenses and for violations of other practices prohibited by school discipline policies;

(2) (A) Prescribe expulsion from school for a period of not less than one (1) year for possession of any firearm or other weapon prohibited upon the school campus by law.

(B) Provided, however, that the superintendent shall have discretion to modify such expulsion requirement for a student on a case-by-case basis;

(3) Establish procedures for notice to students and parents of charges, hearings, and other due process proceedings to be applicable in the enforcement and administration of such policies by the school administrator and by the school board of directors;

(4) Include prevention, intervention, and conflict resolution provisions; and

(5) Set forth the role and authority of public school employees and volunteers as provided in this subchapter.

(d) Student discipline policies shall provide that parents and students will be advised of the rules and regulations by which the school is governed and will be made aware of the behavior that will call for disciplinary action and the types of corrective actions that may be imposed.

(e) Each school district shall develop a procedure for written notification to all parents and students of the district's student discipline policies and for documentation of the receipt of the policies by all parents and students.

(f) Teachers and administrators, classified school employees, and volunteers shall be provided with appropriate student discipline training.

(g) If a school employee believes that any action taken by the school district to discipline a student referred by that employee does not follow school district discipline policies, the school employee may appeal under the district's grievance procedure as provided under § 6-17-208.

(h) In developing the state guidelines for school district discipline policies, the department shall involve parents, students, teachers, and administrators.

Funding appropriations

STATUTES

6-18-504. Compliance with §§ 6-18-502 and 6-18-503.

(a) The Department of Education shall monitor compliance with the requirements of §§ 6-18-502 and 6-18-503, and the State Board of Education shall adopt rules and regulations for the administration of the requirements thereof.

(b) Any school district failing to file the disciplinary policy required by § 6-18-503 with the department shall have all state aid funds withheld until such disciplinary policy is filed with the department.

(c) Nothing in § 6-18-502, § 6-18-503, or this section, or any student discipline policies promulgated under § 6-18-502, shall limit or restrict the bringing of criminal charges against any person for violating the criminal laws of this state.

Other/Uncategorized

Professional immunity or liability

STATUTES

6-17-112. Corporal punishment -- Immunity from liability.

(a) Teachers and administrators in a school district that authorizes use of corporal punishment in the school district's written student discipline policy shall be immune from any civil liability for administering corporal punishment to students, provided only that the corporal punishment is administered in substantial compliance with the school district's written student discipline policy.

(b) As used in subsection (a) of this section, "teachers and administrators" means those persons employed by a school district and required to have a state-issued license as a condition of their employment.

Community input or involvement

STATUTES

6-18-502. Guidelines for development of school district student discipline policies.

(a) The Department of Education shall establish guidelines for the development of school district student discipline policies.

(b) Such guidelines shall include, but not be limited to, the following requirements:

(1) Parents, students, and school district personnel, including teachers, shall be involved in the development of school district student discipline policies;

(2) (A) The student discipline policies shall be reviewed annually by the school district's committee on personnel policies.

(B) The committee may recommend changes in the policies to the board of directors of the local school district; and

(3) Student discipline policies shall include, but not be limited to, the following offenses:

(A) Willfully and intentionally assaulting or threatening to assault or abuse any student or teacher, principal, superintendent, or other employee of a school system;

(B) Possession by students of any firearm or other weapon prohibited upon the school campus by law or by policies adopted by the school board of directors;

(C) Using, offering for sale, or selling beer, alcoholic beverages, or other illicit drugs by students on school property;

(D) Possession by a student of any paging device, beeper, or similar electronic communication device on the school campus, however:

(i) The policy may provide an exemption for possession of such a device by a student who is required to use such a device for health or other compelling reasons; and

(ii) The policy may exempt possession of such a device after normal school hours for extracurricular activities; and

(E) Willfully or intentionally damaging, destroying, or stealing school property by students.

(c) The school discipline policies shall:

(1) Prescribe minimum and maximum penalties, including students' suspension or dismissal from school, for violations of each of the aforementioned offenses and for violations of other practices prohibited by school discipline policies;

(2) (A) Prescribe expulsion from school for a period of not less than one (1) year for possession of any firearm or other weapon prohibited upon the school campus by law.

(B) Provided, however, that the superintendent shall have discretion to modify such expulsion requirement for a student on a case-by-case basis;

6-18-1003. Rules and regulations.

The State Board of Education is authorized to adopt rules to carry out the intent of this legislation; such rules shall include, but need not be limited to:

(1) A description of the student services program at all educational levels for which the school board of directors is responsible;

(2) Criteria for the development by each school of a building-based student services plan which reflects input from parents, teachers, principals, students, and other agencies;

(3) Identification of alternative student services personnel who do not meet traditional graduate school requirements and who may be used by the school board of directors in providing the recommended student services, including, but not limited to, paraprofessionals, teachers, parents, and representatives of business and industry; and

(4) Establishment of minimum standards for all areas of student services personnel.

Other/Uncategorized

STATUTES

6-18-502. Guidelines for development of school district student discipline policies.

(g) If a school employee believes that any action taken by the school district to discipline a student referred by that employee does not follow school district discipline policies, the school employee may appeal under the district's grievance procedure as provided under § 6-17-208.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by Arkansas provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
Website		
No relevant resources found		
Documents		
Arkansas Department of Education Guidelines for the Development, Review and Revision of School District Student Discipline and School Safety Policies – March 2012	Compilation of rules concerning student discipline and school safety.	http://www.sos.arkansas.gov/rulesRegs/Arkansas%20Register/2012/Feb12Reg/005.15.11-003.pdf
Other Resources		
No relevant resources found		

California Compilation of School Discipline Laws and Regulations

Prepared: August 12, 2013

Introduction

This compilation presents school discipline-related state statutes, school discipline-related regulations, and, where available, links to state-sponsored websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSLE). For example, one major category encompasses all state laws or regulations mandating specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of state legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in each state.

Discipline categories were not mutually exclusive. Statutes and regulations often appeared across multiple categories. For states with more extensive statutes covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. State laws, ordered by chapter and section number, appear first within each category followed by state regulations. All statutes and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists statutes by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to state-sponsored websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of May 2013, with the exception of the state laws related to seclusion and restraint, which are complete and current as of December 2012. Readers should also note that the information in this document was compiled from individual state sources that are created by each state and which are maintained and updated with varying frequencies. Readers should consult the source information provided for each state directly in order to check for updates to this state's laws and regulations or conduct further research.

For further information, including definitions of the different policy categories, please refer to the Discipline Laws and Regulations Compendium posted on the Center's website.

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Safe Supportive Learning
Engagement | Safety | Environment

Table of Contents

California State Codes Cited **1**

General Provisions **2**

Authority to develop and establish rules of conduct 2
Scope 4
Communication of policy 5

In-School Discipline **7**

Use of multi-tiered discipline approaches 7
Teacher authority to remove students from classrooms 7
Alternatives to suspension 7
Use of corporal punishment 9
Use of student and locker searches 10
Other in-school disciplinary approaches 10

Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements **11**

Grounds for possible suspension or expulsion 11
Grounds for mandatory suspension or expulsion 15
Limitations, conditions or exclusions for use of suspension and expulsion 15
Administrative procedures related to suspension and expulsion 17
In-school suspension 28
Return to school following removal 29
Use of restraint and seclusion 31
Alternative placements 34

Disciplinary Approaches Addressing Specific Infractions and Conditions **38**

Firearms (as required by the Guns-Free Schools Act) 38
Other weapons 39
Students with chronic disciplinary issues 40
Attendance and truancy 44
Substance use 48
Bullying, harassment, or hazing 50
Other special infractions or conditions 53

Prevention and Behavioral Interventions (Non-Punitive) **57**

Prevention 57
Behavioral interventions and student support services 58
Professional development 60

Monitoring and Accountability **62**

Formal incident reporting of conduct violations 62
Parental notification 63
Reporting and referrals between schools and law enforcement 68
Disclosure of school records 71
Data collection, review, and reporting of disciplinary policies and actions 72

School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers 75
Authority and power to implement school arrest 75
Certification or training 76
MOUs, authorization, and/or funding 76
State Education Agency Support 77
State model policies and implementation support 77
Funding appropriations 81
Other/Uncategorized 84
Professional immunity or liability 84
Community input or involvement 85
Other/Uncategorized 85
State-Sponsored, Publicly Available Websites or Other Resources on School Discipline 86

California State Codes Cited

California Revised Statutes

Education Code - EDC

Title 1. General Education Code Provisions [1. - 32500.]

Division 1. General Education Code Provisions [1. – 32500.]

Part 19. Miscellaneous [32001. – 32454.]

Chapter 2.5. Interagency School Safety Demonstration Act of 1985 [32260. – 32295.5.]

Article 1. General Provisions [32260. - 32262.]

32261.

Article 2. Conferences [32265. - 32265.]

32265.

Article 5. School Safety Plans [32280. – 32289.]

32280.
32281.
32282.
32283.
32285.
32288.

Title 2. Elementary and Secondary Education [33000. - 64100.]

Division 3. Local Administration [35000. - 45460.]

Part 21. Local Educational Agencies OCAL [35000. - 35787.]

Chapter 2. Governing Boards [35100. - 35401.]

Article 3. Meetings [35140. - 35149.]

35146.

Division 4. Instruction and Services [46000. - 64100.]

Part 27. Pupils [48000. – 49704.]

Chapter 2. Compulsory Education Law [48200. - 48361.]

Article 1. Persons Included [48200. - 48208.]

48200.
48201.
48202.

Article 5. Truants [48260. - 48273.]

48260.
48260.5.
48260.6.
48261.
48262.
48263.
48263.6.
48264.
48264.5.
48265.
48266.
48267.
48268.
48269.
48273.

Chapter 6. Pupil Rights and Responsibilities

Article 1. Suspension and Expulsion [48900. – 48927]

48900.
48900.1.
48900.2.
48900.3.
48900.4.
48900.5.
48900.6.
48900.7.
48900.8.
48901
48901.5
48902.
48903.
48904.
48904.3.
48905.
48906.
48907.
48908.
48909.
48910.
48911.
48911.1.
48911.2.
48911.5.
48912.
48912.5.
48913.
48914.
48915.
48915.01.
48915.1.
48915.2.
48915.5.
48915.7.
48916.
48916.1.
48916.5.
48917.
48918.
48918.1.
48918.5.
48918.6.
48919.
48919.5.
48920.
48921.
48922.
48923.
48924.
48925.
48926.
48927.

Article 5. Prohibition of Corporal Punishment

49000.
49001.

Article 8. Searches by School Employees [49050. - 49051.]

49050.

Chapter 8. Pupil Safety [49300. - 49370.]

Article 3. Injurious Objects [49330. - 49335.]

49330.
49331.
49332.
49333.
49334.
49335.

Article 5. Community Policing and Mentoring for School Safety Pilot Program [49350. - 49355.]

49350.
49350.5.
49351.
49352.
49353.
49354.
49355.

Part 30. Special Education Programs [56000. - 56865.]

Chapter 5.5. Behavioral Interventions [56520. - 56525.]

56520.
56521.
56521.1.
56521.2.
56524

California Administrative Code

No relevant regulations found.

General Provisions

Authority to develop and establish rules of conduct

STATUTES

32280.

It is the intent of the Legislature that all California public schools, in kindergarten, and grades 1 to 12, inclusive, operated by school districts, in cooperation with local law enforcement agencies, community leaders, parents, pupils, teachers, administrators, and other persons who may be interested in the prevention of campus crime and violence, develop a comprehensive school safety plan that addresses the safety concerns identified through a systematic planning process. For the purposes of this section, law enforcement agencies include local police departments, county sheriffs' offices, school district police or security departments, probation departments, and district attorneys' offices. For purposes of this section, a "safety plan" means a plan to develop strategies aimed at the prevention of, and education about, potential incidents involving crime and violence on the school campus.

32281.

(a) Each school district and county office of education is responsible for the overall development of all comprehensive school safety plans for its schools operating kindergarten or any of grades 1 to 12, inclusive.

(b) (1) Except as provided in subdivision (d) with regard to a small school district, the schoolsite council established pursuant to former Section 52012, as it existed before July 1, 2005, or Section 52852 shall write and develop a comprehensive school safety plan relevant to the needs and resources of that particular school.

(2) The schoolsite council may delegate this responsibility to a school safety planning committee made up of the following members:

(A) The principal or the principal's designee.

(B) One teacher who is a representative of the recognized certificated employee organization.

(C) One parent whose child attends the school.

(D) One classified employee who is a representative of the recognized classified employee organization.

(E) Other members, if desired.

(3) The schoolsite council shall consult with a representative from a law enforcement agency in the writing and development of the comprehensive school safety plan.

(4) In the absence of a schoolsite council, the members specified in paragraph (2) shall serve as the school safety planning committee.

(c) Nothing in this article shall limit or take away the authority of school boards as guaranteed under this code.

(d) (1) Subdivision (b) shall not apply to a small school district, as defined in paragraph (2), if the small school district develops a districtwide comprehensive school safety plan that is applicable to each schoolsite.

(2) As used in this article, "small school district" means a school district that has fewer than 2,501 units of average daily attendance at the beginning of each fiscal year.

(f) (1) Notwithstanding subdivision (b), a school district or county office of education may, in consultation with law enforcement officials, elect to not have its schoolsite council develop and write those portions of its comprehensive school safety plan that include tactical responses to criminal incidents that may result in death or serious bodily injury at the schoolsite. The portions of a school safety plan that include tactical responses to criminal incidents may be developed by administrators of the school district or county office of education in consultation with law enforcement officials and with a representative of an exclusive bargaining unit of employees of that school district or county office of education, if he or she chooses to participate. The school district or county office of education may elect not to disclose those portions of the comprehensive school safety plan that include tactical responses to criminal incidents.

(2) As used in this article, "tactical responses to criminal incidents" means steps taken to safeguard pupils and staff, to secure the affected school premises, and to apprehend the criminal perpetrator or perpetrators.

(3) Nothing in this subdivision precludes the governing board of a school district or county office of education from conferring in a closed session with law enforcement officials pursuant to Section 54957 of the Government Code to approve a tactical response plan developed in consultation with those officials pursuant to this subdivision. Any vote to approve the tactical response plan shall be announced in open session following the closed session.

(4) Nothing in this subdivision shall be construed to reduce or eliminate the requirements of Section 32282.

48914.

Each school district is authorized to establish a policy that permits school officials to conduct a meeting with the parent or guardian of a suspended pupil to discuss the causes, the duration, the school policy involved, and other matters pertinent to the suspension.

48918.

The governing board of each school district shall establish rules and regulations governing procedures for the expulsion of pupils.

48926.

Each county superintendent of schools in counties that operate community schools pursuant to Section 1980, in conjunction with superintendents of the school districts within the county, shall develop a plan for providing education services to all expelled pupils in that county. The plan shall be adopted by the governing board of each school district within the county and by the county board of education.

The plan shall enumerate existing educational alternatives for expelled pupils, identify gaps in educational services to expelled pupils, and strategies for filling those service gaps. The plan shall also identify alternative placements for pupils who are expelled and placed in district community day school programs, but who fail to meet the terms and conditions of their rehabilitation plan or who pose a danger to other district pupils, as determined by the governing board.

Each county superintendent of schools, in conjunction with the superintendents of the school districts, shall submit to the Superintendent of Public Instruction the county plan for providing educational services to all expelled pupils in the county no later than June 30, 1997, and shall submit a triennial update to the plan to the Superintendent of Public Instruction, including the outcome data pursuant to Section 48916.1, on June 30th thereafter.

49335.

On or before April 1, 2001, the Superintendent of Public Instruction shall adopt a system that will shield the identity and provide protection to pupils who report the presence of injurious objects on school campuses that offer instruction in kindergarten and any of grades 1 to 12, inclusive.

Scope

STATUTES

48900.

(s) A pupil shall not be suspended or expelled for any of the acts enumerated in this section unless the act is related to a school activity or school attendance occurring within a school under the jurisdiction of the superintendent of the school district or principal or occurring within any other school district. A pupil may be suspended or expelled for acts that are enumerated in this section and related to a school activity or school attendance that occur at any time, including, but not limited to, any of the following:

(1) While on school grounds.

(2) While going to or coming from school.

(3) During the lunch period whether on or off the campus.

(4) During, or while going to or coming from, a school-sponsored activity.

(t) A pupil who aids or abets, as defined in Section 31 of the Penal Code, the infliction or attempted infliction of physical injury to another person may be subject to suspension, but not expulsion, pursuant to this section, except that a pupil who has been adjudged by a juvenile court to have committed, as an aider and abettor, a crime of physical violence in which the victim suffered great bodily injury or serious bodily injury shall be subject to discipline pursuant to subdivision (a).

(u) As used in this section, “school property” includes, but is not limited to, electronic files and databases.

48915.

(a) (1) Except as provided in subdivisions (c) and (e), the principal or the superintendent of schools shall recommend the expulsion of a pupil for any of the following acts committed at school or at a school activity off school grounds, unless the principal or superintendent determines that expulsion should not be recommended under the circumstances or that an alternative means of correction would address the conduct:

(A) Causing serious physical injury to another person, except in self-defense.

(B) Possession of any knife or other dangerous object of no reasonable use to the pupil.

(C) Unlawful possession of any controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, except for either of the following:

(i) The first offense for the possession of not more than one avoirdupois ounce of marijuana, other than concentrated cannabis.

(ii) The possession of over-the-counter medication for use by the pupil for medical purposes or medication prescribed for the pupil by a physician.

(D) Robbery or extortion.

(E) Assault or battery, as defined in Sections 240 and 242 of the Penal Code, upon any school employee.

(e) Upon recommendation by the principal or the superintendent of schools, or by a hearing officer or administrative panel appointed pursuant to subdivision (d) of Section 48918, the governing board of a

school district may order a pupil expelled upon finding that the pupil, at school or at a school activity off of school grounds violated subdivision (f), (g), (h), (i), (j), (k), (l), or (m) of Section 48900, or Section 48900.2, 48900.3, or 48900.4, and either of the following:

(1) That other means of correction are not feasible or have repeatedly failed to bring about proper conduct.

(2) That due to the nature of the violation, the presence of the pupil causes a continuing danger to the physical safety of the pupil or others.

56521.

(a) This chapter applies to any individual with exceptional needs who is in a public school program, including a state school for the disabled pursuant to Part 32 (commencing with Section 59000), or who is placed in a nonpublic school program pursuant to Sections 56365 to 56366.5, inclusive.

(b) The Superintendent of Public Instruction shall monitor and supervise the implementation of this chapter.

Communication of policy

STATUTES

32288.

(a) In order to ensure compliance with this article, each school shall forward its comprehensive school safety plan to the school district or county office of education for approval.

(b) (1) Before adopting its comprehensive school safety plan, the schoolsite council or school safety planning committee shall hold a public meeting at the schoolsite in order to allow members of the public the opportunity to express an opinion about the school safety plan.

(2) The schoolsite council or school safety planning committee shall notify, in writing, the following persons and entities, if available, of the public meeting:

(A) The local mayor.

(B) A representative of the local school employee organization.

(C) A representative of each parent organization at the schoolsite, including the parent teacher association and parent teacher clubs.

(D) A representative of each teacher organization at the schoolsite.

(E) A representative of the student body government.

(F) All persons who have indicated they want to be notified.

(3) The schoolsite council or school safety planning committee is encouraged to notify, in writing, the following persons and entities, if available, of the public meeting:

(A) A representative of the local churches.

(B) Local civic leaders.

(C) Local business organizations.

(c) In order to ensure compliance with this article, each school district or county office of education shall annually notify the State Department of Education by October 15 of any schools that have not complied with Section 32281.

48900.1.

(a) The governing board of each school district may adopt a policy authorizing teachers to require the parent or guardian of a pupil who has been suspended by a teacher pursuant to Section 48910 for reasons specified in subdivision (i) or (k) of Section 48900, to attend a portion of a schoolday in the classroom of his or her child or ward. The policy shall take into account reasonable factors that may prevent compliance with a notice to attend. The attendance of the parent or guardian shall be limited to the class from which the pupil was suspended.

(b) The policy shall be adopted pursuant to the procedures set forth in Sections 35291 and 35291.5. Parents and guardians shall be notified of this policy prior to its implementation. A teacher shall apply any policy adopted pursuant to this section uniformly to all pupils within the classroom.

In-School Discipline

Use of multi-tiered discipline approaches

No relevant statutes found.

Teacher authority to remove students from classrooms

STATUTES

48910.

(a) A teacher may suspend any pupil from class, for any of the acts enumerated in Section 48900, for the day of the suspension and the day following. The teacher shall immediately report the suspension to the principal of the school and send the pupil to the principal or the designee of the principal for appropriate action. If that action requires the continued presence of the pupil at the schoolsite, the pupil shall be under appropriate supervision, as defined in policies and related regulations adopted by the governing board of the school district. As soon as possible, the teacher shall ask the parent or guardian of the pupil to attend a parent-teacher conference regarding the suspension. If practicable, a school counselor or a school psychologist may attend the conference. A school administrator shall attend the conference if the teacher or the parent or guardian so requests. The pupil shall not be returned to the class from which he or she was suspended, during the period of the suspension, without the concurrence of the teacher of the class and the principal

(c) A teacher may also refer a pupil, for any of the acts enumerated in Section 48900, to the principal or the designee of the principal for consideration of a suspension from the school.

Alternatives to suspension

STATUTES

48900.

(v) For a pupil subject to discipline under this section, a superintendent of the school district or principal may use his or her discretion to provide alternatives to suspension or expulsion that are age appropriate and designed to address and correct the pupil's specific misbehavior as specified in Section 48900.5.

(w) It is the intent of the Legislature that alternatives to suspension or expulsion be imposed against a pupil who is truant, tardy, or otherwise absent from school activities.

48900.5

(a) Suspension, including supervised suspension as described in Section 48911.1, shall be imposed only when other means of correction fail to bring about proper conduct. A school district may document the other means of correction used and place that documentation in the pupil's record, which may be accessed pursuant to Section 49069. However, a pupil, including an individual with exceptional needs, as defined in Section 56026, may be suspended, subject to Section 1415 of Title 20 of the United States Code, for any of the reasons enumerated in Section 48900 upon a first offense, if the principal or superintendent of schools determines that the pupil violated subdivision (a), (b), (c), (d), or (e) of Section 48900 or that the pupil's presence causes a danger to persons.

(b) Other means of correction include, but are not limited to, the following:

(1) A conference between school personnel, the pupil's parent or guardian, and the pupil.

(2) Referrals to the school counselor, psychologist, social worker, child welfare attendance personnel, or other school support service personnel for case management and counseling.

(3) Study teams, guidance teams, resource panel teams, or other intervention-related teams that assess the behavior, and develop and implement individualized plans to address the behavior in partnership with the pupil and his or her parents.

(4) Referral for a comprehensive psychosocial or psychoeducational assessment, including for purposes of creating an individualized education program, or a plan adopted pursuant to Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794(a)).

(5) Enrollment in a program for teaching prosocial behavior or anger management.

(6) Participation in a restorative justice program.

(7) A positive behavior support approach with tiered interventions that occur during the schoolday on campus.

(8) After-school programs that address specific behavioral issues or expose pupils to positive activities and behaviors, including, but not limited to, those operated in collaboration with local parent and community groups.

(9) Any of the alternatives described in Section 48900.6.

48900.6.

As part of or instead of disciplinary action prescribed by this article, the principal of a school, the principal's designee, the superintendent of schools, or the governing board may require a pupil to perform community service on school grounds or, with written permission of the parent or guardian of the pupil, off school grounds, during the pupil's nonschool hours. For the purposes of this section, "community service" may include, but is not limited to, work performed in the community or on school grounds in the areas of outdoor beautification, community or campus betterment, and teacher, peer, or youth assistance programs. This section does not apply if a pupil has been suspended, pending expulsion, pursuant to Section 48915. However, this section applies if the recommended expulsion is not implemented or is, itself, suspended by stipulation or other administrative action.

48911.1.

(a) A pupil suspended from a school for any of the reasons enumerated in Sections 48900 and 48900.2 may be assigned, by the principal or the principal's designee, to a supervised suspension classroom for the entire period of suspension if the pupil poses no imminent danger or threat to the campus, pupils, or staff, or if an action to expel the pupil has not been initiated.

(b) Pupils assigned to a supervised suspension classroom shall be separated from other pupils at the schoolsite for the period of suspension in a separate classroom, building, or site for pupils under suspension.

48911.2.

(a) If the number of pupils suspended from school during the prior school year exceeded 30 percent of the school's enrollment, the school should consider doing at least one of the following:

(1) Implement the supervised suspension program described in Section 48911.1.

(2) Implement an alternative to the school's off-campus suspension program, which involves a progressive discipline approach that occurs during the schoolday on campus, using any of the following activities:

(A) Conferences between the school staff, parents, and pupils.

(B) Referral to the school counselor, psychologist, child welfare attendance personnel, or other school support service staff.

(C) Detention.

(D) Study teams, guidance teams, resource panel teams, or other assessment-related teams.

(b) At the end of the academic year, the school may report to the district superintendent in charge of school support services, or other comparable administrator if that position does not exist, on the rate of reduction in the school's off-campus suspensions and the plan or activities used to comply with subdivision (a).

(c) It is the intent of the Legislature to encourage schools that choose to implement this section to examine alternatives to off-campus suspensions that lead to resolution of pupil misconduct without sending pupils off campus. Schools that use this section should not be precluded from suspending pupils to an off-campus site.

48917.

(a) The governing board, upon voting to expel a pupil, may suspend the enforcement of the expulsion order for a period of not more than one calendar year and may, as a condition of the suspension of enforcement, assign the pupil to a school, class, or program that is deemed appropriate for the rehabilitation of the pupil. The rehabilitation program to which the pupil is assigned may provide for the involvement of the pupil's parent or guardian in his or her child's education in ways that are specified in the rehabilitation program. A parent or guardian's refusal to participate in the rehabilitation program shall not be considered in the governing board's determination as to whether the pupil has satisfactorily completed the rehabilitation program.

Use of corporal punishment

STATUTES

49000.

The Legislature finds and declares that the protection against corporal punishment, which extends to other citizens in other walks of life, should include children while they are under the control of the public schools. Children of school age are at the most vulnerable and impressionable period of their lives and it is wholly reasonable that the safeguards to the integrity and sanctity of their bodies should be, at this tender age, at least equal to that afforded to other citizens.

49001.

(a) For the purposes of this section "corporal punishment" means the willful infliction of, or willfully causing the infliction of, physical pain on a pupil. An amount of force that is reasonable and necessary for a person employed by or engaged in a public school to quell a disturbance threatening physical injury to persons or damage to property, for purposes of self-defense, or to obtain possession of weapons or other dangerous objects within the control of the pupil, is not and shall not be construed to be corporal punishment within the meaning and intent of this section. Physical pain or discomfort caused by athletic competition or other such recreational activity, voluntarily engaged in by the pupil, is not and shall not be construed to be corporal punishment within the meaning and intent of this section.

(b) No person employed by or engaged in a public school shall inflict, or cause to be inflicted corporal punishment upon a pupil. Every resolution, bylaw, rule, ordinance, or other act or authority permitting or authorizing the infliction of corporal punishment upon a pupil attending a public school is void and unenforceable.

Use of student and locker searches

STATUTES

49050.

No school employee shall conduct a search that involves:

(a) Conducting a body cavity search of a pupil manually or with an instrument.

(b) Removing or arranging any or all of the clothing of a pupil to permit a visual inspection of the underclothing, breast, buttocks, or genitalia of the pupil.

Other in-school disciplinary approaches

No relevant statutes found.

Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements

Grounds for possible suspension or expulsion

STATUTES

48900.

A pupil shall not be suspended from school or recommended for expulsion, unless the superintendent of the school district or the principal of the school in which the pupil is enrolled determines that the pupil has committed an act as defined pursuant to any of subdivisions (a) to (r), inclusive:

(a) (1) Caused, attempted to cause, or threatened to cause physical injury to another person.

(2) Willfully used force or violence upon the person of another, except in self-defense.

(b) Possessed, sold, or otherwise furnished a firearm, knife, explosive, or other dangerous object, unless, in the case of possession of an object of this type, the pupil had obtained written permission to possess the item from a certificated school employee, which is concurred in by the principal or the designee of the principal.

(c) Unlawfully possessed, used, sold, or otherwise furnished, or been under the influence of, a controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, an alcoholic beverage, or an intoxicant of any kind.

(d) Unlawfully offered, arranged, or negotiated to sell a controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, an alcoholic beverage, or an intoxicant of any kind, and either sold, delivered, or otherwise furnished to a person another liquid, substance, or material and represented the liquid, substance, or material as a controlled substance, alcoholic beverage, or intoxicant.

(e) Committed or attempted to commit robbery or extortion.

(f) Caused or attempted to cause damage to school property or private property.

(g) Stole or attempted to steal school property or private property.

(h) Possessed or used tobacco, or products containing tobacco or nicotine products, including, but not limited to, cigarettes, cigars, miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew packets, and betel. However, this section does not prohibit use or possession by a pupil of his or her own prescription products.

(i) Committed an obscene act or engaged in habitual profanity or vulgarity.

(j) Unlawfully possessed or unlawfully offered, arranged, or negotiated to sell drug paraphernalia, as defined in Section 11014.5 of the Health and Safety Code.

(k) Disrupted school activities or otherwise willfully defied the valid authority of supervisors, teachers, administrators, school officials, or other school personnel engaged in the performance of their duties.

(l) Knowingly received stolen school property or private property.

(m) Possessed an imitation firearm. As used in this section, “imitation firearm” means a replica of a firearm that is so substantially similar in physical properties to an existing firearm as to lead a reasonable person to conclude that the replica is a firearm.

(n) Committed or attempted to commit a sexual assault as defined in Section 261, 266c, 286, 288, 288a, or 289 of the Penal Code or committed a sexual battery as defined in Section 243.4 of the Penal Code.

(o) Harassed, threatened, or intimidated a pupil who is a complaining witness or a witness in a school disciplinary proceeding for purposes of either preventing that pupil from being a witness or retaliating against that pupil for being a witness, or both.

(p) Unlawfully offered, arranged to sell, negotiated to sell, or sold the prescription drug Soma.

(q) Engaged in, or attempted to engage in, hazing. For purposes of this subdivision, "hazing" means a method of initiation or preinitiation into a pupil organization or body, whether or not the organization or body is officially recognized by an educational institution, which is likely to cause serious bodily injury or personal degradation or disgrace resulting in physical or mental harm to a former, current, or prospective pupil. For purposes of this subdivision, "hazing" does not include athletic events or school-sanctioned events.

(r) Engaged in an act of bullying. For purposes of this subdivision, the following terms have the following meanings:

(1) "Bullying" means any severe or pervasive physical or verbal act or conduct, including communications made in writing or by means of an electronic act, and including one or more acts committed by a pupil or group of pupils as defined in Section 48900.2, 48900.3, or 48900.4, directed toward one or more pupils that has or can be reasonably predicted to have the effect of one or more of the following:

(A) Placing a reasonable pupil or pupils in fear of harm to that pupil's or those pupils' person or property.

(B) Causing a reasonable pupil to experience a substantially detrimental effect on his or her physical or mental health.

(C) Causing a reasonable pupil to experience substantial interference with his or her academic performance.

(D) Causing a reasonable pupil to experience substantial interference with his or her ability to participate in or benefit from the services, activities, or privileges provided by a school.

(2) (A) "Electronic act" means the transmission, by means of an electronic device, including, but not limited to, a telephone, wireless telephone, or other wireless communication device, computer, or pager, of a communication, including, but not limited to, any of the following:

(i) A message, text, sound, or image.

(ii) A post on a social network Internet Web site including, but not limited to:

(I) Posting to or creating a burn page. "Burn page" means an Internet Web site created for the purpose of having one or more of the effects listed in paragraph (1).

(II) Creating a credible impersonation of another actual pupil for the purpose of having one or more of the effects listed in paragraph (1). "Credible impersonation" means to knowingly and without consent impersonate a pupil for the purpose of bullying the pupil and such that another pupil would reasonably believe, or has reasonably believed, that the pupil was or is the pupil who was impersonated.

(III) Creating a false profile for the purpose of having one or more of the effects listed in paragraph (1). "False profile" means a profile of a fictitious pupil or a profile using the likeness or attributes of an actual pupil other than the pupil who created the false profile.

(B) Notwithstanding paragraph (1) and subparagraph (A), an electronic act shall not constitute pervasive conduct solely on the basis that it has been transmitted on the Internet or is currently posted on the Internet.

(3) "Reasonable pupil" means a pupil, including, but not limited to, an exceptional needs pupil, who exercises average care, skill, and judgment in conduct for a person of his or her age, or for a person of his or her age with his or her exceptional needs.

(t) A pupil who aids or abets, as defined in Section 31 of the Penal Code, the infliction or attempted infliction of physical injury to another person may be subject to suspension, but not expulsion, pursuant to this section, except that a pupil who has been adjudged by a juvenile court to have committed, as an aider and abettor, a crime of physical violence in which the victim suffered great bodily injury or serious bodily injury shall be subject to discipline pursuant to subdivision (a).

(u) As used in this section, "school property" includes, but is not limited to, electronic files and databases.

48900.2.

In addition to the reasons specified in Section 48900, a pupil may be suspended from school or recommended for expulsion if the superintendent or the principal of the school in which the pupil is enrolled determines that the pupil has committed sexual harassment as defined in Section 212.5.

For the purposes of this chapter, the conduct described in Section 212.5 must be considered by a reasonable person of the same gender as the victim to be sufficiently severe or pervasive to have a negative impact upon the individual's academic performance or to create an intimidating, hostile, or offensive educational environment. This section shall not apply to pupils enrolled in kindergarten and grades 1 to 3, inclusive.

48900.3.

In addition to the reasons set forth in Sections 48900 and 48900.2, a pupil in any of grades 4 to 12, inclusive, may be suspended from school or recommended for expulsion if the superintendent or the principal of the school in which the pupil is enrolled determines that the pupil has caused, attempted to cause, threatened to cause, or participated in an act of, hate violence, as defined in subdivision (e) of Section 233.

48900.4.

In addition to the grounds specified in Sections 48900 and 48900.2, a pupil enrolled in any of grades 4 to 12, inclusive, may be suspended from school or recommended for expulsion if the superintendent or the principal of the school in which the pupil is enrolled determines that the pupil has intentionally engaged in harassment, threats, or intimidation, directed against school district personnel or pupils, that is sufficiently severe or pervasive to have the actual and reasonably expected effect of materially disrupting classwork, creating substantial disorder, and invading the rights of either school personnel or pupils by creating an intimidating or hostile educational environment.

48900.7

(a) In addition to the reasons specified in Sections 48900, 48900.2, 48900.3, and 48900.4, a pupil may be suspended from school or recommended for expulsion if the superintendent or the principal of the school in which the pupil is enrolled determines that the pupil has made terroristic threats against school officials or school property, or both.

(b) For the purposes of this section, "terroristic threat" shall include any statement, whether written or oral, by a person who willfully threatens to commit a crime which will result in death, great bodily injury to another person, or property damage in excess of one thousand dollars ($1,000), with the specific intent

that the statement is to be taken as a threat, even if there is no intent of actually carrying it out, which, on its face and under the circumstances in which it is made, is so unequivocal, unconditional, immediate, and specific as to convey to the person threatened, a gravity of purpose and an immediate prospect of execution of the threat, and thereby causes that person reasonably to be in sustained fear for his or her own safety or for his or her immediate family's safety, or for the protection of school district property, or the personal property of the person threatened or his or her immediate family.

48915.

(a) (1) Except as provided in subdivisions (c) and (e), the principal or the superintendent of schools shall recommend the expulsion of a pupil for any of the following acts committed at school or at a school activity off school grounds, unless the principal or superintendent determines that expulsion should not be recommended under the circumstances or that an alternative means of correction would address the conduct:

(A) Causing serious physical injury to another person, except in self-defense.

(B) Possession of any knife or other dangerous object of no reasonable use to the pupil.

(C) Unlawful possession of any controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, except for either of the following:

(i) The first offense for the possession of not more than one avoirdupois ounce of marijuana, other than concentrated cannabis.

(ii) The possession of over-the-counter medication for use by the pupil for medical purposes or medication prescribed for the pupil by a physician.

(D) Robbery or extortion.

(E) Assault or battery, as defined in Sections 240 and 242 of the Penal Code, upon any school employee.

(2) If the principal or the superintendent of schools makes a determination as described in paragraph (1), he or she is encouraged to do so as quickly as possible to ensure that the pupil does not lose instructional time.

(b) Upon recommendation by the principal or the superintendent of schools, or by a hearing officer or administrative panel appointed pursuant to subdivision (d) of Section 48918, the governing board of a school district may order a pupil expelled upon finding that the pupil committed an act listed in paragraph (1) of subdivision (a) or in subdivision (a), (b), (c), (d), or (e) of Section 48900. A decision to expel a pupil for any of those acts shall be based on a finding of one or both of the following:

(1) Other means of correction are not feasible or have repeatedly failed to bring about proper conduct.

(2) Due to the nature of the act, the presence of the pupil causes a continuing danger to the physical safety of the pupil or others.

(c) The principal or superintendent of schools shall immediately suspend, pursuant to Section 48911, and shall recommend expulsion of a pupil that he or she determines has committed any of the following acts at school or at a school activity off school grounds:

(1) Possessing, selling, or otherwise furnishing a firearm. This subdivision does not apply to an act of possessing a firearm if the pupil had obtained prior written permission to possess the firearm from a certificated school employee, which is concurred in by the principal or the designee of the principal. This subdivision applies to an act of possessing a firearm only if the possession is verified by an employee of a school district. The act of possessing an imitation firearm, as defined in subdivision (m) of Section 48900, is not an offense for which suspension or expulsion is mandatory pursuant to this subdivision and subdivision (d), but it is an offense for which suspension, or expulsion pursuant to subdivision (e), may be imposed.

(2) Brandishing a knife at another person.

(3) Unlawfully selling a controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code.

(4) Committing or attempting to commit a sexual assault as defined in subdivision (n) of Section 48900 or committing a sexual battery as defined in subdivision (n) of Section 48900.

(5) Possession of an explosive.

(e) Upon recommendation by the principal or the superintendent of schools, or by a hearing officer or administrative panel appointed pursuant to subdivision (d) of Section 48918, the governing board of a school district may order a pupil expelled upon finding that the pupil, at school or at a school activity off of school grounds violated subdivision (f), (g), (h), (i), (j), (k), (l), or (m) of Section 48900, or Section 48900.2, 48900.3, or 48900.4, and either of the following:

(1) That other means of correction are not feasible or have repeatedly failed to bring about proper conduct.

(2) That due to the nature of the violation, the presence of the pupil causes a continuing danger to the physical safety of the pupil or others.

(g) As used in this section, “knife” means any dirk, dagger, or other weapon with a fixed, sharpened blade fitted primarily for stabbing, a weapon with a blade fitted primarily for stabbing, a weapon with a blade longer than 31/2 inches, a folding knife with a blade that locks into place, or a razor with an unguarded blade.

(h) As used in this section, the term “explosive” means “destructive device” as described in Section 921 of Title 18 of the United States Code.

48915.7.

It is the intent of the Legislature that where community school opportunities exist, the principal shall recommend for expulsion, and the governing board shall expel, any pupil who is found to be in possession of a firearm at school or at a school activity off school grounds and that the governing board shall request the county board of education to enroll the pupil in a community school.

Grounds for mandatory suspension or expulsion

No relevant statutes found.

Limitations, conditions or exclusions for use of suspension and expulsion

STATUTES

48900.

A pupil shall not be suspended from school or recommended for expulsion, unless the superintendent of the school district or the principal of the school in which the pupil is enrolled determines that the pupil has committed an act as defined pursuant to any of subdivisions (a) to (r), inclusive:

(t) A pupil who aids or abets, as defined in Section 31 of the Penal Code, the infliction or attempted infliction of physical injury to another person may be subject to suspension, but not expulsion, pursuant to this section, except that a pupil who has been adjudged by a juvenile court to have committed, as an aider and abettor, a crime of physical violence in which the victim suffered great bodily injury or serious bodily injury shall be subject to discipline pursuant to subdivision (a).

48900.2.

For the purposes of this chapter, the conduct described in Section 212.5 must be considered by a reasonable person of the same gender as the victim to be sufficiently severe or pervasive to have a negative impact upon the individual's academic performance or to create an intimidating, hostile, or offensive educational environment. This section shall not apply to pupils enrolled in kindergarten and grades 1 to 3, inclusive.

48903.

(a) Except as provided in subdivision (g) of Section 48911 and in Section 48912, the total number of days for which a pupil may be suspended from school shall not exceed 20 schooldays in any school year, unless for purposes of adjustment, a pupil enrolls in or is transferred to another regular school, an opportunity school or class, or a continuation education school or class, in which case the total number of schooldays for which the pupil may be suspended shall not exceed 30 days in any school year.

(b) For the purposes of this section, a school district may count suspensions that occur while a pupil is enrolled in another school district toward the maximum number of days for which a pupil may be suspended in any school year.

48911.

(a) The principal of the school, the principal's designee, or the district superintendent of schools may suspend a pupil from the school for any of the reasons enumerated in Section 48900, and pursuant to Section 48900.5, for no more than five consecutive schooldays.

48912.5.

The governing board of a school district may suspend a pupil enrolled in a continuation school or class for a period not longer than the remainder of the semester if any of the acts enumerated in Section 48900 occurred. The suspension shall meet the requirements of Section 48915.

48915.01.

If the governing board of a school district has established a community day school pursuant to Section 48661 on the same site as a comprehensive middle, junior, or senior high school, or at any elementary school, the governing board does not have to meet the condition in paragraph (2) of subdivision (d) of Section 48915 when the board, pursuant to subdivision (f) of Section 48915, refers a pupil to a program of study and that program of study is at the community day school. All the other conditions of subdivision (d) of Section 48915 are applicable to the referral as required by subdivision (f) of Section 48915.

48915.5.

(a) An individual with exceptional needs, as defined in Section 56026, may be suspended or expelled from school in accordance with Section 1415(k) of Title 20 of the United States Code, the discipline provisions contained in Sections 300.530 to 300.537, inclusive, of Title 34 of the Code of Federal Regulations, and other provisions of this part that do not conflict with federal law and regulations.

(b) A free appropriate public education for individuals with exceptional needs suspended or expelled from school shall be in accordance with Section 1412(a)(1) of Title 20 of the United States Code and Section 300.530(d) of Title 34 of the Code of Federal Regulations.

(c) If an individual with exceptional needs is excluded from schoolbus transportation, the pupil is entitled to be provided with an alternative form of transportation at no cost to the pupil or parent or guardian provided that transportation is specified in the pupil's individualized education program.

(d) If the individual with exceptional needs is a foster child, as defined in Section 48853.5, and the local educational agency has proposed a change of placement due to an act for which a decision to

recommend expulsion is at the discretion of the principal or the district superintendent of schools, the attorney for the individual with exceptional needs and an appropriate representative of the county child welfare agency shall be invited to participate in the individualized education program team meeting that makes a manifestation determination pursuant to Section 1415(k) of Title 20 of the United States Code. The invitation may be made using the most cost-effective method possible, which may include, but is not limited to, electronic mail or a telephone call.

Administrative procedures related to suspension and expulsion

STATUTES

35146.

Notwithstanding the provisions of Section 35145 of this code and Section 54950 of the Government Code, the governing body of a school district shall, unless a request by the parent has been made pursuant to this section, hold closed sessions if the board is considering the suspension of, or disciplinary action or any other action except expulsion in connection with any pupil of the school district, if a public hearing upon such question would lead to the giving out of information concerning school pupils which would be in violation of Article 5 (commencing with Section 49073) of Chapter 6.5 of Part 27 of this code.

Before calling such closed session of the governing board of the district to consider these matters, the governing board of the district shall, in writing, by registered or certified mail or by personal service, if the pupil is a minor, notify the pupil and his or her parent or guardian, or the pupil if the pupil is an adult, of the intent of the governing board of the district to call and hold such closed session. Unless the pupil, or his or her parent, or guardian shall, in writing, within 48 hours after receipt of such written notice of intention, request that the hearing of the governing board be held as a public meeting, then the hearing to consider such matters shall be conducted by the governing board in closed session. If such written request is served upon the clerk or secretary of the governing board, the meeting shall be public except that any discussion at such meeting that might be in conflict with the right to privacy of any pupil other than the pupil requesting the public meeting or on behalf of whom such meeting is requested, shall be in closed session. Whether the matter is considered at a closed session or at a public meeting, the final action of the governing board of the school district shall be taken at a public meeting and the result of such action shall be a public record of the school district.

48201.

(a) Except for pupils exempt from compulsory school attendance under Section 48231, any parent, guardian, or other person having control or charge of any minor between the ages of 6 and 16 years who removes the minor from any city, city and county, or school district before the completion of the current school term, shall enroll the minor in a public full-time day school of the city, city and county, or school district to which the minor is removed.

(b) (1) Upon a pupil's transfer from one school district to another, the school district into which the pupil is transferring shall request that the school district in which the pupil was last enrolled provide any records that the district maintains in its ordinary course of business or receives from a law enforcement agency regarding acts committed by the transferring pupil that resulted in the pupil's suspension from school or expulsion from the school district. Upon receipt of this information, the receiving school district shall inform any teacher of the pupil that the pupil was suspended from school or expelled from the school district and shall inform the teacher of the act that resulted in that action.

48911.

(b) Suspension by the principal, the principal's designee, or the district superintendent of schools shall be preceded by an informal conference conducted by the principal, the principal's designee, or the district superintendent of schools between the pupil and, whenever practicable, the teacher, supervisor, or school employee who referred the pupil to the principal, the principal's designee, or the district superintendent of schools. At the conference, the pupil shall be informed of the reason for the disciplinary action and the evidence against him or her and shall be given the opportunity to present his or her version and evidence in his or her defense.

(c) A principal, the principal's designee, or the district superintendent of schools may suspend a pupil without affording the pupil an opportunity for a conference only if the principal, the principal's designee, or the district superintendent of schools determines that an emergency situation exists. "Emergency situation," as used in this article, means a situation determined by the principal, the principal's designee, or the district superintendent of schools to constitute a clear and present danger to the life, safety, or health of pupils or school personnel. If a pupil is suspended without a conference before suspension, both the parent and the pupil shall be notified of the pupil's right to a conference and the pupil's right to return to school for the purpose of a conference. The conference shall be held within two schooldays, unless the pupil waives this right or is physically unable to attend for any reason, including, but not limited to, incarceration or hospitalization. The conference shall then be held as soon as the pupil is physically able to return to school for the conference.

(g) In a case where expulsion from a school or suspension for the balance of the semester from continuation school is being processed by the governing board of the school district, the district superintendent of schools, or other person designated by the district superintendent of schools in writing, may extend the suspension until the governing board of the school district has rendered a decision in the action. However, an extension may be granted only if the district superintendent of schools or the district superintendent's designee has determined, following a meeting in which the pupil and the pupil's parent or guardian are invited to participate, that the presence of the pupil at the school or in an alternative school placement would cause a danger to persons or property or a threat of disrupting the instructional process. If the pupil is a foster child, as defined in Section 48853.5, the district superintendent of schools or the district superintendent's designee, including, but not limited to, the educational liaison for the school district, shall also invite the pupil's attorney and an appropriate representative of the county child welfare agency to participate in the meeting. If the pupil or the pupil's parent or guardian has requested a meeting to challenge the original suspension pursuant to Section 48914, the purpose of the meeting shall be to decide upon the extension of the suspension order under this section and may be held in conjunction with the initial meeting on the merits of the suspension.

(h) For purposes of this section, a "principal's designee" is one or more administrators at the schoolsite specifically designated by the principal, in writing, to assist with disciplinary procedures.

In the event that there is not an administrator in addition to the principal at the schoolsite, a certificated person at the schoolsite may be specifically designated by the principal, in writing, as a "principal's designee," to assist with disciplinary procedures. The principal may designate only one person at a time as the principal's primary designee for the school year.

An additional person meeting the requirements of this subdivision may be designated by the principal, in writing, to act for purposes of this article when both the principal and the principal's primary designee are absent from the schoolsite. The name of the person, and the names of any person or persons designated as "principal's designee," shall be on file in the principal's office.

This section is not an exception to, nor does it place any limitation on, Section 48903.

48912.

(a) The governing board may suspend a pupil from school for any of the acts enumerated in Section 48900 for any number of schooldays within the limits prescribed by Section 48903.

(b) Notwithstanding the provisions of Section 35145 of this code and Section 54950 of the Government Code, the governing board of a school district shall, unless a request has been made to the contrary, hold closed sessions if the board is considering the suspension of, disciplinary action against, or any other action against, except expulsion, any pupil, if a public hearing upon that question would lead to the giving out of information concerning a school pupil which would be in violation of Article 5 (commencing with Section 49073) of Chapter 6.5.

(c) Before calling a closed session to consider these matters, the governing board shall, in writing, by registered or certified mail or by personal service, notify the pupil and the pupil's parent or guardian, or the pupil if the pupil is an adult, of the intent of the governing board to call and hold a closed session. Unless the pupil or the pupil's parent or guardian shall, in writing, within 48 hours after receipt of the written notice of the board's intention, request that the hearing be held as a public meeting, the hearing to consider these matters shall be conducted by the governing board in closed session. In the event that a written request is served upon the clerk or secretary of the governing board, the meeting shall be public, except that any discussion at that meeting which may be in conflict with the right to privacy of any pupil other than the pupil requesting the public meeting, shall be in closed session.

48915.01.

If the governing board of a school district has established a community day school pursuant to Section 48661 on the same site as a comprehensive middle, junior, or senior high school, or at any elementary school, the governing board does not have to meet the condition in paragraph (2) of subdivision (d) of Section 48915 when the board, pursuant to subdivision (f) of Section 48915, refers a pupil to a program of study and that program of study is at the community day school. All the other conditions of subdivision (d) of Section 48915 are applicable to the referral as required by subdivision (f) of Section 48915.

48915.1.

(a) If the governing board of a school district receives a request from an individual who has been expelled from another school district for an act other than those described in subdivision (a) or (c) of Section 48915, for enrollment in a school maintained by the school district, the board shall hold a hearing to determine whether that individual poses a continuing danger either to the pupils or employees of the school district. The hearing and notice shall be conducted in accordance with the rules and regulations governing procedures for the expulsion of pupils as described in Section 48918. A school district may request information from another school district regarding a recommendation for expulsion or the expulsion of an applicant for enrollment. The school district receiving the request shall respond to the request with all deliberate speed but shall respond no later than five working days from the date of the receipt of the request.

(b) If a pupil has been expelled from his or her previous school for an act other than those listed in subdivision (a) or (c) of Section 48915, the parent, guardian, or pupil, if the pupil is emancipated or otherwise legally of age, shall, upon enrollment, inform the receiving school district of his or her status with the previous school district. If this information is not provided to the school district and the school district later determines the pupil was expelled from the previous school, the lack of compliance shall be recorded and discussed in the hearing required pursuant to subdivision (a).

(c) The governing board of a school district may make a determination to deny enrollment to an individual who has been expelled from another school district for an act other than those described in subdivision (a) or (c) of Section 48915, for the remainder of the expulsion period after a determination has been

made, pursuant to a hearing, that the individual poses a potential danger to either the pupils or employees of the school district.

(d) The governing board of a school district, when making its determination whether to enroll an individual who has been expelled from another school district for these acts, may consider the following options:

(1) Deny enrollment.

(2) Permit enrollment.

(3) Permit conditional enrollment in a regular school program or another educational program.

(e) Notwithstanding any other provision of law, the governing board of a school district, after a determination has been made, pursuant to a hearing, that an individual expelled from another school district for an act other than those described in subdivision (a) or (c) of Section 48915 does not pose a danger to either the pupils or employees of the school district, shall permit the individual to enroll in a school in the school district during the term of the expulsion, provided that he or she, subsequent to the expulsion, either has established legal residence in the school district, pursuant to Section 48200, or has enrolled in the school pursuant to an interdistrict agreement executed between the affected school districts pursuant to Chapter 5 (commencing with Section 46600).

48916.

(a) An expulsion order shall remain in effect until the governing board, in the manner prescribed in this article, orders the readmission of a pupil. At the time an expulsion of a pupil is ordered for an act other than those described in subdivision (c) of Section 48915, the governing board shall set a date, not later than the last day of the semester following the semester in which the expulsion occurred, when the pupil shall be reviewed for readmission to a school maintained by the district or to the school the pupil last attended. If an expulsion is ordered during summer session or the intersession period of a year-round program the governing board shall set a date, not later than the last day of the semester following the summer session or intersession period in which the expulsion occurred, when the pupil shall be reviewed for readmission to a school maintained by the district or to the school the pupil last attended. For a pupil who has been expelled pursuant to subdivision (c) of Section 48915, the governing board shall set a date of one year from the date the expulsion occurred, when the pupil shall be reviewed for readmission to a school maintained by the district, except that the governing board may set an earlier date for readmission on a case-by-case basis.

(b) The governing board shall recommend a plan of rehabilitation for the pupil at the time of the expulsion order,

(d) If the governing board denies the readmission of an expelled pupil pursuant to subdivision (c), the governing board shall make a determination either to continue the placement of the pupil in the alternative educational program initially selected for the pupil during the period of the expulsion order or to place the pupil in another program that may include, but need not be limited to, serving expelled pupils, including placement in a county community school.

(e) The governing board shall provide written notice to the expelled pupil and the pupil's parent or guardian describing the reasons for denying the pupil readmittance into the regular school district program.

48917.

(b) The governing board shall apply the criteria for suspending the enforcement of the expulsion order equally to all pupils, including individuals with exceptional needs as defined in Section 56026.

(c) During the period of the suspension of the expulsion order, the pupil is deemed to be on probationary status.

(d) The governing board may revoke the suspension of an expulsion order under this section if the pupil commits any of the acts enumerated in Section 48900 or violates any of the district's rules and regulations governing pupil conduct. When the governing board revokes the suspension of an expulsion order, a pupil may be expelled under the terms of the original expulsion order.

(e) Upon satisfactory completion of the rehabilitation assignment of a pupil, the governing board shall reinstate the pupil in a school of the district and may also order the expungement of any or all records of the expulsion proceedings.

(f) A decision of the governing board to suspend an expulsion order does not affect the time period and requirements for the filing of an appeal of the expulsion order with the county board of education required under Section 48919. Any appeal shall be filed within 30 days of the original vote of the governing board.

48918.

The governing board of each school district shall establish rules and regulations governing procedures for the expulsion of pupils. These procedures shall include, but are not necessarily limited to, all of the following:

(a) The pupil shall be entitled to a hearing to determine whether the pupil should be expelled. An expulsion hearing shall be held within 30 schooldays after the date the principal or the superintendent of schools determines that the pupil has committed any of the acts enumerated in Section 48900, unless the pupil requests, in writing, that the hearing be postponed. The adopted rules and regulations shall specify that the pupil is entitled to at least one postponement of an expulsion hearing, for a period of not more than 30 calendar days. Any additional postponement may be granted at the discretion of the governing board.

Within 10 schooldays after the conclusion of the hearing, the governing board shall decide whether to expel the pupil, unless the pupil requests in writing that the decision be postponed. If the hearing is held by a hearing officer or an administrative panel, or if the district governing board does not meet on a weekly basis, the governing board shall decide whether to expel the pupil within 40 schooldays after the date of the pupil's removal from his or her school of attendance for the incident for which the recommendation for expulsion is made by the principal or the superintendent, unless the pupil requests in writing that the decision be postponed.

If compliance by the governing board with the time requirements for the conducting of an expulsion hearing under this subdivision is impracticable during the regular school year, the superintendent of schools or the superintendent's designee may, for good cause, extend the time period for the holding of the expulsion hearing for an additional five schooldays. If compliance by the governing board with the time requirements for the conducting of an expulsion hearing under this subdivision is impractical due to a summer recess of governing board meetings of more than two weeks, the days during the recess period shall not be counted as schooldays in meeting the time requirements. The days not counted as schooldays in meeting the time requirements for an expulsion hearing because of a summer recess of governing board meetings shall not exceed 20 schooldays, as defined in subdivision (c) of Section 48925, and unless the pupil requests in writing that the expulsion hearing be postponed, the hearing shall be held not later than 20 calendar days prior to the first day of school for the school year. Reasons for the extension of the time for the hearing shall be included as a part of the record at the time the expulsion hearing is conducted. Upon the commencement of the hearing, all matters shall be pursued and conducted with reasonable diligence and shall be concluded without any unnecessary delay.

(b) Written notice of the hearing shall be forwarded to the pupil at least 10 calendar days prior to the date of the hearing. The notice shall include all of the following:

(1) The date and place of the hearing.

(2) A statement of the specific facts and charges upon which the proposed expulsion is based.

(3) A copy of the disciplinary rules of the district that relate to the alleged violation.

(4) A notice of the parent, guardian, or pupil's obligation pursuant to subdivision (b) of Section 48915.1.

(5) Notice of the opportunity for the pupil or the pupil's parent or guardian to appear in person or to be represented by legal counsel or by a nonattorney adviser, to inspect and obtain copies of all documents to be used at the hearing, to confront and question all witnesses who testify at the hearing, to question all other evidence presented, and to present oral and documentary evidence on the pupil's behalf, including witnesses. In a hearing in which a pupil is alleged to have committed or attempted to commit a sexual assault as specified in subdivision (n) of Section 48900 or committing a sexual battery as defined in subdivision (n) of Section 48900, a complaining witness shall be given five days' notice before being called to testify, and shall be entitled to have up to two adult support persons, including, but not limited to, a parent, guardian, or legal counsel, present during their testimony. Before a complaining witness testifies, support persons shall be admonished that the hearing is confidential. Nothing in this subdivision shall preclude the person presiding over an expulsion hearing from removing a support person whom the presiding person finds is disrupting the hearing. If one or both of the support persons is also a witness, the provisions of Section 868.5 of the Penal Code shall be followed for the hearing. This section does not require a pupil or the pupil's parent or guardian to be represented by legal counsel or by a nonattorney adviser at the hearing.

(A) For purposes of this section, "legal counsel" means an attorney or lawyer who is admitted to the practice of law in California and is an active member of the State Bar of California.

(B) For purposes of this section, "nonattorney advisor" means an individual who is not an attorney or lawyer, but who is familiar with the facts of the case, and has been selected by the pupil or pupil's parent or guardian to provide assistance at the hearing.

(c) Notwithstanding Section 54593 of the Government Code and Section 35145, the governing board shall conduct a hearing to consider the expulsion of a pupil in a session closed to the public, unless the pupil requests, in writing, at least five days before the date of the hearing, that the hearing be conducted at a public meeting. Regardless of whether the expulsion hearing is conducted in a closed or public session, the governing board may meet in closed session for the purpose of deliberating and determining whether the pupil should be expelled.

If the governing board or the hearing officer or administrative panel appointed under subdivision (d) to conduct the hearing admits any other person to a closed deliberation session, the parent or guardian of the pupil, the pupil, and the counsel of the pupil also shall be allowed to attend the closed deliberations.

If the hearing is to be conducted at a public meeting, and there is a charge of committing or attempting to commit a sexual assault as defined in subdivision (n) of Section 48900 or committing a sexual battery as defined in subdivision (n) of Section 48900, a complaining witness shall have the right to have his or her testimony heard in a session closed to the public when testifying at a public meeting would threaten serious psychological harm to the complaining witness and there are no alternative procedures to avoid the threatened harm, including, but not limited to, videotaped deposition or contemporaneous examination in another place communicated to the hearing room by means of closed-circuit television.

(d) Instead of conducting an expulsion hearing itself, the governing board may contract with the county hearing officer, or with the Office of Administrative Hearings of the State of California pursuant to Chapter 14 (commencing with Section 27720) of Part 3 of Division 2 of Title 3 of the Government Code and Section 35207, for a hearing officer to conduct the hearing. The governing board may also appoint an impartial administrative panel of three or more certificated persons, none of whom is a member of the board or employed on the staff of the school in which the pupil is enrolled. The hearing shall be conducted in accordance with all of the procedures established under this section.

(e) Within three schooldays after the hearing, the hearing officer or administrative panel shall determine whether to recommend the expulsion of the pupil to the governing board. If the hearing officer or

administrative panel decides not to recommend expulsion, the expulsion proceedings shall be terminated and the pupil immediately shall be reinstated and permitted to return to a classroom instructional program, any other instructional program, a rehabilitation program, or any combination of these programs. Placement in one or more of these programs shall be made by the superintendent of schools or the superintendent's designee after consultation with school district personnel, including the pupil's teachers, and the pupil's parent or guardian. The decision not to recommend expulsion shall be final.

(f) If the hearing officer or administrative panel recommends expulsion, findings of fact in support of the recommendation shall be prepared and submitted to the governing board. All findings of fact and recommendations shall be based solely on the evidence adduced at the hearing. If the governing board accepts the recommendation calling for expulsion, acceptance shall be based either upon a review of the findings of fact and recommendations submitted by the hearing officer or panel or upon the results of any supplementary hearing conducted pursuant to this section that the governing board may order.

The decision of the governing board to expel a pupil shall be based upon substantial evidence relevant to the charges adduced at the expulsion hearing or hearings. Except as provided in this section, no evidence to expel shall be based solely upon hearsay evidence. The governing board or the hearing officer or administrative panel may, upon a finding that good cause exists, determine that the disclosure of either the identity of a witness or the testimony of that witness at the hearing, or both, would subject the witness to an unreasonable risk of psychological or physical harm. Upon this determination, the testimony of the witness may be presented at the hearing in the form of sworn declarations which shall be examined only by the governing board or the hearing officer or administrative panel. Copies of these sworn declarations, edited to delete the name and identity of the witness, shall be made available to the pupil.

(g) A record of the hearing shall be made. The record may be maintained by any means, including electronic recording, so long as a reasonably accurate and complete written transcription of the proceedings can be made.

(h) Technical rules of evidence shall not apply to the hearing, but relevant evidence may be admitted and given probative effect only if it is the kind of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs. A decision of the governing board to expel shall be supported by substantial evidence showing that the pupil committed any of the acts enumerated in Section 48900.

In hearings which include an allegation of committing or attempting to commit a sexual assault as defined in subdivision (n) of Section 48900 or committing a sexual battery as defined in subdivision (n) of Section 48900, evidence of specific instances, of a complaining witness' prior sexual conduct is to be presumed inadmissible and shall not be heard absent a determination by the person conducting the hearing that extraordinary circumstances exist requiring the evidence be heard. Before the person conducting the hearing makes the determination on whether extraordinary circumstances exist requiring that specific instances of a complaining witness' prior sexual conduct be heard, the complaining witness shall be provided notice and an opportunity to present opposition to the introduction of the evidence. In the hearing on the admissibility of the evidence, the complaining witness shall be entitled to be represented by a parent, guardian, legal counsel, or other support person. Reputation or opinion evidence regarding the sexual behavior of the complaining witness is not admissible for any purpose.

(i) (1) Before the hearing has commenced, the governing board may issue subpoenas at the request of either the superintendent of schools or the superintendent's designee or the pupil, for the personal appearance of percipient witnesses at the hearing. After the hearing has commenced, the governing board or the hearing officer or administrative panel may, upon request of either the county superintendent of schools or the superintendent's designee or the pupil, issue subpoenas. All subpoenas shall be issued in accordance with Sections 1985, 1985.1, and 1985.2 of the Code of Civil Procedure. Enforcement of subpoenas shall be done in accordance with Section 11455.20 of the Government Code.

(2) Any objection raised by the superintendent of schools or the superintendent's designee or the pupil to the issuance of subpoenas may be considered by the governing board in closed session, or in open session, if so requested by the pupil before the meeting. Any decision by the governing board in response to an objection to the issuance of subpoenas shall be final and binding.

(3) If the governing board, hearing officer, or administrative panel determines, in accordance with subdivision (f), that a percipient witness would be subject to an unreasonable risk of harm by testifying at the hearing, a subpoena shall not be issued to compel the personal attendance of that witness at the hearing. However, that witness may be compelled to testify by means of a sworn declaration as provided for in subdivision (f).

(4) Service of process shall be extended to all parts of the state and shall be served in accordance with Section 1987 of the Code of Civil Procedure. All witnesses appearing pursuant to subpoena, other than the parties or officers or employees of the state or any political subdivision thereof, shall receive fees, and all witnesses appearing pursuant to subpoena, except the parties, shall receive mileage in the same amount and under the same circumstances as prescribed for witnesses in civil actions in a superior court. Fees and mileage shall be paid by the party at whose request the witness is subpoenaed.

(j) Whether an expulsion hearing is conducted by the governing board or before a hearing officer or administrative panel, final action to expel a pupil shall be taken only by the governing board in a public session. Written notice of any decision to expel or to suspend the enforcement of an expulsion order during a period of probation shall be sent by the superintendent of schools or his or her designee to the pupil or the pupil's parent or guardian and shall be accompanied by all of the following:

(1) Notice of the right to appeal the expulsion to the county board of education.

(2) Notice of the education alternative placement to be provided to the pupil during the time of expulsion.

(3) Notice of the obligation of the parent, guardian, or pupil under subdivision (b) of Section 48915.1, upon the pupil's enrollment in a new school district, to inform that district of the pupil's expulsion.

(k) The governing board shall maintain a record of each expulsion, including the cause therefor. Records of expulsions shall be a nonprivileged, disclosable public record.

The expulsion order and the causes therefor shall be recorded in the pupil's mandatory interim record and shall be forwarded to any school in which the pupil subsequently enrolls upon receipt of a request from the admitting school for the pupil's school records.

48918.1.

(a) If the decision to recommend expulsion is a discretionary act and the pupil is a foster child, as defined in Section 48853.5, the governing board of the school district shall provide notice of the expulsion hearing to the pupil's attorney and an appropriate representative of the county child welfare agency at least 10 calendar days before the date of the hearing. The notice may be made using the most cost-effective method possible, which may include, but is not limited to, electronic mail or a telephone call.

(b) If a recommendation of expulsion is required and the pupil is a foster child, as defined in Section 48853.5, the governing board of the school district may provide notice of the expulsion hearing to the pupil's attorney and an appropriate representative of the county child welfare agency at least 10 calendar days before the date of the hearing. The notice may be made using the most cost-effective method possible, which may include, but is not limited to, electronic mail or a telephone call.

48918.5.

In expulsion hearings involving allegations brought pursuant to subdivision (n) of Section 48900, the governing board of each school district shall establish rules and regulations governing procedures. The procedures shall include, but are not limited to, all of the following:

(a) At the time that the expulsion hearing is recommended, the complaining witness shall be provided with a copy of the applicable disciplinary rules and advised of his or her right to: (1) receive five days' notice of the complaining witness's scheduled testimony at the hearing, (2) have up to two adult support persons of his or her choosing, present in the hearing at the time he or she testifies; and (3) to have the hearing closed during the time they testify pursuant to subdivision (c) of Section 48918.

(b) An expulsion hearing may be postponed for one schoolday in order to accommodate the special physical, mental, or emotional needs of a pupil who is the complaining witness where the allegations arise under subdivision (n) of Section 48900.

(c) The district shall provide a nonthreatening environment for a complaining witness in order to better enable them to speak freely and accurately of the experiences that are the subject of the expulsion hearing, and to prevent discouragement of complaints. Each school district shall provide a room separate from the hearing room for the use of the complaining witness prior to and during breaks in testimony. In the discretion of the person conducting the hearing, the complaining witness shall be allowed reasonable periods of relief from examination and cross-examination during which he or she may leave the hearing room. The person conducting the hearing may arrange the seating within the hearing room of those present in order to facilitate a less intimidating environment for the complaining witness. The person conducting the hearing may limit the time for taking the testimony of a complaining witness to the hours he or she is normally in school, if there is no good cause to take the testimony during other hours. The person conducting the hearing may permit one of the complaining witness's support persons to accompany him or her to the witness stand.

(d) Whenever any allegation is made of conduct violative of subdivision (n) of Section 48900, complaining witnesses and accused pupils are to be advised immediately to refrain from personal or telephonic contact with each other during the pendency of any expulsion process.

48918.6.

In addition to any other immunity that may exist, any testimony provided by a pupil witness in an expulsion hearing conducted pursuant to this article is expressly deemed to be a communication protected by subdivision (b) of Section 47 of the Civil Code.

48919.

If a pupil is expelled from school, the pupil or the pupil's parent or guardian may, within 30 days following the decision of the governing board to expel, file an appeal to the county board of education which shall hold a hearing thereon and render its decision.

The county board of education, or in a class 1 or class 2 county a hearing officer or impartial administrative panel, shall hold the hearing within 20 schooldays following the filing of a formal request under this section. If the county board of education hears the appeal without a hearing conducted pursuant to Section 48919.5, then the board shall render a decision within three schooldays of the hearing conducted pursuant to Section 48920, unless the pupil requests a postponement.

The period within which an appeal is to be filed shall be determined from the date a governing board votes to expel even if enforcement of the expulsion action is suspended and the pupil is placed on probation pursuant to Section 48917. A pupil who fails to appeal the original action of the board within the prescribed time may not subsequently appeal a decision of the board to revoke probation and impose the original order of expulsion.

The county board of education shall adopt rules and regulations establishing procedures for expulsion appeals conducted under this section. If the county board of education in a class 1 or class 2 county elects to use the procedures in Section 48919.5, then the board shall adopt rules and regulations establishing procedures for expulsion appeals conducted under Section 48919.5. The adopted rules and regulations shall include, but need not be limited to, the requirements for filing a notice of appeal, the setting of a hearing date, the furnishing of notice to the pupil and the governing board regarding the appeal, the furnishing of a copy of the expulsion hearing record to the county board of education, procedures for the conduct of the hearing, and the preservation of the record of the appeal.

The pupil shall submit a written request for a copy of the written transcripts and supporting documents from the school district simultaneously with the filing of the notice of appeal with the county board of education. The school district shall provide the pupil with the transcriptions, supporting documents, and records within 10 schooldays following the pupil's written request. Upon receipt of the records, the pupil shall immediately file suitable copies of these records with the county board of education.

48919.5.

(a) A county board of education in a class 1 or class 2 county may have a hearing officer pursuant to Chapter 14 (commencing with Section 27720) of Part 3 of Title 3 of the Government Code, or an impartial administrative panel of three or more certificated persons appointed by the county board of education, hear appeals filed pursuant to Section 48919. The members of the impartial administrative panel shall not be members of the governing board of the school district nor employees of the school district, from which the pupil filing the appeal was expelled. Neither the hearing officer, nor any member of the administrative panel, hearing a pupil's appeal shall have been the hearing officer or a member of the administrative panel that conducted the pupil's expulsion hearing.

(b) A hearing conducted pursuant to this section shall not issue a final order of the county board. The hearing officer or impartial administrative panel shall prepare a recommended decision, including any findings or conclusions required for that decision, and shall submit that recommendation and the record to the county board of education within three schooldays of hearing the appeal.

(c) Sections 48919, 48920, 48921, 48922, 48923, and 48925 are applicable to a hearing conducted pursuant to this section.

(d) Within 10 schooldays of receiving the recommended decision and record from the hearing officer or the impartial administrative panel, the county board of education shall review the recommended decision and record and render a final order of the board.

(e) For purposes of this article, the following definitions shall apply:

(1) "Countywide ADA" means the aggregate number of annual units of regular average daily attendance for the fiscal year in all school districts within the county.

(2) "Class 1 county" means a county with 1994/95 countywide ADA of more than 500,000.

(3) "Class 2 county" means a county with 1994/95 countywide ADA of at least 180,000 but less than 500,000.

48920.

Notwithstanding the provisions of Section 54950 of the Government Code and Section 35145 of this code, the county board of education shall hear an appeal of an expulsion order in closed session, unless the pupil requests, in writing, at least five days prior to the date of the hearing, that the hearing be conducted in a public meeting. Upon the timely submission of a request for a public meeting, the county board of education shall be required to honor the request. Whether the hearing is conducted in closed or public session, the county board may meet in closed session for the purpose of deliberations. If the

county board admits any representative of the pupil or the school district, the board shall, at the same time, admit representatives from the opposing party.

48921.

The county board of education shall determine the appeal from a pupil expulsion upon the record of the hearing before the district governing board, together with such applicable documentation or regulations as may be ordered. No evidence other than that contained in the record of the proceedings of the school board may be heard unless a de novo proceeding is granted as provided in Section 48923.

It shall be the responsibility of the pupil to submit a written transcription for review by the county board. The cost of the transcript shall be borne by the pupil except in either of the following situations:

(1) Where the pupil's parent or guardian certifies to the school district that he or she cannot reasonably afford the cost of the transcript because of limited income or exceptional necessary expenses, or both.

(2) In a case in which the county board reverses the decision of the local governing board, the county board shall require that the local board reimburse the pupil for the cost of such transcription.

48922.

(a) The review by the county board of education of the decision of the governing board shall be limited to the following questions:

(1) Whether the governing board acted without or in excess of its jurisdiction.

(2) Whether there was a fair hearing before the governing board.

(3) Whether there was a prejudicial abuse of discretion in the hearing.

(4) Whether there is relevant and material evidence which, in the exercise of reasonable diligence, could not have been produced or which was improperly excluded at the hearing before the governing board.

(b) As used in this section, a proceeding without or in excess of jurisdiction includes, but is not limited to, a situation where an expulsion hearing is not commenced within the time periods prescribed by this article, a situation where an expulsion order is not based upon the acts enumerated in Section 48900, or a situation involving acts not related to school activity or attendance.

(c) For purposes of this section, an abuse of discretion is established in any of the following situations:

(1) If school officials have not met the procedural requirements of this article.

(2) If the decision to expel a pupil is not supported by the findings prescribed by Section 48915.

(3) If the findings are not supported by the evidence.

A county board of education may not reverse the decision of a governing board to expel a pupil based upon a finding of an abuse of discretion unless the county board of education also determines that the abuse of discretion was prejudicial.

48923.

The decision of the county board shall be limited as follows:

(a) If the county board finds that relevant and material evidence exists which, in the exercise of reasonable diligence, could not have been produced or which was improperly excluded at the hearing before the governing board, it may do either of the following:

(1) Remand the matter to the governing board for reconsideration and may in addition order the pupil reinstated pending the reconsideration.

(2) Grant a hearing de novo upon reasonable notice thereof to the pupil and to the governing board. The hearing shall be conducted in conformance with the rules and regulations adopted by the county board under Section 48919.

(b) If the county board determines that the decision of the governing board is not supported by the findings required to be made by Section 48915, but evidence supporting the required findings exists in the record of the proceedings, the county board shall remand the matter to the governing board for adoption of the required findings. This remand for the adoption and inclusion of the required findings shall not result in an additional hearing pursuant to Section 48918, except that final action to expel the pupil based on the revised findings of fact shall meet all requirements of subdivisions (j) and (k) of Section 48918.

(c) In all other cases, the county board shall enter an order either affirming or reversing the decision of the governing board. In any case in which the county board enters a decision reversing the local board, the county board may direct the local board to expunge the record of the pupil and the records of the district of any references to the expulsion action and the expulsion shall be deemed not to have occurred.

48924.

The decision of the county board of education shall be final and binding upon the pupil and upon the governing board of the school district. The pupil and the governing board shall be notified of the final order of the county board, in writing, either by personal service or by certified mail. The order shall become final when rendered.

In-school suspension

STATUTES

48910.

(a) A teacher may suspend any pupil from class, for any of the acts enumerated in Section 48900, for the day of the suspension and the day following. The teacher shall immediately report the suspension to the principal of the school and send the pupil to the principal or the designee of the principal for appropriate action. If that action requires the continued presence of the pupil at the schoolsite, the pupil shall be under appropriate supervision, as defined in policies and related regulations adopted by the governing board of the school district. As soon as possible, the teacher shall ask the parent or guardian of the pupil to attend a parent-teacher conference regarding the suspension. If practicable, a school counselor or a school psychologist may attend the conference. A school administrator shall attend the conference if the teacher or the parent or guardian so requests. The pupil shall not be returned to the class from which he or she was suspended, during the period of the suspension, without the concurrence of the teacher of the class and the principal.

(b) A pupil suspended from a class shall not be placed in another regular class during the period of suspension. However, if the pupil is assigned to more than one class per day this subdivision shall apply only to other regular classes scheduled at the same time as the class from which the pupil was suspended.

48911.1.

(a) A pupil suspended from a school for any of the reasons enumerated in Sections 48900 and 48900.2 may be assigned, by the principal or the principal's designee, to a supervised suspension classroom for the entire period of suspension if the pupil poses no imminent danger or threat to the campus, pupils, or staff, or if an action to expel the pupil has not been initiated.

(b) Pupils assigned to a supervised suspension classroom shall be separated from other pupils at the schoolsite for the period of suspension in a separate classroom, building, or site for pupils under suspension.

(c) School districts may continue to claim apportionments for each pupil assigned to and attending a supervised suspension classroom provided as follows:

(1) The supervised suspension classroom is staffed as otherwise provided by law.

(2) Each pupil has access to appropriate counseling services.

(3) The supervised suspension classroom promotes completion of schoolwork and tests missed by the pupil during the suspension.

(4) Each pupil is responsible for contacting his or her teacher or teachers to receive assignments to be completed while the pupil is assigned to the supervised suspension classroom. The teacher shall provide all assignments and tests that the pupil will miss while suspended. If no classroom work is assigned, the person supervising the suspension classroom shall assign schoolwork.

(d) At the time a pupil is assigned to a supervised suspension classroom, a school employee shall notify, in person or by telephone, the pupil's parent or guardian. Whenever a pupil is assigned to a supervised suspension classroom for longer than one class period, a school employee shall notify, in writing, the pupil's parent or guardian.

(e) This section does not place any limitation on a school district's ability to transfer a pupil to an opportunity school or class or a continuation education school or class.

(f) Apportionments claimed by a school district for pupils assigned to supervised suspension shall be used specifically to mitigate the cost of implementing this section.

48911.2.

(a) If the number of pupils suspended from school during the prior school year exceeded 30 percent of the school's enrollment, the school should consider doing at least one of the following:

(1) Implement the supervised suspension program described in Section 48911.1.

(c) It is the intent of the Legislature to encourage schools that choose to implement this section to examine alternatives to off-campus suspensions that lead to resolution of pupil misconduct without sending pupils off campus. Schools that use this section should not be precluded from suspending pupils to an off-campus site.

Return to school following removal

STATUTES

48913.

The teacher of any class from which a pupil is suspended may require the suspended pupil to complete any assignments and tests missed during the suspension.

48915.1.

(a) If the governing board of a school district receives a request from an individual who has been expelled from another school district for an act other than those described in subdivision (a) or (c) of Section 48915, for enrollment in a school maintained by the school district, the board shall hold a hearing to determine whether that individual poses a continuing danger either to the pupils or employees of the school district. The hearing and notice shall be conducted in accordance with the rules and regulations governing procedures for the expulsion of pupils as described in Section 48918. A school district may

request information from another school district regarding a recommendation for expulsion or the expulsion of an applicant for enrollment. The school district receiving the request shall respond to the request with all deliberate speed but shall respond no later than five working days from the date of the receipt of the request.

(b) If a pupil has been expelled from his or her previous school for an act other than those listed in subdivision (a) or (c) of Section 48915, the parent, guardian, or pupil, if the pupil is emancipated or otherwise legally of age, shall, upon enrollment, inform the receiving school district of his or her status with the previous school district. If this information is not provided to the school district and the school district later determines the pupil was expelled from the previous school, the lack of compliance shall be recorded and discussed in the hearing required pursuant to subdivision (a).

(c) The governing board of a school district may make a determination to deny enrollment to an individual who has been expelled from another school district for an act other than those described in subdivision (a) or (c) of Section 48915, for the remainder of the expulsion period after a determination has been made, pursuant to a hearing, that the individual poses a potential danger to either the pupils or employees of the school district.

(d) The governing board of a school district, when making its determination whether to enroll an individual who has been expelled from another school district for these acts, may consider the following options:

(1) Deny enrollment.

(2) Permit enrollment.

(3) Permit conditional enrollment in a regular school program or another educational program.

(e) Notwithstanding any other provision of law, the governing board of a school district, after a determination has been made, pursuant to a hearing, that an individual expelled from another school district for an act other than those described in subdivision (a) or (c) of Section 48915 does not pose a danger to either the pupils or employees of the school district, shall permit the individual to enroll in a school in the school district during the term of the expulsion, provided that he or she, subsequent to the expulsion, either has established legal residence in the school district, pursuant to Section 48200, or has enrolled in the school pursuant to an interdistrict agreement executed between the affected school districts pursuant to Chapter 5 (commencing with Section 46600).

48915.2.

(a) A pupil expelled from school for any of the offenses listed in subdivision (a) or (c) of Section 48915, shall not be permitted to enroll in any other school or school district during the period of expulsion unless it is a county community school pursuant to subdivision (c) of Section 1981, or a juvenile court school, as described in Section 48645.1, or a community day school pursuant to Article 3 (commencing with Section 48660) of Chapter 4 of Part 27.

(b) After a determination has been made, pursuant to a hearing under Section 48918, that an individual expelled from another school district for any act described in subdivision (a) or (c) of Section 48915 does not pose a danger to either the pupils or employees of the school district, the governing board of a school district may permit the individual to enroll in the school district after the term of expulsion, subject to one of the following conditions:

(1) He or she has established legal residence in the school district, pursuant to Section 48200.

(2) He or she is enrolled in the school pursuant to an interdistrict agreement executed between the affected school districts pursuant to Chapter 5 (commencing with Section 46600) of Part 26.

48916.

(a) An expulsion order shall remain in effect until the governing board, in the manner prescribed in this article, orders the readmission of a pupil. At the time an expulsion of a pupil is ordered for an act other than those described in subdivision (c) of Section 48915, the governing board shall set a date, not later than the last day of the semester following the semester in which the expulsion occurred, when the pupil shall be reviewed for readmission to a school maintained by the district or to the school the pupil last attended. If an expulsion is ordered during summer session or the intersession period of a year-round program the governing board shall set a date, not later than the last day of the semester following the summer session or intersession period in which the expulsion occurred, when the pupil shall be reviewed for readmission to a school maintained by the district or to the school the pupil last attended. For a pupil who has been expelled pursuant to subdivision (c) of Section 48915, the governing board shall set a date of one year from the date the expulsion occurred, when the pupil shall be reviewed for readmission to a school maintained by the district, except that the governing board may set an earlier date for readmission on a case-by-case basis.

(c) The governing board of each school district shall adopt rules and regulations establishing a procedure for the filing and processing of requests for readmission and the process for the required review of all expelled pupils for readmission. Upon completion of the readmission process, the governing board shall readmit the pupil, unless the governing board makes a finding that the pupil has not met the conditions of the rehabilitation plan or continues to pose a danger to campus safety or to other pupils or employees of the school district. A description of the procedure shall be made available to the pupil and the pupil's parent or guardian at the time the expulsion order is entered.

48916.5.

The governing board may require a pupil who is expelled from school for reasons relating to controlled substances, as defined in Sections 11054 to 11058, inclusive, of the Health and Safety Code, or alcohol, prior to returning to school to enroll in a county-supported drug rehabilitation program. No pupil shall be required to enroll in a rehabilitation program pursuant to this section without the consent of his or her parent or guardian.

Use of restraint and seclusion

STATUTES

49001.

(a) For the purposes of this section "corporal punishment" means the willful infliction of, or willfully causing the infliction of, physical pain on a pupil. An amount of force that is reasonable and necessary for a person employed by or engaged in a public school to quell a disturbance threatening physical injury to persons or damage to property, for purposes of self-defense, or to obtain possession of weapons or other dangerous objects within the control of the pupil, is not and shall not be construed to be corporal punishment within the meaning and intent of this section. Physical pain or discomfort caused by athletic competition or other such recreational activity, voluntarily engaged in by the pupil, is not and shall not be construed to be corporal punishment within the meaning and intent of this section.

(b) No person employed by or engaged in a public school shall inflict, or cause to be inflicted corporal punishment upon a pupil. Every resolution, bylaw, rule, ordinance, or other act or authority permitting or authorizing the infliction of corporal punishment upon a pupil attending a public school is void and unenforceable.

56520.

(a) The Legislature finds and declares all of the following:

(1) That the state has continually sought to provide an appropriate and meaningful educational program in a safe and healthy environment for all children regardless of possible physical, mental, or emotionally disabling conditions.

(2) That some schoolage individuals with exceptional needs have significant behavioral challenges that have an adverse impact on their learning or the learning of other pupils, or both.

(3) That Section 1400(c)(5)(F) of Title 20 of the United States Code states that research and experience demonstrate that the education of children with disabilities can be made more effective by providing incentives for positive behavioral interventions and supports to address the learning and behavioral needs of those children.

(4) That procedures for the elimination of maladaptive behaviors shall not include those deemed unacceptable under Section 49001 or those that cause pain or trauma.

(b) It is the intent of the Legislature:

(1) That children exhibiting serious behavioral challenges receive timely and appropriate assessments and positive supports and interventions in accordance with the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) and its implementing regulations.

(2) That assessments and positive behavioral interventions and supports be developed and implemented in a manner informed by guidance from the United States Department of Education and technical assistance centers sponsored by the Office of Special Education Programs of the United States Department of Education.

(3) That when behavioral interventions, supports, and other strategies are used, they be used in consideration of the pupil's physical freedom and social interaction, be administered in a manner that respects human dignity and personal privacy, and that ensure a pupil's right to placement in the least restrictive educational environment.

(4) That behavioral intervention plans be developed and used, to the extent possible, in a consistent manner when the pupil is also the responsibility of another agency for residential care or related services.

(5) That training programs be developed and implemented in institutions of higher education that train teachers and that in-service training programs be made available as necessary in school districts and county offices of education to ensure that adequately trained staff are available to work effectively with the behavioral intervention needs of individuals with exceptional needs.

56521.

(a) This chapter applies to any individual with exceptional needs who is in a public school program, including a state school for the disabled pursuant to Part 32 (commencing with Section 59000), or who is placed in a nonpublic school program pursuant to Sections 56365 to 56366.5, inclusive.

(b) The Superintendent of Public Instruction shall monitor and supervise the implementation of this chapter.

56521.1.

(a) Emergency interventions may only be used to control unpredictable, spontaneous behavior that poses clear and present danger of serious physical harm to the individual with exceptional needs, or others, and that cannot be immediately prevented by a response less restrictive than the temporary application of a technique used to contain the behavior.

(b) Emergency interventions shall not be used as a substitute for the systematic behavioral intervention plan that is designed to change, replace, modify, or eliminate a targeted behavior.

(c) No emergency intervention shall be employed for longer than is necessary to contain the behavior. A situation that requires prolonged use of an emergency intervention shall require the staff to seek assistance of the schoolsite administrator or law enforcement agency, as applicable to the situation.

(d) Emergency interventions shall not include:

(1) Locked seclusion, unless it is in a facility otherwise licensed or permitted by state law to use a locked room.

(2) Employment of a device, material, or objects that simultaneously immobilize all four extremities, except that techniques such as prone containment may be used as an emergency intervention by staff trained in those procedures.

(3) An amount of force that exceeds that which is reasonable and necessary under the circumstances.

(e) To prevent emergency interventions from being used in lieu of planned, systematic behavioral interventions, the parent, guardian, and residential care provider, if appropriate, shall be notified within one schoolday if an emergency intervention is used or serious property damage occurs. A behavioral emergency report shall immediately be completed and maintained in the file of the individual with exceptional needs. The behavioral emergency report shall include all of the following:

(1) The name and age of the individual with exceptional needs.

(2) The setting and location of the incident.

(3) The name of the staff or other persons involved.

(4) A description of the incident and the emergency intervention used, and whether the individual with exceptional needs is currently engaged in any systematic behavioral intervention plan.

(5) Details of any injuries sustained by the individual with exceptional needs, or others, including staff, as a result of the incident.

(f) All behavioral emergency reports shall immediately be forwarded to, and reviewed by, a designated responsible administrator.

(g) If a behavioral emergency report is written regarding an individual with exceptional needs who does not have a behavioral intervention plan, the designated responsible administrator shall, within two days, schedule an individualized education program (IEP) team meeting to review the emergency report, to determine the necessity for a functional behavioral assessment, and to determine the necessity for an interim plan. The IEP team shall document the reasons for not conducting the functional behavioral assessment, not developing an interim plan, or both.

(h) If a behavioral emergency report is written regarding an individual with exceptional needs who has a positive behavioral intervention plan, an incident involving a previously unseen serious behavior problem, or where a previously designed intervention is ineffective, shall be referred to the IEP team to review and determine if the incident constitutes a need to modify the positive behavioral intervention plan.

56521.2.

(a) A local educational agency or nonpublic, nonsectarian school or agency serving individuals with exceptional needs pursuant to Sections 56365 and 56366, shall not authorize, order, consent to, or pay for the following interventions, or any other interventions similar to or like the following:

(1) Any intervention that is designed to, or likely to, cause physical pain, including, but not limited to, electric shock.

(2) An intervention that involves the release of noxious, toxic, or otherwise unpleasant sprays, mists, or substances in proximity to the face of the individual.

(3) An intervention that denies adequate sleep, food, water, shelter, bedding, physical comfort, or access to bathroom facilities.

(4) An intervention that is designed to subject, used to subject, or likely to subject, the individual to verbal abuse, ridicule, or humiliation, or that can be expected to cause excessive emotional trauma.

(5) Restrictive interventions that employ a device, material, or objects that simultaneously immobilize all four extremities, including the procedure known as prone containment, except that prone containment or similar techniques may be used by trained personnel as a limited emergency intervention.

(6) Locked seclusion, unless it is in a facility otherwise licensed or permitted by state law to use a locked room.

(7) An intervention that precludes adequate supervision of the individual.

(8) An intervention that deprives the individual of one or more of his or her senses.

(b) In the case of a child whose behavior impedes the child's learning or that of others, the individualized education program team shall consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior, consistent with Section 1414(d)(3)(B)(i) and (d)(4) of Title 20 of the United States Code and associated federal regulations.

56524.

The superintendent shall explore with representatives of institutions of higher education and the Commission on Teacher Credentialing, the current training requirements for teachers to ensure that sufficient training is available in appropriate behavioral interventions for people entering the field of education.

Alternative placements

STATUTES

48268.

The court, in addition to any judgment it may make regarding the pupil, may render judgment that the parent, guardian, or person having the control or charge of the pupil shall deliver him at the beginning of each schoolday, for the remainder of the school term, at the school from which he is a truant, or in which he has been insubordinate or disorderly during attendance, or to a school designated by school authorities.

48903.

(a) Except as provided in subdivision (g) of Section 48911 and in Section 48912, the total number of days for which a pupil may be suspended from school shall not exceed 20 schooldays in any school year, unless for purposes of adjustment, a pupil enrolls in or is transferred to another regular school, an opportunity school or class, or a continuation education school or class, in which case the total number of schooldays for which the pupil may be suspended shall not exceed 30 days in any school year.

(b) For the purposes of this section, a school district may count suspensions that occur while a pupil is enrolled in another school district toward the maximum number of days for which a pupil may be suspended in any school year.

48910.

(b) A pupil suspended from a class shall not be placed in another regular class during the period of suspension. However, if the pupil is assigned to more than one class per day this subdivision shall apply

only to other regular classes scheduled at the same time as the class from which the pupil was suspended.

48911.1.

(a) A pupil suspended from a school for any of the reasons enumerated in Sections 48900 and 48900.2 may be assigned, by the principal or the principal's designee, to a supervised suspension classroom for the entire period of suspension if the pupil poses no imminent danger or threat to the campus, pupils, or staff, or if an action to expel the pupil has not been initiated.

(e) This section does not place any limitation on a school district's ability to transfer a pupil to an opportunity school or class or a continuation education school or class.

48915.

(d) The governing board of a school district shall order a pupil expelled upon finding that the pupil committed an act listed in subdivision (c), and shall refer that pupil to a program of study that meets all of the following conditions:

(1) Is appropriately prepared to accommodate pupils who exhibit discipline problems.

(2) Is not provided at a comprehensive middle, junior, or senior high school, or at any elementary school.

(3) Is not housed at the schoolsite attended by the pupil at the time of suspension.

(e) Upon recommendation by the principal or the superintendent of schools, or by a hearing officer or administrative panel appointed pursuant to subdivision (d) of Section 48918, the governing board of a school district may order a pupil expelled upon finding that the pupil, at school or at a school activity off of school grounds violated subdivision (f), (g), (h), (i), (j), (k), (l), or (m) of Section 48900, or Section 48900.2, 48900.3, or 48900.4, and either of the following:

(1) That other means of correction are not feasible or have repeatedly failed to bring about proper conduct.

(2) That due to the nature of the violation, the presence of the pupil causes a continuing danger to the physical safety of the pupil or others.

(f) The governing board of a school district shall refer a pupil who has been expelled pursuant to subdivision (b) or (e) to a program of study that meets all of the conditions specified in subdivision (d). Notwithstanding this subdivision, with respect to a pupil expelled pursuant to subdivision (e), if the county superintendent of schools certifies that an alternative program of study is not available at a site away from a comprehensive middle, junior, or senior high school, or an elementary school, and that the only option for placement is at another comprehensive middle, junior, or senior high school, or another elementary school, the pupil may be referred to a program of study that is provided at a comprehensive middle, junior, or senior high school, or at an elementary school.

48915.01.

If the governing board of a school district has established a community day school pursuant to Section 48661 on the same site as a comprehensive middle, junior, or senior high school, or at any elementary school, the governing board does not have to meet the condition in paragraph (2) of subdivision (d) of Section 48915 when the board, pursuant to subdivision (f) of Section 48915, refers a pupil to a program of study and that program of study is at the community day school. All the other conditions of subdivision (d) of Section 48915 are applicable to the referral as required by subdivision (f) of Section 48915.

48915.2.

(a) A pupil expelled from school for any of the offenses listed in subdivision (a) or (c) of Section 48915, shall not be permitted to enroll in any other school or school district during the period of expulsion unless it is a county community school pursuant to subdivision (c) of Section 1981, or a juvenile court school, as described in Section 48645.1, or a community day school pursuant to Article 3 (commencing with Section 48660) of Chapter 4 of Part 27.

48915.5.

(a) An individual with exceptional needs, as defined in Section 56026, may be suspended or expelled from school in accordance with Section 1415(k) of Title 20 of the United States Code, the discipline provisions contained in Sections 300.530 to 300.537, inclusive, of Title 34 of the Code of Federal Regulations, and other provisions of this part that do not conflict with federal law and regulations.

(b) A free appropriate public education for individuals with exceptional needs suspended or expelled from school shall be in accordance with Section 1412(a)(1) of Title 20 of the United States Code and Section 300.530(d) of Title 34 of the Code of Federal Regulations.

(c) If an individual with exceptional needs is excluded from schoolbus transportation, the pupil is entitled to be provided with an alternative form of transportation at no cost to the pupil or parent or guardian provided that transportation is specified in the pupil's individualized education program.

(d) If the individual with exceptional needs is a foster child, as defined in Section 48853.5, and the local educational agency has proposed a change of placement due to an act for which a decision to recommend expulsion is at the discretion of the principal or the district superintendent of schools, the attorney for the individual with exceptional needs and an appropriate representative of the county child welfare agency shall be invited to participate in the individualized education program team meeting that makes a manifestation determination pursuant to Section 1415(k) of Title 20 of the United States Code. The invitation may be made using the most cost-effective method possible, which may include, but is not limited to, electronic mail or a telephone call.

48916.

(d) If the governing board denies the readmission of an expelled pupil pursuant to subdivision (c), the governing board shall make a determination either to continue the placement of the pupil in the alternative educational program initially selected for the pupil during the period of the expulsion order or to place the pupil in another program that may include, but need not be limited to, serving expelled pupils, including placement in a county community school.

48916.1.

(a) At the time an expulsion of a pupil is ordered, the governing board of the school district shall ensure that an educational program is provided to the pupil who is subject to the expulsion order for the period of the expulsion. Except for pupils expelled pursuant to subdivision (d) of Section 48915, the governing board of a school district is required to implement the provisions of this section only to the extent funds are appropriated for this purpose in the annual Budget Act or other legislation, or both.

(b) Notwithstanding any other provision of law, any educational program provided pursuant to subdivision (a) may be operated by the school district, the county superintendent of schools, or a consortium of districts or in joint agreement with the county superintendent of schools.

(c) Any educational program provided pursuant to subdivision (b) may not be situated within or on the grounds of the school from which the pupil was expelled.

(d) If the pupil who is subject to the expulsion order was expelled from any of kindergarten or grades 1 to 6, inclusive, the educational program provided pursuant to subdivision (b) may not be combined or

merged with educational programs offered to pupils in any of grades 7 to 12, inclusive. The district or county program is the only program required to be provided to expelled pupils as determined by the governing board of the school district. This subdivision, as it relates to the separation of pupils by grade levels, does not apply to community day schools offering instruction in any of kindergarten and grades 1 to 8, inclusive, and established in accordance with Section 48660.

(f) If the county superintendent of schools is unable for any reason to serve the expelled pupils of a school district within the county, the governing board of that school district may enter into an agreement with a county superintendent of schools in another county to provide education services for the district's expelled pupils.

48926.

Each county superintendent of schools in counties that operate community schools pursuant to Section 1980, in conjunction with superintendents of the school districts within the county, shall develop a plan for providing education services to all expelled pupils in that county. The plan shall be adopted by the governing board of each school district within the county and by the county board of education.

The plan shall enumerate existing educational alternatives for expelled pupils, identify gaps in educational services to expelled pupils, and strategies for filling those service gaps. The plan shall also identify alternative placements for pupils who are expelled and placed in district community day school programs, but who fail to meet the terms and conditions of their rehabilitation plan or who pose a danger to other district pupils, as determined by the governing board.

Disciplinary Approaches Addressing Specific Infractions and Conditions

Firearms (as required by the Guns-Free Schools Act)

STATUTES

48900.

A pupil shall not be suspended from school or recommended for expulsion, unless the superintendent of the school district or the principal of the school in which the pupil is enrolled determines that the pupil has committed an act as defined pursuant to any of subdivisions (a) to (r), inclusive:

(b) Possessed, sold, or otherwise furnished a firearm, knife, explosive, or other dangerous object, unless, in the case of possession of an object of this type, the pupil had obtained written permission to possess the item from a certificated school employee, which is concurred in by the principal or the designee of the principal.

(m) Possessed an imitation firearm. As used in this section, “imitation firearm” means a replica of a firearm that is so substantially similar in physical properties to an existing firearm as to lead a reasonable person to conclude that the replica is a firearm.

48915.

(a) (1) Except as provided in subdivisions (c) and (e), the principal or the superintendent of schools shall recommend the expulsion of a pupil for any of the following acts committed at school or at a school activity off school grounds, unless the principal or superintendent determines that expulsion should not be recommended under the circumstances or that an alternative means of correction would address the conduct:

(B) Possession of any knife or other dangerous object of no reasonable use to the pupil.

(c) The principal or superintendent of schools shall immediately suspend, pursuant to Section 48911, and shall recommend expulsion of a pupil that he or she determines has committed any of the following acts at school or at a school activity off school grounds:

(1) Possessing, selling, or otherwise furnishing a firearm. This subdivision does not apply to an act of possessing a firearm if the pupil had obtained prior written permission to possess the firearm from a certificated school employee, which is concurred in by the principal or the designee of the principal. This subdivision applies to an act of possessing a firearm only if the possession is verified by an employee of a school district. The act of possessing an imitation firearm, as defined in subdivision (m) of Section 48900, is not an offense for which suspension or expulsion is mandatory pursuant to this subdivision and subdivision (d), but it is an offense for which suspension, or expulsion pursuant to subdivision (e), may be imposed.

48915.7.

It is the intent of the Legislature that where community school opportunities exist, the principal shall recommend for expulsion, and the governing board shall expel, any pupil who is found to be in possession of a firearm at school or at a school activity off school grounds and that the governing board shall request the county board of education to enroll the pupil in a community school.

Other weapons

STATUTES

48900.

A pupil shall not be suspended from school or recommended for expulsion, unless the superintendent of the school district or the principal of the school in which the pupil is enrolled determines that the pupil has committed an act as defined pursuant to any of subdivisions (a) to (r), inclusive:

(b) Possessed, sold, or otherwise furnished a firearm, knife, explosive, or other dangerous object, unless, in the case of possession of an object of this type, the pupil had obtained written permission to possess the item from a certificated school employee, which is concurred in by the principal or the designee of the principal.

48915.

(a) (1) Except as provided in subdivisions (c) and (e), the principal or the superintendent of schools shall recommend the expulsion of a pupil for any of the following acts committed at school or at a school activity off school grounds, unless the principal or superintendent determines that expulsion should not be recommended under the circumstances or that an alternative means of correction would address the conduct:

(B) Possession of any knife or other dangerous object of no reasonable use to the pupil.

(c) The principal or superintendent of schools shall immediately suspend, pursuant to Section 48911, and shall recommend expulsion of a pupil that he or she determines has committed any of the following acts at school or at a school activity off school grounds:

(2) Brandishing a knife at another person.

(5) Possession of an explosive.

(g) As used in this section, “knife” means any dirk, dagger, or other weapon with a fixed, sharpened blade fitted primarily for stabbing, a weapon with a blade fitted primarily for stabbing, a weapon with a blade longer than 31/2 inches, a folding knife with a blade that locks into place, or a razor with an unguarded blade.

(h) As used in this section, the term “explosive” means “destructive device” as described in Section 921 of Title 18 of the United States Code.

49330.

(a) (1) As used in this article “injurious object” shall mean those objects specified in the following sections:

(A) Section 16250 of the Penal Code.

(B) Subdivisions (a) to (d), inclusive of Section 16520 of the Penal Code.

(C) Section 16590 of the Penal Code.

(D) Section 16880 of the Penal Code.

(E) Section 17235 of the Penal Code.

(F) Section 17240 of the Penal Code.

(G) Section 17250 of the Penal Code.

(2) As used in this article, “injurious object” shall also mean objects capable of inflicting substantial bodily damage, not necessary for the academic purpose of the pupil.

(b) As used in this section, “academic purpose” means any school sponsored activity or class of instruction scheduled during the schoolday.

(c) “Injurious object” does not include any personal possessions or items of apparel which a schoolage child reasonably may be expected either to have in his or her possession or to wear.

(Amended by Stats. 2011, Ch. 285, Sec. 5. Effective January 1, 2012.)

49331.

Any certificated employee of any school district and any classified employee of a school district who is designated by the governing board for such purposes may take from the personal possession of any pupil upon school premises or while under the authority of school personnel any injurious object in the possession of the pupil.

49332.

School personnel may retain protective possession of any injurious object taken pursuant to this section until the risk of its use as a weapon has dissipated, unless prior to dissipation of the risk, the parent or guardian requests that the school personnel retain the object, in which case, the school personnel shall retain the object until the parent or guardian or another adult with the written consent of the parent or guardian appears personally to take possession of the injurious object from the school personnel.

49333.

Notwithstanding Section 49332, a pupil who brings an injurious object to school, and who presents the object to a certificated or classified employee, may have the object returned to him or her at the conclusion of the school day, provided such injurious object may be lawfully possessed off school grounds.

Students with chronic disciplinary issues

STATUTES

48260.

(a) A pupil subject to compulsory full-time education or to compulsory continuation education who is absent from school without a valid excuse three full days in one school year or tardy or absent for more than a 30-minute period during the schoolday without a valid excuse on three occasions in one school year, or any combination thereof, shall be classified as a truant and shall be reported to the attendance supervisor or to the superintendent of the school district.

(b) Notwithstanding subdivision (a), it is the intent of the Legislature that school districts shall not change the method of attendance accounting provided for in existing law and shall not be required to employ period-by-period attendance accounting.

(c) For purposes of this article, a valid excuse includes, but is not limited to, the reasons for which a pupil shall be excused from school pursuant to Sections 48205 and 48225.5 and may include other reasons that are within the discretion of school administrators and, based on the facts of the pupil’s circumstances, are deemed to constitute a valid excuse.

48260.5.

Upon a pupil’s initial classification as a truant, the school district shall notify the pupil’s parent or guardian using the most cost-effective method possible, which may include electronic mail or a telephone call:

(a) That the pupil is truant.

(b) That the parent or guardian is obligated to compel the attendance of the pupil at school.

(d) That alternative educational programs are available in the district.

(e) That the parent or guardian has the right to meet with appropriate school personnel to discuss solutions to the pupil's truancy.

(f) That the pupil may be subject to prosecution under Section 48264.

(g) That the pupil may be subject to suspension, restriction, or delay of the pupil's driving privilege pursuant to Section 13202.7 of the Vehicle Code.

(h) That it is recommended that the parent or guardian accompany the pupil to school and attend classes with the pupil for one day.

48260.6.

(a) In any county which has not established a county school attendance review board pursuant to Section 48321, the school district may notify the district attorney or the probation officer, or both, of the county in which the school district is located, by first-class mail or other reasonable means, of the following if the district attorney or the probation officer has elected to participate in the truancy mediation program described in subdivision (d):

(1) The name of each pupil who has been classified as a truant.

(2) The name and address of the parent or guardian of each pupil who has been classified as a truant.

48262.

Any pupil is deemed an habitual truant who has been reported as a truant three or more times per school year, provided that no pupil shall be deemed an habitual truant unless an appropriate district officer or employee has made a conscientious effort to hold at least one conference with a parent or guardian of the pupil and the pupil himself, after the filing of either of the reports required by Section 48260 or Section 48261. For purposes of this section, a conscientious effort means attempting to communicate with the parents of the pupil at least once using the most cost-effective method possible, which may include electronic mail or a telephone call.

48263.

If any minor pupil in any district of a county is an habitual truant, or is irregular in attendance at school, as defined in this article, or is habitually insubordinate or disorderly during attendance at school, the pupil may be referred to a school attendance review board or to the probation department for services if the probation department has elected to receive these referrals. The supervisor of attendance, or any other persons the governing board of the school district or county may designate, making the referral shall notify the minor and parents or guardians of the minor, in writing, of the name and address of the board or probation department to which the matter has been referred and of the reason for the referral. The notice shall indicate that the pupil and parents or guardians of the pupil will be required, along with the referring person, to meet with the school attendance review board or probation officer to consider a proper disposition of the referral.

If the school attendance review board or probation officer determines that available community services can resolve the problem of the truant or insubordinate pupil, then the board or probation officer shall direct the pupil or the pupil's parents or guardians, or both, to make use of those community services. The school attendance review board or probation officer may require, at any time that it determines proper, the pupil or parents or guardians of the pupil, or both, to furnish satisfactory evidence of participation in the available community services.

If the school attendance review board or probation officer determines that available community services cannot resolve the problem of the truant or insubordinate pupil or if the pupil or the parents or guardians of the pupil, or both, have failed to respond to directives of the school attendance review board or probation officer or to services provided, the school attendance review board may, pursuant to Section

48263.5, notify the district attorney or the probation officer, or both, of the county in which the school district is located, or the probation officer may, pursuant to Section 48263.5, notify the district attorney, if the district attorney or the probation officer has elected to participate in the truancy mediation program described in that section. If the district attorney or the probation office has not elected to participate in the truancy mediation program described in Section 48263.5, the school attendance review board or probation officer may direct the county superintendent of schools to, and, thereupon, the county superintendent of schools shall, request a petition on behalf of the pupil in the juvenile court of the county. Upon presentation of a petition on behalf of a pupil, the juvenile court of the county shall hear all evidence relating to the petition. The school attendance review board or the probation officer shall submit to the juvenile court documentation of efforts to secure attendance as well as its recommendations on what action the juvenile court shall take in order to bring about a proper disposition of the case.

In any county which has not established a school attendance review board, if the school district determines that available community resources cannot resolve the problem of the truant or insubordinate pupil, or if the pupil or the pupil's parents or guardians, or both, have failed to respond to the directives of the school district or the services provided, the school district, pursuant to Section 48260.6, may notify the district attorney or the probation officer, or both, of the county in which the school district is located, if the district attorney or the probation officer has elected to participate in the truancy mediation program described in Section 48260.6.

48263.6.

Any pupil subject to compulsory full-time education or to compulsory continuation education who is absent from school without a valid excuse for 10 percent or more of the schooldays in one school year, from the date of enrollment to the current date, is deemed a chronic truant, provided that the appropriate school district officer or employee has complied with Sections 48260, 48260.5, 48261, 48262, 48263, and 48291.

48264.5.

(c) The third time a truancy report is issued within the same school year, the pupil shall be classified as a habitual truant, as defined in Section 48262, and may be referred to, and required to attend, an attendance review board or a truancy mediation program pursuant to Section 48263 or pursuant to Section 601.3 of the Welfare and Institutions Code. If the school district does not have a truancy mediation program, the pupil may be required to attend a comparable program deemed acceptable by the school district's attendance supervisor. If the pupil does not successfully complete the truancy mediation program or other similar program, the pupil shall be subject to subdivision (d).

(d) The fourth time a truancy is issued within the same school year, the pupil may be within the jurisdiction of the juvenile court that may adjudge the pupil to be a ward of the court pursuant to Section 601 of the Welfare and Institutions Code. If the pupil is adjudged a ward of the court, the pupil shall be required to do one or more of the following:

(1) Performance at court-approved community services sponsored by either a public or private nonprofit agency for not less than 20 hours but not more than 40 hours over a period not to exceed 90 days, during a time other than the pupil's hours of school attendance or employment. The probation officer shall report to the court the failure of the pupil to comply with this paragraph.

48267.

Any pupil who has once been adjudged an habitual truant or habitually insubordinate or disorderly during attendance at school by the juvenile court of the county, or has been found to be a person described in Section 602 and as a condition of probation is required to attend a school program approved by a probation officer, who is reported as a truant from school one or more days or tardy on one or more days

without valid excuse, in the same school year or in a succeeding year, or habitually insubordinate, or disorderly during attendance at school, shall be brought to the attention of the juvenile court and the pupil's probation or parole officer within 10 days of the reported violation.

Notwithstanding Section 827 of the Welfare and Institutions Code, written notice that a minor enrolled in a public school in grades 7 to 12, inclusive, has been found by a court to be a person described in Section 602 and as a condition of probation is required to attend a school program approved by a probation officer shall be provided by the juvenile court, within seven days of the entry of the dispositional order, to the superintendent of the school district of attendance, which information shall be expeditiously transmitted to the principal or to one person designated by the principal of the school that the minor is attending. The principal or the principal's designee shall not disclose this information to any other person except as otherwise required by law.

48268.

The court, in addition to any judgment it may make regarding the pupil, may render judgment that the parent, guardian, or person having the control or charge of the pupil shall deliver him at the beginning of each schoolday, for the remainder of the school term, at the school from which he is a truant, or in which he has been insubordinate or disorderly during attendance, or to a school designated by school authorities.

48915.

(b) Upon recommendation by the principal or the superintendent of schools, or by a hearing officer or administrative panel appointed pursuant to subdivision (d) of Section 48918, the governing board of a school district may order a pupil expelled upon finding that the pupil committed an act listed in paragraph (1) of subdivision (a) or in subdivision (a), (b), (c), (d), or (e) of Section 48900. A decision to expel a pupil for any of those acts shall be based on a finding of one or both of the following:

(1) Other means of correction are not feasible or have repeatedly failed to bring about proper conduct.

(2) Due to the nature of the act, the presence of the pupil causes a continuing danger to the physical safety of the pupil or others.

(d) The governing board of a school district shall order a pupil expelled upon finding that the pupil committed an act listed in subdivision (c), and shall refer that pupil to a program of study that meets all of the following conditions:

(1) Is appropriately prepared to accommodate pupils who exhibit discipline problems.

(e) Upon recommendation by the principal or the superintendent of schools, or by a hearing officer or administrative panel appointed pursuant to subdivision (d) of Section 48918, the governing board of a school district may order a pupil expelled upon finding that the pupil, at school or at a school activity off of school grounds violated subdivision (f), (g), (h), (i), (j), (k), (l), or (m) of Section 48900, or Section 48900.2, 48900.3, or 48900.4, and either of the following:

(1) That other means of correction are not feasible or have repeatedly failed to bring about proper conduct.

(2) That due to the nature of the violation, the presence of the pupil causes a continuing danger to the physical safety of the pupil or others.

Attendance and truancy

STATUTES

32261.

(a) The Legislature hereby recognizes that all pupils enrolled in the state public schools have the inalienable right to attend classes on school campuses that are safe, secure, and peaceful. The Legislature also recognizes that pupils cannot fully benefit from an educational program unless they attend school on a regular basis. In addition, the Legislature further recognizes that school crime, vandalism, truancy, and excessive absenteeism are significant problems on far too many school campuses in the state.

(b) The Legislature hereby finds and declares that the establishment of an interagency coordination system is the most efficient and long-lasting means of resolving school and community problems of truancy and crime, including vandalism, drug and alcohol abuse, gang membership, gang violence, and hate crimes.

48200.

Each person between the ages of 6 and 18 years not exempted under the provisions of this chapter or Chapter 3 (commencing with Section 48400) is subject to compulsory full-time education. Each person subject to compulsory full-time education and each person subject to compulsory continuation education not exempted under the provisions of Chapter 3 (commencing with Section 48400) shall attend the public full-time day school or continuation school or classes and for the full time designated as the length of the schoolday by the governing board of the school district in which the residency of either the parent or legal guardian is located and each parent, guardian, or other person having control or charge of the pupil shall send the pupil to the public full-time day school or continuation school or classes and for the full time designated as the length of the schoolday by the governing board of the school district in which the residence of either the parent or legal guardian is located.

Unless otherwise provided for in this code, a pupil shall not be enrolled for less than the minimum schoolday established by law.

48260.

(a) A pupil subject to compulsory full-time education or to compulsory continuation education who is absent from school without a valid excuse three full days in one school year or tardy or absent for more than a 30-minute period during the schoolday without a valid excuse on three occasions in one school year, or any combination thereof, shall be classified as a truant and shall be reported to the attendance supervisor or to the superintendent of the school district.

(b) Notwithstanding subdivision (a), it is the intent of the Legislature that school districts shall not change the method of attendance accounting provided for in existing law and shall not be required to employ period-by-period attendance accounting.

(c) For purposes of this article, a valid excuse includes, but is not limited to, the reasons for which a pupil shall be excused from school pursuant to Sections 48205 and 48225.5 and may include other reasons that are within the discretion of school administrators and, based on the facts of the pupil's circumstances, are deemed to constitute a valid excuse.

48260.5.

Upon a pupil's initial classification as a truant, the school district shall notify the pupil's parent or guardian using the most cost-effective method possible, which may include electronic mail or a telephone call:

(a) That the pupil is truant.

(b) That the parent or guardian is obligated to compel the attendance of the pupil at school.

(d) That alternative educational programs are available in the district.

(e) That the parent or guardian has the right to meet with appropriate school personnel to discuss solutions to the pupil's truancy.

(f) That the pupil may be subject to prosecution under Section 48264.

(g) That the pupil may be subject to suspension, restriction, or delay of the pupil's driving privilege pursuant to Section 13202.7 of the Vehicle Code.

(h) That it is recommended that the parent or guardian accompany the pupil to school and attend classes with the pupil for one day.

48260.6.

(a) In any county which has not established a county school attendance review board pursuant to Section 48321, the school district may notify the district attorney or the probation officer, or both, of the county in which the school district is located, by first-class mail or other reasonable means, of the following if the district attorney or the probation officer has elected to participate in the truancy mediation program described in subdivision (d):

(1) The name of each pupil who has been classified as a truant.

(2) The name and address of the parent or guardian of each pupil who has been classified as a truant.

(b) The school district may also notify the district attorney or the probation officer, or both, as to whether the pupil continues to be classified as a truant after the parents have been notified pursuant to subdivision (a) of Section 48260.5.

(c) In any county which has not established a county school attendance review board, the district attorney or the probation officer of the county in which the school district is located may notify the parents or guardians of every truant, by first-class mail or other reasonable means, that they may be subject to prosecution pursuant to Article 6 (commencing with Section 48290) of Chapter 2 of Part 27 for failure to compel the attendance of the pupil at school.

(d) If the district attorney or the probation officer, or both, are notified by a school district that a child continues to be classified as a truant after the parents or guardians have been notified pursuant to subdivision (a) of Section 48260.5, the district attorney or the probation officer in any county which has not established a county school attendance review board may request the parents or guardians and the child to attend a meeting in the district attorney's office or at the probation department pursuant to Section 601.3 of the Welfare and Institutions Code to discuss the possible legal consequences of the child's truancy. Notice of the meeting shall be given pursuant to Section 601.3 of the Welfare and Institutions Code.

48261.

Any pupil who has once been reported as a truant and who is again absent from school without valid excuse one or more days, or tardy on one or more days, shall again be reported as a truant to the attendance supervisor or the superintendent of the district.

48262.

Any pupil is deemed an habitual truant who has been reported as a truant three or more times per school year, provided that no pupil shall be deemed an habitual truant unless an appropriate district officer or employee has made a conscientious effort to hold at least one conference with a parent or guardian of the pupil and the pupil himself, after the filing of either of the reports required by Section 48260 or Section

48261. For purposes of this section, a conscientious effort means attempting to communicate with the parents of the pupil at least once using the most cost-effective method possible, which may include electronic mail or a telephone call.

48263.

If any minor pupil in any district of a county is an habitual truant, or is irregular in attendance at school, as defined in this article, or is habitually insubordinate or disorderly during attendance at school, the pupil may be referred to a school attendance review board or to the probation department for services if the probation department has elected to receive these referrals. The supervisor of attendance, or any other persons the governing board of the school district or county may designate, making the referral shall notify the minor and parents or guardians of the minor, in writing, of the name and address of the board or probation department to which the matter has been referred and of the reason for the referral. The notice shall indicate that the pupil and parents or guardians of the pupil will be required, along with the referring person, to meet with the school attendance review board or probation officer to consider a proper disposition of the referral.

If the school attendance review board or probation officer determines that available community services can resolve the problem of the truant or insubordinate pupil, then the board or probation officer shall direct the pupil or the pupil's parents or guardians, or both, to make use of those community services. The school attendance review board or probation officer may require, at any time that it determines proper, the pupil or parents or guardians of the pupil, or both, to furnish satisfactory evidence of participation in the available community services.

If the school attendance review board or probation officer determines that available community services cannot resolve the problem of the truant or insubordinate pupil or if the pupil or the parents or guardians of the pupil, or both, have failed to respond to directives of the school attendance review board or probation officer or to services provided, the school attendance review board may, pursuant to Section 48263.5, notify the district attorney or the probation officer, or both, of the county in which the school district is located, or the probation officer may, pursuant to Section 48263.5, notify the district attorney, if the district attorney or the probation officer has elected to participate in the truancy mediation program described in that section. If the district attorney or the probation office has not elected to participate in the truancy mediation program described in Section 48263.5, the school attendance review board or probation officer may direct the county superintendent of schools to, and, thereupon, the county superintendent of schools shall, request a petition on behalf of the pupil in the juvenile court of the county. Upon presentation of a petition on behalf of a pupil, the juvenile court of the county shall hear all evidence relating to the petition. The school attendance review board or the probation officer shall submit to the juvenile court documentation of efforts to secure attendance as well as its recommendations on what action the juvenile court shall take in order to bring about a proper disposition of the case.

In any county which has not established a school attendance review board, if the school district determines that available community resources cannot resolve the problem of the truant or insubordinate pupil, or if the pupil or the pupil's parents or guardians, or both, have failed to respond to the directives of the school district or the services provided, the school district, pursuant to Section 48260.6, may notify the district attorney or the probation officer, or both, of the county in which the school district is located, if the district attorney or the probation officer has elected to participate in the truancy mediation program described in Section 48260.6.

48263.6.

Any pupil subject to compulsory full-time education or to compulsory continuation education who is absent from school without a valid excuse for 10 percent or more of the schooldays in one school year, from the date of enrollment to the current date, is deemed a chronic truant, provided that the appropriate

school district officer or employee has complied with Sections 48260, 48260.5, 48261, 48262, 48263, and 48291.

48264.

The attendance supervisor or his or her designee, a peace officer, a school administrator or his or her designee, or a probation officer may arrest or assume temporary custody, during school hours, of any minor subject to compulsory full-time education or to compulsory continuation education found away from his or her home and who is absent from school without valid excuse within the county, city, or city and county, or school district.

48264.5.

A minor who is classified as a truant pursuant to Section 48260 or 48261 may be required to attend makeup classes conducted on one day of a weekend pursuant to subdivision (c) of Section 37223 and is subject to the following:

(a) The first time a truancy report is issued, the pupil and, as appropriate, the parent or legal guardian, may be requested to attend a meeting with a school counselor or other school designee to discuss the root causes of the attendance issue and develop a joint plan to improve the pupil's attendance.

(b) The second time a truancy report is issued within the same school year, the pupil may be given a written warning by a peace officer as specified in Section 830.1 of the Penal Code. A record of the written warning may be kept at the school for not less than two years or until the pupil graduates or transfers from that school. If the pupil transfers from that school, the record may be forwarded to the school receiving the pupil's school records. A record of the written warning may be maintained by the law enforcement agency in accordance with that law enforcement agency's policies and procedures. The pupil may also be assigned by the school to an afterschool or weekend study program located within the same county as the pupil's school. If the pupil fails to successfully complete the assigned study program, the pupil shall be subject to subdivision (c).

(c) The third time a truancy report is issued within the same school year, the pupil shall be classified as a habitual truant, as defined in Section 48262, and may be referred to, and required to attend, an attendance review board or a truancy mediation program pursuant to Section 48263 or pursuant to Section 601.3 of the Welfare and Institutions Code. If the school district does not have a truancy mediation program, the pupil may be required to attend a comparable program deemed acceptable by the school district's attendance supervisor. If the pupil does not successfully complete the truancy mediation program or other similar program, the pupil shall be subject to subdivision (d).

(d) The fourth time a truancy is issued within the same school year, the pupil may be within the jurisdiction of the juvenile court that may adjudge the pupil to be a ward of the court pursuant to Section 601 of the Welfare and Institutions Code. If the pupil is adjudged a ward of the court, the pupil shall be required to do one or more of the following:

(1) Performance at court-approved community services sponsored by either a public or private nonprofit agency for not less than 20 hours but not more than 40 hours over a period not to exceed 90 days, during a time other than the pupil's hours of school attendance or employment. The probation officer shall report to the court the failure of the pupil to comply with this paragraph.

(2) Payment of a fine by the pupil of not more than fifty dollars ($50) for which a parent or legal guardian of the pupil may be jointly liable. The fine described in this paragraph shall not be subject to the assessments of Section 1464 of the Penal Code or any other applicable section.

(3) Attendance of a court-approved truancy prevention program.

(4) Suspension or revocation of driving privileges pursuant to Section 13202.7 of the Vehicle Code. This subdivision shall apply only to a pupil who has attended a school attendance review board

program, a program operated by a probation department acting as a school attendance review board, or a truancy mediation program pursuant to subdivision (c).

48267.

Any pupil who has once been adjudged an habitual truant or habitually insubordinate or disorderly during attendance at school by the juvenile court of the county, or has been found to be a person described in Section 602 and as a condition of probation is required to attend a school program approved by a probation officer, who is reported as a truant from school one or more days or tardy on one or more days without valid excuse, in the same school year or in a succeeding year, or habitually insubordinate, or disorderly during attendance at school, shall be brought to the attention of the juvenile court and the pupil's probation or parole officer within 10 days of the reported violation.

Notwithstanding Section 827 of the Welfare and Institutions Code, written notice that a minor enrolled in a public school in grades 7 to 12, inclusive, has been found by a court to be a person described in Section 602 and as a condition of probation is required to attend a school program approved by a probation officer shall be provided by the juvenile court, within seven days of the entry of the dispositional order, to the superintendent of the school district of attendance, which information shall be expeditiously transmitted to the principal or to one person designated by the principal of the school that the minor is attending. The principal or the principal's designee shall not disclose this information to any other person except as otherwise required by law.

48268.

The court, in addition to any judgment it may make regarding the pupil, may render judgment that the parent, guardian, or person having the control or charge of the pupil shall deliver him at the beginning of each schoolday, for the remainder of the school term, at the school from which he is a truant, or in which he has been insubordinate or disorderly during attendance, or to a school designated by school authorities.

48900.

(v) For a pupil subject to discipline under this section, a superintendent of the school district or principal may use his or her discretion to provide alternatives to suspension or expulsion that are age appropriate and designed to address and correct the pupil's specific misbehavior as specified in Section 48900.5.

(w) It is the intent of the Legislature that alternatives to suspension or expulsion be imposed against a pupil who is truant, tardy, or otherwise absent from school activities.

Substance use

STATUTES

32261.

(a) The Legislature hereby recognizes that all pupils enrolled in the state public schools have the inalienable right to attend classes on school campuses that are safe, secure, and peaceful. The Legislature also recognizes that pupils cannot fully benefit from an educational program unless they attend school on a regular basis. In addition, the Legislature further recognizes that school crime, vandalism, truancy, and excessive absenteeism are significant problems on far too many school campuses in the state.

(b) The Legislature hereby finds and declares that the establishment of an interagency coordination system is the most efficient and long-lasting means of resolving school and community problems of

truancy and crime, including vandalism, drug and alcohol abuse, gang membership, gang violence, and hate crimes.

(d) It is the intent of the Legislature in enacting this chapter to encourage school districts, county offices of education, law enforcement agencies, and agencies serving youth to develop and implement interagency strategies, in-service training programs, and activities that will improve school attendance and reduce school crime and violence, including vandalism, drug and alcohol abuse, gang membership, gang violence, hate crimes, bullying, including bullying committed personally or by means of an electronic act, teen relationship violence, and discrimination and harassment, including, but not limited to, sexual harassment.

(e) It is the intent of the Legislature in enacting this chapter that the School/Law Enforcement Partnership shall not duplicate any existing gang or drug and alcohol abuse program currently provided for schools.

(f) As used in this chapter, “bullying” has the same meaning as set forth in subdivision (r) of Section 48900.

(g) As used in this chapter, “electronic act” has the same meaning as set forth in subdivision (r) of Section 48900.

48900.

A pupil shall not be suspended from school or recommended for expulsion, unless the superintendent of the school district or the principal of the school in which the pupil is enrolled determines that the pupil has committed an act as defined pursuant to any of subdivisions (a) to (r), inclusive:

(c) Unlawfully possessed, used, sold, or otherwise furnished, or been under the influence of, a controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, an alcoholic beverage, or an intoxicant of any kind.

(d) Unlawfully offered, arranged, or negotiated to sell a controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, an alcoholic beverage, or an intoxicant of any kind, and either sold, delivered, or otherwise furnished to a person another liquid, substance, or material and represented the liquid, substance, or material as a controlled substance, alcoholic beverage, or intoxicant.

(h) Possessed or used tobacco, or products containing tobacco or nicotine products, including, but not limited to, cigarettes, cigars, miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew packets, and betel. However, this section does not prohibit use or possession by a pupil of his or her own prescription products.

(j) Unlawfully possessed or unlawfully offered, arranged, or negotiated to sell drug paraphernalia, as defined in Section 11014.5 of the Health and Safety Code.

(p) Unlawfully offered, arranged to sell, negotiated to sell, or sold the prescription drug Soma.

48901.

(a) No school shall permit the smoking or use of tobacco, or any product containing tobacco or nicotine products, by pupils of the school while the pupils are on campus, or while attending school-sponsored activities or while under the supervision and control of school district employees.

(b) The governing board of any school district maintaining a high school shall take all steps it deems practical to discourage high school students from smoking.

48909.

When a petition is requested in juvenile court or a complaint is filed in any court alleging that a minor of compulsory school attendance age or any pupil currently enrolled in a public school in a grade to and

including grade 12 is a person who (a) has used, sold, or possessed narcotics or other hallucinogenic drugs or substances; (b) has inhaled or breathed the fumes of, or ingested any poison classified as such in Section 4160 of the Business and Professions Code; or (c) has committed felonious assault, homicide, or rape the district attorney may, within 48 hours, provide written notice to the superintendent of the school district of attendance, notwithstanding the provisions of Section 827 of the Welfare and Institutions Code, and to the pupil's parent or guardian.

48915.

(a) (1) Except as provided in subdivisions (c) and (e), the principal or the superintendent of schools shall recommend the expulsion of a pupil for any of the following acts committed at school or at a school activity off school grounds, unless the principal or superintendent determines that expulsion should not be recommended under the circumstances or that an alternative means of correction would address the conduct:

(C) Unlawful possession of any controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, except for either of the following:

(i) The first offense for the possession of not more than one avoirdupois ounce of marijuana, other than concentrated cannabis.

(ii) The possession of over-the-counter medication for use by the pupil for medical purposes or medication prescribed for the pupil by a physician.

(c) The principal or superintendent of schools shall immediately suspend, pursuant to Section 48911, and shall recommend expulsion of a pupil that he or she determines has committed any of the following acts at school or at a school activity off school grounds:

(3) Unlawfully selling a controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code.

48916.5.

The governing board may require a pupil who is expelled from school for reasons relating to controlled substances, as defined in Sections 11054 to 11058, inclusive, of the Health and Safety Code, or alcohol, prior to returning to school to enroll in a county-supported drug rehabilitation program. No pupil shall be required to enroll in a rehabilitation program pursuant to this section without the consent of his or her parent or guardian.

Bullying, harassment, or hazing

STATUTES

32261.

(a) The Legislature hereby recognizes that all pupils enrolled in the state public schools have the inalienable right to attend classes on school campuses that are safe, secure, and peaceful. The Legislature also recognizes that pupils cannot fully benefit from an educational program unless they attend school on a regular basis. In addition, the Legislature further recognizes that school crime, vandalism, truancy, and excessive absenteeism are significant problems on far too many school campuses in the state.

(d) It is the intent of the Legislature in enacting this chapter to encourage school districts, county offices of education, law enforcement agencies, and agencies serving youth to develop and implement interagency strategies, in-service training programs, and activities that will improve school attendance and reduce school crime and violence, including vandalism, drug and alcohol abuse, gang membership, gang

violence, hate crimes, bullying, including bullying committed personally or by means of an electronic act, teen relationship violence, and discrimination and harassment, including, but not limited to, sexual harassment.

(f) As used in this chapter, “bullying” has the same meaning as set forth in subdivision (r) of Section 48900.

(g) As used in this chapter, “electronic act” has the same meaning as set forth in subdivision (r) of Section 48900.

32282.

(a) The comprehensive school safety plan shall include, but not be limited to, both of the following:

(2) Identifying appropriate strategies and programs that will provide or maintain a high level of school safety and address the school’s procedures for complying with existing laws related to school safety, which shall include the development of all of the following:

(C) Policies pursuant to subdivision (d) of Section 48915 for pupils who committed an act listed in subdivision (c) of Section 48915 and other school-designated serious acts which would lead to suspension, expulsion, or mandatory expulsion recommendations pursuant to Article 1 (commencing with Section 48900) of Chapter 6 of Part 27 of Division 4 of Title 2.

(D) Procedures to notify teachers of dangerous pupils pursuant to Section 49079.

(E) A discrimination and harassment policy consistent with the prohibition against discrimination contained in Chapter 2 (commencing with Section 200) of Part 1.

48900.

A pupil shall not be suspended from school or recommended for expulsion, unless the superintendent of the school district or the principal of the school in which the pupil is enrolled determines that the pupil has committed an act as defined pursuant to any of subdivisions (a) to (r), inclusive:

(q) Engaged in, or attempted to engage in, hazing. For purposes of this subdivision, “hazing” means a method of initiation or preinitiation into a pupil organization or body, whether or not the organization or body is officially recognized by an educational institution, which is likely to cause serious bodily injury or personal degradation or disgrace resulting in physical or mental harm to a former, current, or prospective pupil. For purposes of this subdivision, “hazing” does not include athletic events or school-sanctioned events.

(r) Engaged in an act of bullying. For purposes of this subdivision, the following terms have the following meanings:

(1) “Bullying” means any severe or pervasive physical or verbal act or conduct, including communications made in writing or by means of an electronic act, and including one or more acts committed by a pupil or group of pupils as defined in Section 48900.2, 48900.3, or 48900.4, directed toward one or more pupils that has or can be reasonably predicted to have the effect of one or more of the following:

(A) Placing a reasonable pupil or pupils in fear of harm to that pupil’s or those pupils’ person or property.

(B) Causing a reasonable pupil to experience a substantially detrimental effect on his or her physical or mental health.

(C) Causing a reasonable pupil to experience substantial interference with his or her academic performance.

(D) Causing a reasonable pupil to experience substantial interference with his or her ability to participate in or benefit from the services, activities, or privileges provided by a school.

(2) (A) “Electronic act” means the transmission, by means of an electronic device, including, but not limited to, a telephone, wireless telephone, or other wireless communication device, computer, or pager, of a communication, including, but not limited to, any of the following:

(i) A message, text, sound, or image.

(ii) A post on a social network Internet Web site including, but not limited to:

(I) Posting to or creating a burn page. “Burn page” means an Internet Web site created for the purpose of having one or more of the effects listed in paragraph (1).

(II) Creating a credible impersonation of another actual pupil for the purpose of having one or more of the effects listed in paragraph (1). “Credible impersonation” means to knowingly and without consent impersonate a pupil for the purpose of bullying the pupil and such that another pupil would reasonably believe, or has reasonably believed, that the pupil was or is the pupil who was impersonated.

(III) Creating a false profile for the purpose of having one or more of the effects listed in paragraph (1). “False profile” means a profile of a fictitious pupil or a profile using the likeness or attributes of an actual pupil other than the pupil who created the false profile.

(B) Notwithstanding paragraph (1) and subparagraph (A), an electronic act shall not constitute pervasive conduct solely on the basis that it has been transmitted on the Internet or is currently posted on the Internet.

(3) “Reasonable pupil” means a pupil, including, but not limited to, an exceptional needs pupil, who exercises average care, skill, and judgment in conduct for a person of his or her age, or for a person of his or her age with his or her exceptional needs.

48900.2.

In addition to the reasons specified in Section 48900, a pupil may be suspended from school or recommended for expulsion if the superintendent or the principal of the school in which the pupil is enrolled determines that the pupil has committed sexual harassment as defined in Section 212.5.

For the purposes of this chapter, the conduct described in Section 212.5 must be considered by a reasonable person of the same gender as the victim to be sufficiently severe or pervasive to have a negative impact upon the individual’s academic performance or to create an intimidating, hostile, or offensive educational environment. This section shall not apply to pupils enrolled in kindergarten and grades 1 to 3, inclusive.

48900.3.

In addition to the reasons set forth in Sections 48900 and 48900.2, a pupil in any of grades 4 to 12, inclusive, may be suspended from school or recommended for expulsion if the superintendent or the principal of the school in which the pupil is enrolled determines that the pupil has caused, attempted to cause, threatened to cause, or participated in an act of, hate violence, as defined in subdivision (e) of Section 233.

48900.4.

In addition to the grounds specified in Sections 48900 and 48900.2, a pupil enrolled in any of grades 4 to 12, inclusive, may be suspended from school or recommended for expulsion if the superintendent or the principal of the school in which the pupil is enrolled determines that the pupil has intentionally engaged in harassment, threats, or intimidation, directed against school district personnel or pupils, that is sufficiently severe or pervasive to have the actual and reasonably expected effect of materially disrupting classwork, creating substantial disorder, and invading the rights of either school personnel or pupils by creating an intimidating or hostile educational environment.

Other special infractions or conditions

STATUTES

32261.

(a) The Legislature hereby recognizes that all pupils enrolled in the state public schools have the inalienable right to attend classes on school campuses that are safe, secure, and peaceful. The Legislature also recognizes that pupils cannot fully benefit from an educational program unless they attend school on a regular basis. In addition, the Legislature further recognizes that school crime, vandalism, truancy, and excessive absenteeism are significant problems on far too many school campuses in the state.

(b) The Legislature hereby finds and declares that the establishment of an interagency coordination system is the most efficient and long-lasting means of resolving school and community problems of truancy and crime, including vandalism, drug and alcohol abuse, gang membership, gang violence, and hate crimes.

(d) It is the intent of the Legislature in enacting this chapter to encourage school districts, county offices of education, law enforcement agencies, and agencies serving youth to develop and implement interagency strategies, in-service training programs, and activities that will improve school attendance and reduce school crime and violence, including vandalism, drug and alcohol abuse, gang membership, gang violence, hate crimes, bullying, including bullying committed personally or by means of an electronic act, teen relationship violence, and discrimination and harassment, including, but not limited to, sexual harassment.

(f) As used in this chapter, “bullying” has the same meaning as set forth in subdivision (r) of Section 48900.

(g) As used in this chapter, “electronic act” has the same meaning as set forth in subdivision (r) of Section 48900

32282.

(a) The comprehensive school safety plan shall include, but not be limited to, both of the following:

(2) Identifying appropriate strategies and programs that will provide or maintain a high level of school safety and address the school’s procedures for complying with existing laws related to school safety, which shall include the development of all of the following:

(F) The provisions of any schoolwide dress code, pursuant to Section 35183, that prohibits pupils from wearing “gang-related apparel,” if the school has adopted that type of a dress code. For those purposes, the comprehensive school safety plan shall define “gang-related apparel.” The definition shall be limited to apparel that, if worn or displayed on a school campus, reasonably could be determined to threaten the health and safety of the school environment. Any schoolwide dress code established pursuant to this section and Section 35183 shall be enforced on the school campus and at any school-sponsored activity by the principal of the school or the person designated by the principal. For purposes of this paragraph, “gang-related apparel” shall not be considered a protected form of speech pursuant to Section 48950.

48900.

A pupil shall not be suspended from school or recommended for expulsion, unless the superintendent of the school district or the principal of the school in which the pupil is enrolled determines that the pupil has committed an act as defined pursuant to any of subdivisions (a) to (r), inclusive:

(a) (1) Caused, attempted to cause, or threatened to cause physical injury to another person.

(2) Willfully used force or violence upon the person of another, except in self-defense.

(e) Committed or attempted to commit robbery or extortion.

(f) Caused or attempted to cause damage to school property or private property.

(g) Stole or attempted to steal school property or private property.

(i) Committed an obscene act or engaged in habitual profanity or vulgarity.

(k) Disrupted school activities or otherwise willfully defied the valid authority of supervisors, teachers, administrators, school officials, or other school personnel engaged in the performance of their duties.

(l) Knowingly received stolen school property or private property.

(n) Committed or attempted to commit a sexual assault as defined in Section 261, 266c, 286, 288, 288a, or 289 of the Penal Code or committed a sexual battery as defined in Section 243.4 of the Penal Code.

(o) Harassed, threatened, or intimidated a pupil who is a complaining witness or a witness in a school disciplinary proceeding for purposes of either preventing that pupil from being a witness or retaliating against that pupil for being a witness, or both.

48900.2.

In addition to the reasons specified in Section 48900, a pupil may be suspended from school or recommended for expulsion if the superintendent or the principal of the school in which the pupil is enrolled determines that the pupil has committed sexual harassment as defined in Section 212.5.

For the purposes of this chapter, the conduct described in Section 212.5 must be considered by a reasonable person of the same gender as the victim to be sufficiently severe or pervasive to have a negative impact upon the individual's academic performance or to create an intimidating, hostile, or offensive educational environment. This section shall not apply to pupils enrolled in kindergarten and grades 1 to 3, inclusive.

48900.3.

In addition to the reasons set forth in Sections 48900 and 48900.2, a pupil in any of grades 4 to 12, inclusive, may be suspended from school or recommended for expulsion if the superintendent or the principal of the school in which the pupil is enrolled determines that the pupil has caused, attempted to cause, threatened to cause, or participated in an act of, hate violence, as defined in subdivision (e) of Section 233.

48900.7

(a) In addition to the reasons specified in Sections 48900, 48900.2, 48900.3, and 48900.4, a pupil may be suspended from school or recommended for expulsion if the superintendent or the principal of the school in which the pupil is enrolled determines that the pupil has made terroristic threats against school officials or school property, or both.

(b) For the purposes of this section, "terroristic threat" shall include any statement, whether written or oral, by a person who willfully threatens to commit a crime which will result in death, great bodily injury to another person, or property damage in excess of one thousand dollars ($1,000), with the specific intent that the statement is to be taken as a threat, even if there is no intent of actually carrying it out, which, on its face and under the circumstances in which it is made, is so unequivocal, unconditional, immediate, and specific as to convey to the person threatened, a gravity of purpose and an immediate prospect of execution of the threat, and thereby causes that person reasonably to be in sustained fear for his or her own safety or for his or her immediate family's safety, or for the protection of school district property, or the personal property of the person threatened or his or her immediate family.

48901.5.

(a) The governing board of each school district, or its designee, may regulate the possession or use of any electronic signaling device that operates through the transmission or receipt of radio waves, including, but not limited to, paging and signaling equipment, by pupils of the school district while the pupils are on campus, while attending school-sponsored activities, or while under the supervision and control of school district employees.

(b) No pupil shall be prohibited from possessing or using an electronic signaling device that is determined by a licensed physician and surgeon to be essential for the health of the pupil and use of which is limited to purposes related to the health of the pupil.

48909.

When a petition is requested in juvenile court or a complaint is filed in any court alleging that a minor of compulsory school attendance age or any pupil currently enrolled in a public school in a grade to and including grade 12 is a person who (a) has used, sold, or possessed narcotics or other hallucinogenic drugs or substances; (b) has inhaled or breathed the fumes of, or ingested any poison classified as such in Section 4160 of the Business and Professions Code; or (c) has committed felonious assault, homicide, or rape the district attorney may, within 48 hours, provide written notice to the superintendent of the school district of attendance, notwithstanding the provisions of Section 827 of the Welfare and Institutions Code, and to the pupil's parent or guardian.

48915.

(a) (1) Except as provided in subdivisions (c) and (e), the principal or the superintendent of schools shall recommend the expulsion of a pupil for any of the following acts committed at school or at a school activity off school grounds, unless the principal or superintendent determines that expulsion should not be recommended under the circumstances or that an alternative means of correction would address the conduct:

(A) Causing serious physical injury to another person, except in self-defense.

(D) Robbery or extortion.

(E) Assault or battery, as defined in Sections 240 and 242 of the Penal Code, upon any school employee.

(c) The principal or superintendent of schools shall immediately suspend, pursuant to Section 48911, and shall recommend expulsion of a pupil that he or she determines has committed any of the following acts at school or at a school activity off school grounds:

(4) Committing or attempting to commit a sexual assault as defined in subdivision (n) of Section 48900 or committing a sexual battery as defined in subdivision (n) of Section 48900.

(5) Possession of an explosive.

(h) As used in this section, the term "explosive" means "destructive device" as described in Section 921 of Title 18 of the United States Code.

49330.

(a) (1) As used in this article "injurious object" shall mean those objects specified in the following sections:

(A) Section 16250 of the Penal Code.

(B) Subdivisions (a) to (d), inclusive of Section 16520 of the Penal Code.

(C) Section 16590 of the Penal Code.

(D) Section 16880 of the Penal Code.

(E) Section 17235 of the Penal Code.

(F) Section 17240 of the Penal Code.

(G) Section 17250 of the Penal Code.

(2) As used in this article, “injurious object” shall also mean objects capable of inflicting substantial bodily damage, not necessary for the academic purpose of the pupil.

(b) As used in this section, “academic purpose” means any school sponsored activity or class of instruction scheduled during the schoolday.

(c) “Injurious object” does not include any personal possessions or items of apparel which a schoolage child reasonably may be expected either to have in his or her possession or to wear.

(Amended by Stats. 2011, Ch. 285, Sec. 5. Effective January 1, 2012.)

49331.

Any certificated employee of any school district and any classified employee of a school district who is designated by the governing board for such purposes may take from the personal possession of any pupil upon school premises or while under the authority of school personnel any injurious object in the possession of the pupil.

49332.

The parent or guardian of a pupil from whom an injurious object has been taken pursuant to this section may be notified by school personnel of the taking.

School personnel may retain protective possession of any injurious object taken pursuant to this section until the risk of its use as a weapon has dissipated, unless prior to dissipation of the risk, the parent or guardian requests that the school personnel retain the object, in which case, the school personnel shall retain the object until the parent or guardian or another adult with the written consent of the parent or guardian appears personally to take possession of the injurious object from the school personnel.

49333.

Notwithstanding Section 49332, a pupil who brings an injurious object to school, and who presents the object to a certificated or classified employee, may have the object returned to him or her at the conclusion of the school day, provided such injurious object may be lawfully possessed off school grounds.

Prevention and Behavioral Interventions (Non-Punitive)

Prevention

STATUTES

32265.

(a) The partnership shall sponsor at least two regional conferences for school districts, county offices of education, agencies serving youth, allied agencies, community-based organizations, and law enforcement agencies to identify exemplary programs and techniques that have been effectively used to reduce school crime, including hate crimes, vandalism, drug and alcohol abuse, gang membership and gang violence, truancy, and excessive absenteeism.

(b) The conference may include, but need not be limited to, information on all of the following topics:

(1) Interagency collaboration between schools, agencies serving youth, law enforcement agencies, and others.

(2) School attendance.

(3) School safety.

(4) Citizenship education.

(5) Drug and alcohol abuse.

(6) Child abuse prevention, detection, and reporting.

(7) Parental education.

(8) Crisis response training.

(9) Bullying prevention, including the prevention of acts committed personally or by means of an electronic act.

(10) Threat assessment.

(11) Conflict resolution and youth mediation.

(12) Teen relationship violence.

(13) Discrimination and harassment reporting and prevention, including, but not limited to, sexual harassment reporting and prevention.

(14) Hate crime reporting and prevention.

(15) Reporting and prevention of abuse against pupils with disabilities.

48264.5.

(d) The fourth time a truancy is issued within the same school year, the pupil may be within the jurisdiction of the juvenile court that may adjudge the pupil to be a ward of the court pursuant to Section 601 of the Welfare and Institutions Code. If the pupil is adjudged a ward of the court, the pupil shall be required to do one or more of the following:

(3) Attendance of a court-approved truancy prevention program.

48901.

(a) No school shall permit the smoking or use of tobacco, or any product containing tobacco or nicotine products, by pupils of the school while the pupils are on campus, or while attending school-sponsored activities or while under the supervision and control of school district employees.

(b) The governing board of any school district maintaining a high school shall take all steps it deems practical to discourage high school students from smoking.

Behavioral interventions and student support services

STATUTES

48264.5.

A minor who is classified as a truant pursuant to Section 48260 or 48261 may be required to attend makeup classes conducted on one day of a weekend pursuant to subdivision (c) of Section 37223 and is subject to the following:

(a) The first time a truancy report is issued, the pupil and, as appropriate, the parent or legal guardian, may be requested to attend a meeting with a school counselor or other school designee to discuss the root causes of the attendance issue and develop a joint plan to improve the pupil's attendance.

(b) The second time a truancy report is issued within the same school year, the pupil may be given a written warning by a peace officer as specified in Section 830.1 of the Penal Code. A record of the written warning may be kept at the school for not less than two years or until the pupil graduates or transfers from that school. If the pupil transfers from that school, the record may be forwarded to the school receiving the pupil's school records. A record of the written warning may be maintained by the law enforcement agency in accordance with that law enforcement agency's policies and procedures. The pupil may also be assigned by the school to an afterschool or weekend study program located within the same county as the pupil's school. If the pupil fails to successfully complete the assigned study program, the pupil shall be subject to subdivision (c).

48265.

Any person arresting or assuming temporary custody of a minor pursuant to Section 48264 shall forthwith deliver the minor either to the parent, guardian, or other person having control, or charge of the minor, or to the school from which the minor is absent, or to a nonsecure youth service or community center designated by the school or district for counseling prior to returning such minor to his home or school, or to a school counselor or pupil services and attendance officer located at a police station for the purpose of obtaining immediate counseling from the counselor or officer prior to returning or being returned to his home or school, or, if the minor is found to have been declared an habitual truant, he shall cause the minor to be brought before the probation officer of the county having jurisdiction over minors.

48900.5

(a) Suspension, including supervised suspension as described in Section 48911.1, shall be imposed only when other means of correction fail to bring about proper conduct. A school district may document the other means of correction used and place that documentation in the pupil's record, which may be accessed pursuant to Section 49069. However, a pupil, including an individual with exceptional needs, as defined in Section 56026, may be suspended, subject to Section 1415 of Title 20 of the United States Code, for any of the reasons enumerated in Section 48900 upon a first offense, if the principal or superintendent of schools determines that the pupil violated subdivision (a), (b), (c), (d), or (e) of Section 48900 or that the pupil's presence causes a danger to persons.

(b) Other means of correction include, but are not limited to, the following:

(1) A conference between school personnel, the pupil's parent or guardian, and the pupil.

(2) Referrals to the school counselor, psychologist, social worker, child welfare attendance personnel, or other school support service personnel for case management and counseling.

(3) Study teams, guidance teams, resource panel teams, or other intervention-related teams that assess the behavior, and develop and implement individualized plans to address the behavior in partnership with the pupil and his or her parents.

(4) Referral for a comprehensive psychosocial or psychoeducational assessment, including for purposes of creating an individualized education program, or a plan adopted pursuant to Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794(a)).

(5) Enrollment in a program for teaching prosocial behavior or anger management.

(6) Participation in a restorative justice program.

(7) A positive behavior support approach with tiered interventions that occur during the schoolday on campus.

(8) After-school programs that address specific behavioral issues or expose pupils to positive activities and behaviors, including, but not limited to, those operated in collaboration with local parent and community groups.

(9) Any of the alternatives described in Section 48900.6.

48911.2.

(a) If the number of pupils suspended from school during the prior school year exceeded 30 percent of the school's enrollment, the school should consider doing at least one of the following:

(2) Implement an alternative to the school's off-campus suspension program, which involves a progressive discipline approach that occurs during the schoolday on campus, using any of the following activities:

(A) Conferences between the school staff, parents, and pupils.

(B) Referral to the school counselor, psychologist, child welfare attendance personnel, or other school support service staff.

(C) Detention.

(D) Study teams, guidance teams, resource panel teams, or other assessment-related teams.

(c) It is the intent of the Legislature to encourage schools that choose to implement this section to examine alternatives to off-campus suspensions that lead to resolution of pupil misconduct without sending pupils off campus. Schools that use this section should not be precluded from suspending pupils to an off-campus site.

48916.

(b) The governing board shall recommend a plan of rehabilitation for the pupil at the time of the expulsion order, which may include, but not be limited to, periodic review as well as assessment at the time of review for readmission. The plan may also include recommendations for improved academic performance, tutoring, special education assessments, job training, counseling, employment, community service, or other rehabilitative programs.

48917.

(a) The governing board, upon voting to expel a pupil, may suspend the enforcement of the expulsion order for a period of not more than one calendar year and may, as a condition of the suspension of enforcement, assign the pupil to a school, class, or program that is deemed appropriate for the rehabilitation of the pupil. The rehabilitation program to which the pupil is assigned may provide for the involvement of the pupil's parent or guardian in his or her child's education in ways that are specified in the rehabilitation program. A parent or guardian's refusal to participate in the rehabilitation program shall

not be considered in the governing board's determination as to whether the pupil has satisfactorily completed the rehabilitation program.

(b) The governing board shall apply the criteria for suspending the enforcement of the expulsion order equally to all pupils, including individuals with exceptional needs as defined in Section 56026.

(c) During the period of the suspension of the expulsion order, the pupil is deemed to be on probationary status.

(d) The governing board may revoke the suspension of an expulsion order under this section if the pupil commits any of the acts enumerated in Section 48900 or violates any of the district's rules and regulations governing pupil conduct. When the governing board revokes the suspension of an expulsion order, a pupil may be expelled under the terms of the original expulsion order.

(e) Upon satisfactory completion of the rehabilitation assignment of a pupil, the governing board shall reinstate the pupil in a school of the district and may also order the expungement of any or all records of the expulsion proceedings.

(f) A decision of the governing board to suspend an expulsion order does not affect the time period and requirements for the filing of an appeal of the expulsion order with the county board of education required under Section 48919. Any appeal shall be filed within 30 days of the original vote of the governing board.

56520.

(b) It is the intent of the Legislature:

(1) That children exhibiting serious behavioral challenges receive timely and appropriate assessments and positive supports and interventions in accordance with the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) and its implementing regulations.

56521.2.

(b) In the case of a child whose behavior impedes the child's learning or that of others, the individualized education program team shall consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior, consistent with Section 1414(d)(3)(B)(i) and (d)(4) of Title 20 of the United States Code and associated federal regulations.

Professional development

STATUTES

32283.

The Department of Justice and the State Department of Education, in accordance with Section 32262, shall contract with one or more professional trainers to coordinate statewide workshops for school districts, county offices of education, and schoolsite personnel, and in particular school principals, to assist them in the development of their respective school safety and crisis response plans, and provide training in the prevention of bullying as defined in subdivision (r) of Section 48900. The Department of Justice and the State Department of Education shall work in cooperation with regard to the workshops coordinated and presented pursuant to the contracts. Implementation of this section shall be contingent upon the availability of funds in the annual Budget Act.

56520.

(b) It is the intent of the Legislature:

(5) That training programs be developed and implemented in institutions of higher education that train teachers and that in-service training programs be made available as necessary in school districts and

county offices of education to ensure that adequately trained staff are available to work effectively with the behavioral intervention needs of individuals with exceptional needs.

56524.

The superintendent shall explore with representatives of institutions of higher education and the Commission on Teacher Credentialing, the current training requirements for teachers to ensure that sufficient training is available in appropriate behavioral interventions for people entering the field of education.

Monitoring and Accountability

Formal incident reporting of conduct violations

STATUTES

32282.

(a) The comprehensive school safety plan shall include, but not be limited to, both of the following:

(2) Identifying appropriate strategies and programs that will provide or maintain a high level of school safety and address the school's procedures for complying with existing laws related to school safety, which shall include the development of all of the following:

(D) Procedures to notify teachers of dangerous pupils pursuant to Section 49079.

48202.

The county board of education of each county may establish, by resolution, the following regulation requiring the reporting of various types of severance of attendance of or by any pupil subject to the compulsory education laws of California or of any one or more of the types of severance enumerated in subdivision (a) below and may require such reporting of any or all of the private and public schools of the county:

(a) The administration of each private school and public school district of the county shall, upon the severance of attendance by any pupil subject to the compulsory education laws of California, whether by expulsion, exclusion, exemption, transfer, suspension beyond 10 schooldays, or other reasons, report such severance to the county superintendent of schools in the jurisdiction. The report shall include names, ages, last known address and the reason for each such severance.

(b) It shall be the duty of the county superintendent of such county to examine such reports and draw to the attention of the county board of education and local district board of education any cases in which the interests of the child or the welfare of the state may need further examination.

(c) After preliminary study of available information in cases so referred to it, the county board of education may, on its own action, hold hearings on such cases in the manner provided in Sections 48915 through 48920 and with the same powers of final decision as therein provided.

48261.

Any pupil who has once been reported as a truant and who is again absent from school without valid excuse one or more days, or tardy on one or more days, shall again be reported as a truant to the attendance supervisor or the superintendent of the district.

48273.

The governing board of each school district shall adopt rules and regulations to require the appropriate officers and employees of the district to gather and transmit to the county superintendent of schools the number and types of referrals to school attendance review boards and of requests for petitions to the juvenile court pursuant to Section 48263.

48900.8.

For purposes of notification to parents, and for the reporting of expulsion or suspension offenses to the department, each school district shall specifically identify, by offense committed, in all appropriate official

records of a pupil each suspension or expulsion of that pupil for the commission of any of the offenses set forth in Section 48900, 48900.2, 48900.3, 48900.4, 48900.7, or 48915.

48911.

(e) A school employee shall report the suspension of the pupil, including the cause for the suspension, to the governing board of the school district or to the district superintendent of schools in accordance with the regulations of the governing board of the school district.

48916.1.

(e) (1) Each school district shall maintain the following data:

(A) The number of pupils recommended for expulsion.

(B) The grounds for each recommended expulsion.

(C) Whether the pupil was subsequently expelled.

(D) Whether the expulsion order was suspended.

(E) The type of referral made after the expulsion.

(F) The disposition of the pupil after the end of the period of expulsion.

(2) The Superintendent may require a school district to report this data as part of the coordinated compliance review. If a school district does not report outcome data as required by this subdivision, the Superintendent may not apportion any further money to the school district pursuant to Section 48664 until the school district is in compliance with this subdivision. Before withholding the apportionment of funds to a school district pursuant to this subdivision, the Superintendent shall give written notice to the governing board of the school district that the school district has failed to report the data required by paragraph (1) and that the school district has 30 calendar days from the date of the written notice of noncompliance to report the requested data and thereby avoid the withholding of the apportionment of funds.

56521.1.

(f) All behavioral emergency reports shall immediately be forwarded to, and reviewed by, a designated responsible administrator.

(g) If a behavioral emergency report is written regarding an individual with exceptional needs who does not have a behavioral intervention plan, the designated responsible administrator shall, within two days, schedule an individualized education program (IEP) team meeting to review the emergency report, to determine the necessity for a functional behavioral assessment, and to determine the necessity for an interim plan. The IEP team shall document the reasons for not conducting the functional behavioral assessment, not developing an interim plan, or both.

(h) If a behavioral emergency report is written regarding an individual with exceptional needs who has a positive behavioral intervention plan, an incident involving a previously unseen serious behavior problem, or where a previously designed intervention is ineffective, shall be referred to the IEP team to review and determine if the incident constitutes a need to modify the positive behavioral intervention plan.

Parental notification

STATUTES

32281.

(e) (1) When a principal or his or her designee verifies through local law enforcement officials that a report has been filed of the occurrence of a violent crime on the schoolsite of an elementary or secondary

school at which he or she is the principal, the principal or the principal's designee may send to each pupil's parent or legal guardian and each school employee a written notice of the occurrence and general nature of the crime. If the principal or his or her designee chooses to send the written notice, the Legislature encourages the notice be sent no later than the end of business on the second regular work day after the verification. If, at the time of verification, local law enforcement officials determine that notification of the violent crime would hinder an ongoing investigation, the notification authorized by this subdivision shall be made within a reasonable period of time, to be determined by the local law enforcement agency and the school district. For purposes of this section, an act that is considered a "violent crime" shall meet the definition of Section 67381 and be an act for which a pupil could or would be expelled pursuant to Section 48915.

(2) Nothing in this subdivision shall create any liability in a school district or its employees for complying with paragraph (1).

48260.5.

Upon a pupil's initial classification as a truant, the school district shall notify the pupil's parent or guardian using the most cost-effective method possible, which may include electronic mail or a telephone call:

(a) That the pupil is truant.

(b) That the parent or guardian is obligated to compel the attendance of the pupil at school.

(d) That alternative educational programs are available in the district.

(e) That the parent or guardian has the right to meet with appropriate school personnel to discuss solutions to the pupil's truancy.

(f) That the pupil may be subject to prosecution under Section 48264.

(g) That the pupil may be subject to suspension, restriction, or delay of the pupil's driving privilege pursuant to Section 13202.7 of the Vehicle Code.

48262.

Any pupil is deemed an habitual truant who has been reported as a truant three or more times per school year, provided that no pupil shall be deemed an habitual truant unless an appropriate district officer or employee has made a conscientious effort to hold at least one conference with a parent or guardian of the pupil and the pupil himself, after the filing of either of the reports required by Section 48260 or Section 48261. For purposes of this section, a conscientious effort means attempting to communicate with the parents of the pupil at least once using the most cost-effective method possible, which may include electronic mail or a telephone call.

48263.

If any minor pupil in any district of a county is an habitual truant, or is irregular in attendance at school, as defined in this article, or is habitually insubordinate or disorderly during attendance at school, the pupil may be referred to a school attendance review board or to the probation department for services if the probation department has elected to receive these referrals. The supervisor of attendance, or any other persons the governing board of the school district or county may designate, making the referral shall notify the minor and parents or guardians of the minor, in writing, of the name and address of the board or probation department to which the matter has been referred and of the reason for the referral. The notice shall indicate that the pupil and parents or guardians of the pupil will be required, along with the referring person, to meet with the school attendance review board or probation officer to consider a proper disposition of the referral.

48266.

Any person taking action pursuant to Sections 48264 and 48265 shall report the matter, and the disposition made by him of the minor to the school authorities of the city, or city and county, or school district and to the minor's parent or guardian.

48900.1.

(a) The governing board of each school district may adopt a policy authorizing teachers to require the parent or guardian of a pupil who has been suspended by a teacher pursuant to Section 48910 for reasons specified in subdivision (i) or (k) of Section 48900, to attend a portion of a schoolday in the classroom of his or her child or ward. The policy shall take into account reasonable factors that may prevent compliance with a notice to attend. The attendance of the parent or guardian shall be limited to the class from which the pupil was suspended.

(b) The policy shall be adopted pursuant to the procedures set forth in Sections 35291 and 35291.5. Parents and guardians shall be notified of this policy prior to its implementation. A teacher shall apply any policy adopted pursuant to this section uniformly to all pupils within the classroom.

The adopted policy shall include the procedures that the district will follow to accomplish the following:

(1) Ensure that parents or guardians who attend school for the purposes of this section meet with the school administrator or his or her designee after completing the classroom visitation and before leaving the schoolsite.

(2) Contact parents or guardians who do not respond to the request to attend school pursuant to this section.

(c) If a teacher imposes the procedure pursuant to subdivision (a), the principal shall send a written notice to the parent or guardian stating that attendance by the parent or guardian is pursuant to law. This section shall apply only to a parent or guardian who is actually living with the pupil.

(d) A parent or guardian who has received a written notice pursuant to subdivision (c) shall attend class as specified in the written notice. The notice may specify that the attendance of the parent or guardian be on the day the pupil is scheduled to return to class, or within a reasonable period of time thereafter, as established by the policy of the board adopted pursuant to subdivision (a).

48904.3

(b) Any school district that has decided to withhold a pupil's grades, diploma, or transcripts pursuant to Section 48904 shall, upon receiving notice that the pupil has transferred to any school district in this state, notify the parent or guardian of the pupil in writing that the decision to withhold will be enforced as specified in subdivision (a).

48906

When a principal or other school official releases a minor pupil to a peace officer for the purpose of removing the minor from the school premises, the school official shall take immediate steps to notify the parent, guardian, or responsible relative of the minor regarding the release of the minor to the officer, and regarding the place to which the minor is reportedly being taken, except when a minor has been taken into custody as a victim of suspected child abuse, as defined in Section 11165.6 of the Penal Code, or pursuant to Section 305 of the Welfare and Institutions Code. In those cases, the school official shall provide the peace officer with the address and telephone number of the minor's parent or guardian. The peace officer shall take immediate steps to notify the parent, guardian, or responsible relative of the minor that the minor is in custody and the place where he or she is being held. If the officer has a reasonable belief that the minor would be endangered by a disclosure of the place where the minor is being held, or that the disclosure would cause the custody of the minor to be disturbed, the officer may refuse to

disclose the place where the minor is being held for a period not to exceed 24 hours. The officer shall, however, inform the parent, guardian, or responsible relative whether the child requires and is receiving medical or other treatment. The juvenile court shall review any decision not to disclose the place where the minor is being held at a subsequent detention hearing.

48909.

When a petition is requested in juvenile court or a complaint is filed in any court alleging that a minor of compulsory school attendance age or any pupil currently enrolled in a public school in a grade to and including grade 12 is a person who (a) has used, sold, or possessed narcotics or other hallucinogenic drugs or substances; (b) has inhaled or breathed the fumes of, or ingested any poison classified as such in Section 4160 of the Business and Professions Code; or (c) has committed felonious assault, homicide, or rape the district attorney may, within 48 hours, provide written notice to the superintendent of the school district of attendance, notwithstanding the provisions of Section 827 of the Welfare and Institutions Code, and to the pupil's parent or guardian.

48910.

(a) A teacher may suspend any pupil from class, for any of the acts enumerated in Section 48900, for the day of the suspension and the day following. The teacher shall immediately report the suspension to the principal of the school and send the pupil to the principal or the designee of the principal for appropriate action. If that action requires the continued presence of the pupil at the schoolsite, the pupil shall be under appropriate supervision, as defined in policies and related regulations adopted by the governing board of the school district. As soon as possible, the teacher shall ask the parent or guardian of the pupil to attend a parent-teacher conference regarding the suspension. If practicable, a school counselor or a school psychologist may attend the conference. A school administrator shall attend the conference if the teacher or the parent or guardian so requests. The pupil shall not be returned to the class from which he or she was suspended, during the period of the suspension, without the concurrence of the teacher of the class and the principal.

48911.1.

(a) A pupil suspended from a school for any of the reasons enumerated in Sections 48900 and 48900.2 may be assigned, by the principal or the principal's designee, to a supervised suspension classroom for the entire period of suspension if the pupil poses no imminent danger or threat to the campus, pupils, or staff, or if an action to expel the pupil has not been initiated.

(d) At the time a pupil is assigned to a supervised suspension classroom, a school employee shall notify, in person or by telephone, the pupil's parent or guardian. Whenever a pupil is assigned to a supervised suspension classroom for longer than one class period, a school employee shall notify, in writing, the pupil's parent or guardian.

48911.

(d) At the time of suspension, a school employee shall make a reasonable effort to contact the pupil's parent or guardian in person or by telephone. If a pupil is suspended from school, the parent or guardian shall be notified in writing of the suspension.

(f) The parent or guardian of a pupil shall respond without delay to a request from school officials to attend a conference regarding his or her child's behavior.

No penalties shall be imposed on a pupil for failure of the pupil's parent or guardian to attend a conference with school officials. Reinstatement of the suspended pupil shall not be contingent upon attendance by the pupil's parent or guardian at the conference.

48912.

(a) The governing board may suspend a pupil from school for any of the acts enumerated in Section 48900 for any number of schooldays within the limits prescribed by Section 48903.

(b) Notwithstanding the provisions of Section 35145 of this code and Section 54950 of the Government Code, the governing board of a school district shall, unless a request has been made to the contrary, hold closed sessions if the board is considering the suspension of, disciplinary action against, or any other action against, except expulsion, any pupil, if a public hearing upon that question would lead to the giving out of information concerning a school pupil which would be in violation of Article 5 (commencing with Section 49073) of Chapter 6.5.

(c) Before calling a closed session to consider these matters, the governing board shall, in writing, by registered or certified mail or by personal service, notify the pupil and the pupil's parent or guardian, or the pupil if the pupil is an adult, of the intent of the governing board to call and hold a closed session. Unless the pupil or the pupil's parent or guardian shall, in writing, within 48 hours after receipt of the written notice of the board's intention, request that the hearing be held as a public meeting, the hearing to consider these matters shall be conducted by the governing board in closed session. In the event that a written request is served upon the clerk or secretary of the governing board, the meeting shall be public, except that any discussion at that meeting which may be in conflict with the right to privacy of any pupil other than the pupil requesting the public meeting, shall be in closed session.

48914.

Each school district is authorized to establish a policy that permits school officials to conduct a meeting with the parent or guardian of a suspended pupil to discuss the causes, the duration, the school policy involved, and other matters pertinent to the suspension.

48916.

(d) If the governing board denies the readmission of an expelled pupil pursuant to subdivision (c), the governing board shall make a determination either to continue the placement of the pupil in the alternative educational program initially selected for the pupil during the period of the expulsion order or to place the pupil in another program that may include, but need not be limited to, serving expelled pupils, including placement in a county community school.

(e) The governing board shall provide written notice to the expelled pupil and the pupil's parent or guardian describing the reasons for denying the pupil readmittance into the regular school district program. The written notice shall also include the determination of the educational program for the expelled pupil pursuant to subdivision (d). The expelled pupil shall enroll in that educational program unless the parent or guardian of the pupil elects to enroll the pupil in another school district.

49332.

The parent or guardian of a pupil from whom an injurious object has been taken pursuant to this section may be notified by school personnel of the taking.

School personnel may retain protective possession of any injurious object taken pursuant to this section until the risk of its use as a weapon has dissipated, unless prior to dissipation of the risk, the parent or guardian requests that the school personnel retain the object, in which case, the school personnel shall retain the object until the parent or guardian or another adult with the written consent of the parent or guardian appears personally to take possession of the injurious object from the school personnel.

56521.1.

(e) To prevent emergency interventions from being used in lieu of planned, systematic behavioral interventions, the parent, guardian, and residential care provider, if appropriate, shall be notified within

one schoolday if an emergency intervention is used or serious property damage occurs. A behavioral emergency report shall immediately be completed and maintained in the file of the individual with exceptional needs. The behavioral emergency report shall include all of the following:

(1) The name and age of the individual with exceptional needs.

(2) The setting and location of the incident.

(3) The name of the staff or other persons involved.

(4) A description of the incident and the emergency intervention used, and whether the individual with exceptional needs is currently engaged in any systematic behavioral intervention plan.

(5) Details of any injuries sustained by the individual with exceptional needs, or others, including staff, as a result of the incident.

Reporting and referrals between schools and law enforcement

STATUTES

32281.

(e) (1) When a principal or his or her designee verifies through local law enforcement officials that a report has been filed of the occurrence of a violent crime on the schoolsite of an elementary or secondary school at which he or she is the principal, the principal or the principal's designee may send to each pupil's parent or legal guardian and each school employee a written notice of the occurrence and general nature of the crime. If the principal or his or her designee chooses to send the written notice, the Legislature encourages the notice be sent no later than the end of business on the second regular work day after the verification. If, at the time of verification, local law enforcement officials determine that notification of the violent crime would hinder an ongoing investigation, the notification authorized by this subdivision shall be made within a reasonable period of time, to be determined by the local law enforcement agency and the school district. For purposes of this section, an act that is considered a "violent crime" shall meet the definition of Section 67381 and be an act for which a pupil could or would be expelled pursuant to Section 48915.

(2) Nothing in this subdivision shall create any liability in a school district or its employees for complying with paragraph (1).

48260.6.

(a) In any county which has not established a county school attendance review board pursuant to Section 48321, the school district may notify the district attorney or the probation officer, or both, of the county in which the school district is located, by first-class mail or other reasonable means, of the following if the district attorney or the probation officer has elected to participate in the truancy mediation program described in subdivision (d):

(1) The name of each pupil who has been classified as a truant.

(2) The name and address of the parent or guardian of each pupil who has been classified as a truant.

(b) The school district may also notify the district attorney or the probation officer, or both, as to whether the pupil continues to be classified as a truant after the parents have been notified pursuant to subdivision (a) of Section 48260.5.

(c) In any county which has not established a county school attendance review board, the district attorney or the probation officer of the county in which the school district is located may notify the parents or guardians of every truant, by first-class mail or other reasonable means, that they may be subject to

prosecution pursuant to Article 6 (commencing with Section 48290) of Chapter 2 of Part 27 for failure to compel the attendance of the pupil at school.

(d) If the district attorney or the probation officer, or both, are notified by a school district that a child continues to be classified as a truant after the parents or guardians have been notified pursuant to subdivision (a) of Section 48260.5, the district attorney or the probation officer in any county which has not established a county school attendance review board may request the parents or guardians and the child to attend a meeting in the district attorney's office or at the probation department pursuant to Section 601.3 of the Welfare and Institutions Code to discuss the possible legal consequences of the child's truancy. Notice of the meeting shall be given pursuant to Section 601.3 of the Welfare and Institutions Code.

48263.

If any minor pupil in any district of a county is an habitual truant, or is irregular in attendance at school, as defined in this article, or is habitually insubordinate or disorderly during attendance at school, the pupil may be referred to a school attendance review board or to the probation department for services if the probation department has elected to receive these referrals. The supervisor of attendance, or any other persons the governing board of the school district or county may designate, making the referral shall notify the minor and parents or guardians of the minor, in writing, of the name and address of the board or probation department to which the matter has been referred and of the reason for the referral. The notice shall indicate that the pupil and parents or guardians of the pupil will be required, along with the referring person, to meet with the school attendance review board or probation officer to consider a proper disposition of the referral.

If the school attendance review board or probation officer determines that available community services can resolve the problem of the truant or insubordinate pupil, then the board or probation officer shall direct the pupil or the pupil's parents or guardians, or both, to make use of those community services. The school attendance review board or probation officer may require, at any time that it determines proper, the pupil or parents or guardians of the pupil, or both, to furnish satisfactory evidence of participation in the available community services.

If the school attendance review board or probation officer determines that available community services cannot resolve the problem of the truant or insubordinate pupil or if the pupil or the parents or guardians of the pupil, or both, have failed to respond to directives of the school attendance review board or probation officer or to services provided, the school attendance review board may, pursuant to Section 48263.5, notify the district attorney or the probation officer, or both, of the county in which the school district is located, or the probation officer may, pursuant to Section 48263.5, notify the district attorney, if the district attorney or the probation officer has elected to participate in the truancy mediation program described in that section. If the district attorney or the probation office has not elected to participate in the truancy mediation program described in Section 48263.5, the school attendance review board or probation officer may direct the county superintendent of schools to, and, thereupon, the county superintendent of schools shall, request a petition on behalf of the pupil in the juvenile court of the county. Upon presentation of a petition on behalf of a pupil, the juvenile court of the county shall hear all evidence relating to the petition. The school attendance review board or the probation officer shall submit to the juvenile court documentation of efforts to secure attendance as well as its recommendations on what action the juvenile court shall take in order to bring about a proper disposition of the case.

In any county which has not established a school attendance review board, if the school district determines that available community resources cannot resolve the problem of the truant or insubordinate pupil, or if the pupil or the pupil's parents or guardians, or both, have failed to respond to the directives of the school district or the services provided, the school district, pursuant to Section 48260.6, may notify the district attorney or the probation officer, or both, of the county in which the school district is located, if the

district attorney or the probation officer has elected to participate in the truancy mediation program described in Section 48260.6.

48267.

Any pupil who has once been adjudged an habitual truant or habitually insubordinate or disorderly during attendance at school by the juvenile court of the county, or has been found to be a person described in Section 602 and as a condition of probation is required to attend a school program approved by a probation officer, who is reported as a truant from school one or more days or tardy on one or more days without valid excuse, in the same school year or in a succeeding year, or habitually insubordinate, or disorderly during attendance at school, shall be brought to the attention of the juvenile court and the pupil's probation or parole officer within 10 days of the reported violation.

Notwithstanding Section 827 of the Welfare and Institutions Code, written notice that a minor enrolled in a public school in grades 7 to 12, inclusive, has been found by a court to be a person described in Section 602 and as a condition of probation is required to attend a school program approved by a probation officer shall be provided by the juvenile court, within seven days of the entry of the dispositional order, to the superintendent of the school district of attendance, which information shall be expeditiously transmitted to the principal or to one person designated by the principal of the school that the minor is attending. The principal or the principal's designee shall not disclose this information to any other person except as otherwise required by law.

48269.

If the parent, guardian, or other person having control or charge of the child, within three days after the rendition of the judgment executes a bond to the governing board of the school district in the sum of two hundred dollars ($200), conditioned that the child will, during the remainder of the current school year, regularly attend some public or private school in the city, or city and county, or school district, and not be insubordinate or disorderly during attendance, then the court may make an order suspending the execution of the judgment so long as the condition of the bond is complied with. The bond shall be filed with the secretary of the board of education, or clerk of the board of trustees. All money paid or collected on the bond shall be paid into the county treasury as provided in Section 41001.

48902.

(a) The principal of a school or the principal's designee shall, before the suspension or expulsion of any pupil, notify the appropriate law enforcement authorities of the county or city in which the school is situated, of any acts of the pupil that may violate Section 245 of the Penal Code.

(b) The principal of a school or the principal's designee shall, within one schoolday after suspension or expulsion of any pupil, notify, by telephone or any other appropriate method chosen by the school, the appropriate law enforcement authorities of the county or the school district in which the school is situated of any acts of the pupil that may violate subdivision (c) or (d) of Section 48900.

(c) Notwithstanding subdivision (b), the principal of a school or the principal's designee shall notify the appropriate law enforcement authorities of the county or city in which the school is located of any acts of a pupil that may involve the possession or sale of narcotics or of a controlled substance or a violation of Section 626.9 or 626.10 of the Penal Code. The principal of a school or the principal's designee shall report any act specified in paragraph (1) or (5) of subdivision (c) of Section 48915 committed by a pupil or nonpupil on a schoolsite to the city police or county sheriff with jurisdiction over the school and the school security department or the school police department, as applicable.

(d) A principal, the principal's designee, or any other person reporting a known or suspected act described in subdivision (a) or (b) is not civilly or criminally liable as a result of making any report

authorized by this article unless it can be proven that a false report was made and that the person knew the report was false or the report was made with reckless disregard for the truth or falsity of the report.

(e) The principal of a school or the principal's designee reporting a criminal act committed by a schoolage individual with exceptional needs, as defined in Section 56026, shall ensure that copies of the special education and disciplinary records of the pupil are transmitted, as described in Section 1415(6)(k) of Title 20 of the United States Code, for consideration by the appropriate authorities to whom he or she reports the criminal act. Any copies of the pupil's special education and disciplinary records may be transmitted only to the extent permissible under the federal Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Sec. 1232g et seq.).

48909.

When a petition is requested in juvenile court or a complaint is filed in any court alleging that a minor of compulsory school attendance age or any pupil currently enrolled in a public school in a grade to and including grade 12 is a person who (a) has used, sold, or possessed narcotics or other hallucinogenic drugs or substances; (b) has inhaled or breathed the fumes of, or ingested any poison classified as such in Section 4160 of the Business and Professions Code; or (c) has committed felonious assault, homicide, or rape the district attorney may, within 48 hours, provide written notice to the superintendent of the school district of attendance, notwithstanding the provisions of Section 827 of the Welfare and Institutions Code, and to the pupil's parent or guardian.

48918.1.

(a) If the decision to recommend expulsion is a discretionary act and the pupil is a foster child, as defined in Section 48853.5, the governing board of the school district shall provide notice of the expulsion hearing to the pupil's attorney and an appropriate representative of the county child welfare agency at least 10 calendar days before the date of the hearing. The notice may be made using the most cost-effective method possible, which may include, but is not limited to, electronic mail or a telephone call.

(b) If a recommendation of expulsion is required and the pupil is a foster child, as defined in Section 48853.5, the governing board of the school district may provide notice of the expulsion hearing to the pupil's attorney and an appropriate representative of the county child welfare agency at least 10 calendar days before the date of the hearing. The notice may be made using the most cost-effective method possible, which may include, but is not limited to, electronic mail or a telephone call.

Disclosure of school records

STATUTES

48201.

(a) Except for pupils exempt from compulsory school attendance under Section 48231, any parent, guardian, or other person having control or charge of any minor between the ages of 6 and 16 years who removes the minor from any city, city and county, or school district before the completion of the current school term, shall enroll the minor in a public full-time day school of the city, city and county, or school district to which the minor is removed.

(b) (1) Upon a pupil's transfer from one school district to another, the school district into which the pupil is transferring shall request that the school district in which the pupil was last enrolled provide any records that the district maintains in its ordinary course of business or receives from a law enforcement agency regarding acts committed by the transferring pupil that resulted in the pupil's suspension from school or expulsion from the school district. Upon receipt of this information, the receiving school district shall

inform any teacher of the pupil that the pupil was suspended from school or expelled from the school district and shall inform the teacher of the act that resulted in that action.

48264.5.

(b) The second time a truancy report is issued within the same school year, the pupil may be given a written warning by a peace officer as specified in Section 830.1 of the Penal Code. A record of the written warning may be kept at the school for not less than two years or until the pupil graduates or transfers from that school. If the pupil transfers from that school, the record may be forwarded to the school receiving the pupil's school records. A record of the written warning may be maintained by the law enforcement agency in accordance with that law enforcement agency's policies and procedures. The pupil may also be assigned by the school to an afterschool or weekend study program located within the same county as the pupil's school. If the pupil fails to successfully complete the assigned study program, the pupil shall be subject to subdivision (c).

48912.

(b) Notwithstanding the provisions of Section 35145 of this code and Section 54950 of the Government Code, the governing board of a school district shall, unless a request has been made to the contrary, hold closed sessions if the board is considering the suspension of, disciplinary action against, or any other action against, except expulsion, any pupil, if a public hearing upon that question would lead to the giving out of information concerning a school pupil which would be in violation of Article 5 (commencing with Section 49073) of Chapter 6.5.

48918.

(k) The governing board shall maintain a record of each expulsion, including the cause therefor. Records of expulsions shall be a nonprivileged, disclosable public record.

The expulsion order and the causes therefor shall be recorded in the pupil's mandatory interim record and shall be forwarded to any school in which the pupil subsequently enrolls upon receipt of a request from the admitting school for the pupil's school records.

Data collection, review, and reporting of disciplinary policies and actions

STATUTES

32282.

(a) The comprehensive school safety plan shall include, but not be limited to, both of the following:

(1) Assessing the current status of school crime committed on school campuses and at school-related functions.

32286.

(a) Each school shall adopt its comprehensive school safety plan by March 1, 2000, and shall review and update its plan by March 1, every year thereafter. A new school campus that begins offering classes to pupils after March 1, 2001, shall adopt a comprehensive school safety plan within one year of initiating operation, and shall review and update its plan by March 1, every year thereafter.

(b) Commencing in July 2000, and every July thereafter, each school shall report on the status of its school safety plan, including a description of its key elements in the annual school accountability report card prepared pursuant to Sections 33126 and 35256.

48202.

The county board of education of each county may establish, by resolution, the following regulation requiring the reporting of various types of severance of attendance of or by any pupil subject to the compulsory education laws of California or of any one or more of the types of severance enumerated in subdivision (a) below and may require such reporting of any or all of the private and public schools of the county:

(a) The administration of each private school and public school district of the county shall, upon the severance of attendance by any pupil subject to the compulsory education laws of California, whether by expulsion, exclusion, exemption, transfer, suspension beyond 10 schooldays, or other reasons, report such severance to the county superintendent of schools in the jurisdiction. The report shall include names, ages, last known address and the reason for each such severance.

(b) It shall be the duty of the county superintendent of such county to examine such reports and draw to the attention of the county board of education and local district board of education any cases in which the interests of the child or the welfare of the state may need further examination.

(c) After preliminary study of available information in cases so referred to it, the county board of education may, on its own action, hold hearings on such cases in the manner provided in Sections 48915 through 48920 and with the same powers of final decision as therein provided.

48273.

The governing board of each school district shall adopt rules and regulations to require the appropriate officers and employees of the district to gather and transmit to the county superintendent of schools the number and types of referrals to school attendance review boards and of requests for petitions to the juvenile court pursuant to Section 48263.

48911.2.

(b) At the end of the academic year, the school may report to the district superintendent in charge of school support services, or other comparable administrator if that position does not exist, on the rate of reduction in the school's off-campus suspensions and the plan or activities used to comply with subdivision (a).

48916.1.

(e) (1) Each school district shall maintain the following data:

(A) The number of pupils recommended for expulsion.

(B) The grounds for each recommended expulsion.

(C) Whether the pupil was subsequently expelled.

(D) Whether the expulsion order was suspended.

(E) The type of referral made after the expulsion.

(F) The disposition of the pupil after the end of the period of expulsion.

(2) The Superintendent may require a school district to report this data as part of the coordinated compliance review. If a school district does not report outcome data as required by this subdivision, the Superintendent may not apportion any further money to the school district pursuant to Section 48664 until the school district is in compliance with this subdivision. Before withholding the apportionment of funds to a school district pursuant to this subdivision, the Superintendent shall give written notice to the governing board of the school district that the school district has failed to report the data required by paragraph (1) and that the school district has 30 calendar days from the date of the written notice of

noncompliance to report the requested data and thereby avoid the withholding of the apportionment of funds.

48926.

Each county superintendent of schools in counties that operate community schools pursuant to Section 1980, in conjunction with superintendents of the school districts within the county, shall develop a plan for providing education services to all expelled pupils in that county. The plan shall be adopted by the governing board of each school district within the county and by the county board of education.

Each county superintendent of schools, in conjunction with the superintendents of the school districts, shall submit to the Superintendent of Public Instruction the county plan for providing educational services to all expelled pupils in the county no later than June 30, 1997, and shall submit a triennial update to the plan to the Superintendent of Public Instruction, including the outcome data pursuant to Section 48916.1, on June 30th thereafter.

School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers

Authority and power to implement school arrest

STATUTES

32281.

(a) Each school district and county office of education is responsible for the overall development of all comprehensive school safety plans for its schools operating kindergarten or any of grades 1 to 12, inclusive.

(b) (1) Except as provided in subdivision (d) with regard to a small school district, the schoolsite council established pursuant to former Section 52012, as it existed before July 1, 2005, or Section 52852 shall write and develop a comprehensive school safety plan relevant to the needs and resources of that particular school.

(2) The schoolsite council may delegate this responsibility to a school safety planning committee made up of the following members:

(A) The principal or the principal's designee.

(B) One teacher who is a representative of the recognized certificated employee organization.

(C) One parent whose child attends the school.

(D) One classified employee who is a representative of the recognized classified employee organization.

(E) Other members, if desired.

(3) The schoolsite council shall consult with a representative from a law enforcement agency in the writing and development of the comprehensive school safety plan.

(4) In the absence of a schoolsite council, the members specified in paragraph (2) shall serve as the school safety planning committee.

(c) Nothing in this article shall limit or take away the authority of school boards as guaranteed under this code.

(d) (1) Subdivision (b) shall not apply to a small school district, as defined in paragraph (2), if the small school district develops a districtwide comprehensive school safety plan that is applicable to each schoolsite.

48264.

The attendance supervisor or his or her designee, a peace officer, a school administrator or his or her designee, or a probation officer may arrest or assume temporary custody, during school hours, of any minor subject to compulsory full-time education or to compulsory continuation education found away from his or her home and who is absent from school without valid excuse within the county, city, or city and county, or school district.

48264.5.

(c) The third time a truancy report is issued within the same school year, the pupil shall be classified as a habitual truant, as defined in Section 48262, and may be referred to, and required to attend, an attendance review board or a truancy mediation program pursuant to Section 48263 or pursuant to

Section 601.3 of the Welfare and Institutions Code. If the school district does not have a truancy mediation program, the pupil may be required to attend a comparable program deemed acceptable by the school district's attendance supervisor. If the pupil does not successfully complete the truancy mediation program or other similar program, the pupil shall be subject to subdivision (d).

48265.

Any person arresting or assuming temporary custody of a minor pursuant to Section 48264 shall forthwith deliver the minor either to the parent, guardian, or other person having control, or charge of the minor, or to the school from which the minor is absent, or to a nonsecure youth service or community center designated by the school or district for counseling prior to returning such minor to his home or school, or to a school counselor or pupil services and attendance officer located at a police station for the purpose of obtaining immediate counseling from the counselor or officer prior to returning or being returned to his home or school, or, if the minor is found to have been declared an habitual truant, he shall cause the minor to be brought before the probation officer of the county having jurisdiction over minors.

48266.

Any person taking action pursuant to Sections 48264 and 48265 shall report the matter, and the disposition made by him of the minor to the school authorities of the city, or city and county, or school district and to the minor's parent or guardian.

Certification or training

No relevant statutes found.

MOUs, authorization, and/or funding

No relevant statutes found.

State Education Agency Support

State model policies and implementation support

STATUTES

32261.

(a) The Legislature hereby recognizes that all pupils enrolled in the state public schools have the inalienable right to attend classes on school campuses that are safe, secure, and peaceful. The Legislature also recognizes that pupils cannot fully benefit from an educational program unless they attend school on a regular basis. In addition, the Legislature further recognizes that school crime, vandalism, truancy, and excessive absenteeism are significant problems on far too many school campuses in the state.

(b) The Legislature hereby finds and declares that the establishment of an interagency coordination system is the most efficient and long-lasting means of resolving school and community problems of truancy and crime, including vandalism, drug and alcohol abuse, gang membership, gang violence, and hate crimes.

(c) It is the intent of the Legislature in enacting this chapter to support California public schools as they develop their mandated comprehensive safety plans that are the result of a systematic planning process, that include strategies aimed at the prevention of, and education about, potential incidents involving crime and violence on school campuses, and that address the safety concerns of local law enforcement agencies, community leaders, parents, pupils, teachers, administrators, school police, and other school employees interested in the prevention of school crime and violence.

(d) It is the intent of the Legislature in enacting this chapter to encourage school districts, county offices of education, law enforcement agencies, and agencies serving youth to develop and implement interagency strategies, in-service training programs, and activities that will improve school attendance and reduce school crime and violence, including vandalism, drug and alcohol abuse, gang membership, gang violence, hate crimes, bullying, including bullying committed personally or by means of an electronic act, teen relationship violence, and discrimination and harassment, including, but not limited to, sexual harassment.

(e) It is the intent of the Legislature in enacting this chapter that the School/Law Enforcement Partnership shall not duplicate any existing gang or drug and alcohol abuse program currently provided for schools.

(f) As used in this chapter, “bullying” has the same meaning as set forth in subdivision (r) of Section 48900.

(g) As used in this chapter, “electronic act” has the same meaning as set forth in subdivision (r) of Section 48900.

32265.

(a) The partnership shall sponsor at least two regional conferences for school districts, county offices of education, agencies serving youth, allied agencies, community-based organizations, and law enforcement agencies to identify exemplary programs and techniques that have been effectively used to reduce school crime, including hate crimes, vandalism, drug and alcohol abuse, gang membership and gang violence, truancy, and excessive absenteeism.

(b) The conference may include, but need not be limited to, information on all of the following topics:

(1) Interagency collaboration between schools, agencies serving youth, law enforcement agencies, and others.

(2) School attendance.

(3) School safety.

(4) Citizenship education.

(5) Drug and alcohol abuse.

(6) Child abuse prevention, detection, and reporting.

(7) Parental education.

(8) Crisis response training.

(9) Bullying prevention, including the prevention of acts committed personally or by means of an electronic act.

(10) Threat assessment.

(11) Conflict resolution and youth mediation.

(12) Teen relationship violence.

(13) Discrimination and harassment reporting and prevention, including, but not limited to, sexual harassment reporting and prevention.

(14) Hate crime reporting and prevention.

(15) Reporting and prevention of abuse against pupils with disabilities.

49350.

(a) The Legislature finds and declares all of the following:

(1) Studies have shown that indicators of risk for violence are associated with a child's experiences at school. Antisocial behavior or aggressiveness, which is sometimes combined with isolation, withdrawal, hyperactivity, or attention deficit disorder, places children at increased risk of violence.

(2) These children are at risk of persistent antisocial behavior, such as skipping school, getting into fights, and misbehaving in class. Young people of both genders who engage in these activities are at increased risk of experiencing drug abuse, juvenile delinquency, violence, dropping out of school, and teen pregnancy.

(3) It is well-known that some youth, even though exposed to multiple risk factors, do not succumb to violent, antisocial behavior. One of the defining factors for this outcome is bonding—positive relationships with family members, teachers, police officers, sheriffs' deputies, and other adults.

(4) The Community Policing and Mentoring for School Safety Pilot Program brings this successful law enforcement strategy to California's schools. By providing funding assistance, strict participation guidelines and assessments, the Community Policing and Mentoring for School Safety Pilot Program will bring highly trained law enforcement officers onto school campuses to work with students during and after school. Community policing in schools will provide the necessary opportunities for students' active involvement in positive activities, as well as trained personnel to teach them skills so that they may pursue later opportunities successfully. Community policing in schools provides a consistent system of recognition and reinforcement of positive behavior.

(5) Many school safety approaches, including metal detectors, drug-sniffing dogs, armed private security personnel, and similar security measures, are more one-dimensional in their approach to school safety. The Community Policing and Mentoring for School Safety Pilot Program takes a multidimensional approach by involving the community, schools, parents or guardians, and law enforcement personnel in the design of the program that will serve their schools. The relationships

developed, as a result of this process and the programs themselves, will be a strong preventative alternative to antisocial behavior in California's schools.

(b) As used in this article, "community policing" means an approach to crime prevention that is founded on developing positive relationships between law enforcement and the community. In community policing, law enforcement becomes an integral facet of the community because officers work directly with the community and develop positive relationships with members of the community. Community members become more involved in their community's activities because they know they have the personal support of law enforcement. Community policing identifies factors that put young people at risk for violence in order to reduce or eliminate these factors and strengthen protective factors such as positive relationships with adults.

(Added by Stats. 1997, Ch. 935, Sec. 1. Effective January 1, 1998.)

49350.5.

(a) In order to ensure that students enrolled in the California public schools attend campuses that are safe, secure, orderly, and purposeful places in which students and staff are free to learn and teach without the threat of physical or psychological harm, it is the intent of the Legislature that two-year grants be provided to the ABC Unified School District and the Downey Unified School District to establish community policing school safety and mentoring programs.

(b) Grants under this article shall be awarded in order to develop and implement a plan that accomplishes both of the following:

(1) Provision for a continuum of responses to school safety needs by employees of school districts and local law enforcement agencies.

(2) Demonstration of a collaborative and integrated approach for implementing a system of providing safe and secure school environments between the school districts and local law enforcement agencies.

(c) Grant funds shall be expended as determined by the multiagency juvenile justice coordinating council, established pursuant to subdivision (b) of Section 49351.

(d) Grants under this article shall not be used to provide funding for school resource officers.

(Added by Stats. 1997, Ch. 935, Sec. 1. Effective January 1, 1998.)

49351.

(a) (1) The Community Policing and Mentoring for School Safety Pilot Program is hereby established. The Community Policing and Mentoring for School Safety Pilot Program shall be administered by the State Department of Education for the purpose of reducing juvenile crime and delinquency. The Superintendent of Public Instruction shall award grants to the ABC Unified School District and the Downey Unified School District to accomplish the goals set forth in subdivision (b) of Section 49350.5.

(2) Programs funded pursuant to this article may include, but not necessarily be limited to, all of the following methods of community policing:

(A) Teaching conflict resolution classes.

(B) Teaching crime prevention classes.

(C) Operating afterschool programs.

(D) Provide mentoring.

(E) Patrolling the community that encompasses the school district participating in the Community Policing and Mentoring for School Safety Pilot Program.

(b) Each school district that receives a grant under this article shall be required to establish a multiagency juvenile justice coordinating council that shall develop and implement a continuum of community-based responses to juvenile crime in the school setting.

(c) The coordinating councils established pursuant to subdivision (b) shall, at a minimum, include the school district, law enforcement agency, a volunteer police representative, parents, and at least two community organizations. The coordinating councils shall develop a comprehensive, multiagency plan that identifies resources and strategies for providing an effective targeted community policing plan, for activities relating to prevention, intervention, supervision, and treatment of at-risk youths in school settings.

(Added by Stats. 1997, Ch. 935, Sec. 1. Effective January 1, 1998.)

49352.

The coordinating council established pursuant to subdivision (b) of Section 49351 shall accomplish all of the following:

(a) Complete an identification and prioritization of the schools, and other areas in the community, that face a significant public safety risk from juvenile crime, such as gang activity, daylight burglary, late-night robbery, vandalism, truancy, controlled substance sales, firearm-related violence, and juvenile alcohol use within the council's jurisdiction.

(b) Develop information and intelligence sharing systems to ensure that school districts actions are fully coordinated with locallaw enforcement agencies, and to provide data for measuring the success of the grantee in achieving its goals. The plan shall develop goals related to the outcome measures that shall be used to determine the effectiveness of the program, at participating pilot sites.

(c) Identify outcome measures which shall include, but not necessarily be limited to, each of the following:

(1) The rate of drug- and alcohol-related offenses.

(2) The rate of crimes against persons.

(3) The rate of crimes against property.

(4) Incidence of students in possession of firearms or other weapons.

(Added by Stats. 1997, Ch. 935, Sec. 1. Effective January 1, 1998.)

49353.

(a) The State Department of Education shall award grants under this article to implement the plan developed pursuant to subdivision (b) of Section 49350.5 for a two-year period. Funding shall be used to supplement, rather than supplant, existing programs. Grant funds shall be used for programs that are identified in the local action plan as part of a continuum of responses to reduce juvenile crime and delinquency in a school setting. In no case shall the total amount of grant funds for the two-year period exceed two hundred thousand dollars ($200,000).

(b) (1) No grant shall be awarded unless the applicant does both of the following:

(A) Makes matching funds available in an amount equal to 50 percent or more of the amount of the grant.

(B) Demonstrates a commitment by local law enforcement agencies or other participating agencies to contribute matching funds in an amount equal to 50 percent or more of the amount of the grant.

(2) For purposes of this section, credit towards the matching fund requirement may be granted in an amount equal to the value of an in-kind contribution made on behalf of the school district or on behalf of a law enforcement agency or another participating agency.

(Added by Stats. 1997, Ch. 935, Sec. 1. Effective January 1, 1998.)

49354.

The State Department of Education shall establish minimum standards, funding schedules, and procedures for grants, which shall take into consideration, but not necessarily be limited to, all of the following:

(a) Size of the eligible high-risk youth population.

(b) Demonstrated ability to administer the program.

(c) Demonstrated ability to provide and develop a continuum of responses to juvenile crime and delinquency that includes prevention, intervention, diversion, suppression, and incapacitation.

(d) Demonstrated ability to implement a plan that provides a collaborative and integrated approach to juvenile crime and delinquency in a school setting.

(e) Demonstrated history of maximizing federal, state, local, and private funding sources.

(f) Likelihood that the program will continue to operate after state grant funding ends.

(Added by Stats. 1997, Ch. 935, Sec. 1. Effective January 1, 1998.)

49355.

The State Department of Education shall create an evaluation design for the Community Policing and Mentoring for School Safety Pilot Program. School districts that receive grants under this article shall use this evaluation design to assess the effectiveness of their programs. These school districts shall transmit their assessments to the department. The department shall develop an interim report to be submitted to the Legislature on or before March 1, 2000, and a final analysis of the grant program in a report to be submitted to the Legislature on or before March 1, 2002.

Funding appropriations

STATUTES

32282.

(c) Grants to assist schools in implementing their comprehensive school safety plan shall be made available through the partnership as authorized by Section 32285.

32285.

(a) The governing board of a school district, on behalf of one or more schools within the district that have developed a school safety plan, may apply to the Superintendent of Public Instruction for a grant to implement school safety plans. The partnership shall award grants for school safety plans that include, but are not limited to, the following criteria:

(1) Assessment of the recent incidence of crime committed on the school campus.

(2) Identification of appropriate strategies and programs that will provide or maintain a high level of school safety.

(3) Development of an action plan, in conjunction with local law enforcement agencies, for implementing appropriate safety strategies and programs, and determining the fiscal impact of executing the strategies and programs. The action plan shall identify available resources which will provide for implementation of the plan.

(b) The Superintendent of Public Instruction shall award grants pursuant to this section to school districts for the implementation of individual school safety plans in an amount not to exceed five thousand dollars

($5,000) for each school. No grant shall be made unless the school district makes available, for purposes of implementing the school safety plans, an amount of funds equal to the amount of the grant. Grants should be awarded through a competitive process, based upon criteria including, but not limited to, the merit of the proposal and the need for imposing school safety, based on school crime rates.

(c) Any school receiving a grant under this section shall submit to the Superintendent of Public Instruction verified copies of its schoolsite crime report annually for three consecutive years following the receipt of the grant to study the impact of the implementation of the school safety plan on the incidence of crime on the campus of the school.

48911.1.

(c) School districts may continue to claim apportionments for each pupil assigned to and attending a supervised suspension classroom provided as follows:

(1) The supervised suspension classroom is staffed as otherwise provided by law.

(2) Each pupil has access to appropriate counseling services.

(3) The supervised suspension classroom promotes completion of schoolwork and tests missed by the pupil during the suspension.

(4) Each pupil is responsible for contacting his or her teacher or teachers to receive assignments to be completed while the pupil is assigned to the supervised suspension classroom. The teacher shall provide all assignments and tests that the pupil will miss while suspended. If no classroom work is assigned, the person supervising the suspension classroom shall assign schoolwork.

(f) Apportionments claimed by a school district for pupils assigned to supervised suspension shall be used specifically to mitigate the cost of implementing this section.

49350.5.

(a) In order to ensure that students enrolled in the California public schools attend campuses that are safe, secure, orderly, and purposeful places in which students and staff are free to learn and teach without the threat of physical or psychological harm, it is the intent of the Legislature that two-year grants be provided to the ABC Unified School District and the Downey Unified School District to establish community policing school safety and mentoring programs.

(b) Grants under this article shall be awarded in order to develop and implement a plan that accomplishes both of the following:

(1) Provision for a continuum of responses to school safety needs by employees of school districts and local law enforcement agencies.

(2) Demonstration of a collaborative and integrated approach for implementing a system of providing safe and secure school environments between the school districts and local law enforcement agencies.

(c) Grant funds shall be expended as determined by the multiagency juvenile justice coordinating council, established pursuant to subdivision (b) of Section 49351.

(d) Grants under this article shall not be used to provide funding for school resource officers.

(Added by Stats. 1997, Ch. 935, Sec. 1. Effective January 1, 1998.)

49353.

(a) The State Department of Education shall award grants under this article to implement the plan developed pursuant to subdivision (b) of Section 49350.5 for a two-year period. Funding shall be used to supplement, rather than supplant, existing programs. Grant funds shall be used for programs that are identified in the local action plan as part of a continuum of responses to reduce juvenile crime and

delinquency in a school setting. In no case shall the total amount of grant funds for the two-year period exceed two hundred thousand dollars ($200,000).

(b) (1) No grant shall be awarded unless the applicant does both of the following:

(A) Makes matching funds available in an amount equal to 50 percent or more of the amount of the grant.

(B) Demonstrates a commitment by local law enforcement agencies or other participating agencies to contribute matching funds in an amount equal to 50 percent or more of the amount of the grant.

(2) For purposes of this section, credit towards the matching fund requirement may be granted in an amount equal to the value of an in-kind contribution made on behalf of the school district or on behalf of a law enforcement agency or another participating agency.

(Added by Stats. 1997, Ch. 935, Sec. 1. Effective January 1, 1998.)

Other/Uncategorized

Professional immunity or liability

STATUTES

32281.

(e) (1) When a principal or his or her designee verifies through local law enforcement officials that a report has been filed of the occurrence of a violent crime on the schoolsite of an elementary or secondary school at which he or she is the principal, the principal or the principal's designee may send to each pupil's parent or legal guardian and each school employee a written notice of the occurrence and general nature of the crime. If the principal or his or her designee chooses to send the written notice, the Legislature encourages the notice be sent no later than the end of business on the second regular work day after the verification. If, at the time of verification, local law enforcement officials determine that notification of the violent crime would hinder an ongoing investigation, the notification authorized by this subdivision shall be made within a reasonable period of time, to be determined by the local law enforcement agency and the school district. For purposes of this section, an act that is considered a "violent crime" shall meet the definition of Section 67381 and be an act for which a pupil could or would be expelled pursuant to Section 48915.

(2) Nothing in this subdivision shall create any liability in a school district or its employees for complying with paragraph (1).

48201.

(2) A school district, or school district officer or employee, is not civilly or criminally liable for providing information under this subdivision unless it is proven that the information was false and that the district or district officer or employee knew or should have known that the information was false or the information was provided with a reckless disregard for its truth or falsity.

48902.

(a) The principal of a school or the principal's designee shall, before the suspension or expulsion of any pupil, notify the appropriate law enforcement authorities of the county or city in which the school is situated, of any acts of the pupil that may violate Section 245 of the Penal Code.

(b) The principal of a school or the principal's designee shall, within one schoolday after suspension or expulsion of any pupil, notify, by telephone or any other appropriate method chosen by the school, the appropriate law enforcement authorities of the county or the school district in which the school is situated of any acts of the pupil that may violate subdivision (c) or (d) of Section 48900.

(c) Notwithstanding subdivision (b), the principal of a school or the principal's designee shall notify the appropriate law enforcement authorities of the county or city in which the school is located of any acts of a pupil that may involve the possession or sale of narcotics or of a controlled substance or a violation of Section 626.9 or 626.10 of the Penal Code. The principal of a school or the principal's designee shall report any act specified in paragraph (1) or (5) of subdivision (c) of Section 48915 committed by a pupil or nonpupil on a schoolsite to the city police or county sheriff with jurisdiction over the school and the school security department or the school police department, as applicable.

(d) A principal, the principal's designee, or any other person reporting a known or suspected act described in subdivision (a) or (b) is not civilly or criminally liable as a result of making any report

authorized by this article unless it can be proven that a false report was made and that the person knew the report was false or the report was made with reckless disregard for the truth or falsity of the report.

(e) The principal of a school or the principal's designee reporting a criminal act committed by a schoolage individual with exceptional needs, as defined in Section 56026, shall ensure that copies of the special education and disciplinary records of the pupil are transmitted, as described in Section 1415(6)(k) of Title 20 of the United States Code, for consideration by the appropriate authorities to whom he or she reports the criminal act. Any copies of the pupil's special education and disciplinary records may be transmitted only to the extent permissible under the federal Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Sec. 1232g et seq.).

49334.

If a school employee initially notifies a law enforcement agency regarding a student or adult who possesses an injurious object while upon school premises or while under the authority of school personnel, the employee may not be subject to any civil or administrative proceeding, including any disciplinary action, for violation of any local policy or procedure relating to the notification of a law enforcement agency. The employee shall conform to locally adopted procedures after exercising his or her personal option to notify a law enforcement agency.

Community input or involvement

STATUTES

48263.

If the school attendance review board or probation officer determines that available community services can resolve the problem of the truant or insubordinate pupil, then the board or probation officer shall direct the pupil or the pupil's parents or guardians, or both, to make use of those community services. The school attendance review board or probation officer may require, at any time that it determines proper, the pupil or parents or guardians of the pupil, or both, to furnish satisfactory evidence of participation in the available community services.

48900.6.

As part of or instead of disciplinary action prescribed by this article, the principal of a school, the principal's designee, the superintendent of schools, or the governing board may require a pupil to perform community service on school grounds or, with written permission of the parent or guardian of the pupil, off school grounds, during the pupil's nonschool hours. For the purposes of this section, "community service" may include, but is not limited to, work performed in the community or on school grounds in the areas of outdoor beautification, community or campus betterment, and teacher, peer, or youth assistance programs. This section does not apply if a pupil has been suspended, pending expulsion, pursuant to Section 48915. However, this section applies if the recommended expulsion is not implemented or is, itself, suspended by stipulation or other administrative action.

Other/Uncategorized

STATUTES

48908.

All pupils shall comply with the regulations, pursue the required course of study, and submit to the authority of the teachers of the schools.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by California provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
Website		
School Environment	Provides training, resources, and technical assistance in the establishment of a school/community environment that is physically and emotionally safe, well-disciplined, and conducive to learning.	http://www.cde.ca.gov/ls/ss/se/index.asp
Bullying and Hate Motivated Behavior	Provides resources for parents, administrators, and students on how bullying can be prevented and addressed. Resources include publications, sample policies, and frequently asked questions.	http://www.cde.ca.gov/ls/ss/se/bullyingprev.asp
Classroom Management	Information and resources to successfully manage unwanted behavior in classrooms.	http://www.cde.ca.gov/ls/ss/se/classroommgmt.asp
Positive School Climate	Information regarding the importance of positive school climate and resources to improve school climate.	http://www.cde.ca.gov/ls/ss/se/schoolclimate.asp
Unsafe School Choice Option Provisions	Information regarding the Unsafe School Choice Option (USCO) provisions of the No Child Left Behind Act.	http://www.cde.ca.gov/ls/ss/se/usco.asp
Zero Tolerance	Information regarding zero tolerance policies for firearms in schools.	http://www.cde.ca.gov/ls/ss/se/zerotolerance.asp
Documents		
No relevant resources found		
Other Resources		
No relevant resources found		

Colorado Compilation of School Discipline Laws and Regulations

Prepared: August 12, 2013

Introduction

This compilation presents school discipline-related state statutes, school discipline-related regulations, and, where available, links to state-sponsored websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSLE). For example, one major category encompasses all state laws or regulations mandating specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of state legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in each state.

Discipline categories were not mutually exclusive. Statutes and regulations often appeared across multiple categories. For states with more extensive statutes covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. State laws, ordered by chapter and section number, appear first within each category followed by state regulations. All statutes and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists statutes by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to state-sponsored websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of May 2013, with the exception of the state laws related to seclusion and restraint, which are complete and current as of December 2012. Readers should also note that the information in this document was compiled from individual state sources that are created by each state and which are maintained and updated with varying frequencies. Readers should consult the source information provided for each state directly in order to check for updates to this state's laws and regulations or conduct further research.

For further information, including definitions of the different policy categories, please refer to the Discipline Laws and Regulations Compendium posted on the Center's website.

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Safe Supportive Learning
Engagement | Safety | Environment

Table of Contents

Colorado State Codes Cited **1**

General Provisions **3**

Authority to develop and establish rules of conduct 3
Scope 4
Communication of policy 5

In-School Discipline **7**

Use of multi-tiered discipline approaches 7
Teacher authority to remove students from classrooms 7
Alternatives to suspension 8
Use of corporal punishment 10
Use of student and locker searches 10
Other in-school disciplinary approaches 10

Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements **11**

Grounds for possible suspension or expulsion 11
Grounds for mandatory suspension or expulsion 13
Limitations, conditions or exclusions for use of suspension and expulsion 13
Administrative procedures related to suspension and expulsion 15
In-school suspension 16
Return to school following removal 17
Use of restraint and seclusion 18
Alternative placements 23

Disciplinary Approaches Addressing Specific Infractions and Conditions **26**

Firearms (as required by the Guns-Free Schools Act) 26
Other weapons 27
Students with chronic disciplinary issues 28
Attendance and truancy 30
Substance use 33
Bullying, harassment, or hazing 34
Other special infractions or conditions 36

Prevention and Behavioral Interventions (Non-Punitive) **38**

Prevention 38
Behavioral interventions and student support services 39
Professional development 42

Monitoring and Accountability **43**

Formal incident reporting of conduct violations 43
Parental notification 43
Reporting and referrals between schools and law enforcement 47
Disclosure of school records 49
Data collection, review, and reporting of disciplinary policies and actions 49

School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers 52
Authority and power to implement school arrest 52
Certification or training 53
MOUs, authorization, and/or funding 54
State Education Agency Support 55
State model policies and implementation support 55
Funding appropriations 55
Other/Uncategorized 58
Professional immunity or liability 58
Community input or involvement 60
Other/Uncategorized 61
State-Sponsored, Publicly Available Websites or Other Resources on School Discipline 62

Colorado State Codes Cited

Colorado Revised Statutes

Title 18. Criminal Code

Article 9. Offenses Against Public Peace, Order, and Decency

Part 1. Public Peace and Order

18-9-124. Hazing - penalties - legislative declaration

Title 22. Education

General and Administrative

Article 1. General Provisions

22-1-117. Secret fraternities forbidden
22-1-118. School board to enforce

Article 11. Education Accountability

22-11-302. School district accountability committees - powers and duties

Article 12. Teacher and School Administrator Protection Act

22-12-104. Liability

Article 14. Dropout Prevention and Student Re-Engagement

22-14-103. Office of dropout prevention and student re-engagement - created - purpose – duties
22-14-104. Report of effective policies and strategies - creation – use
22-14-105. Assessment of statewide student attendance data – report
22-14-108. Local education provider - notice to parent of dropout status
22-14-109. Student re-engagement grant program - rules - application - grants - fund created – report

Article 32. School District Boards – Powers and Duties

22-32-109.1. Board of education - specific powers and duties - safe school plan - conduct and discipline code - safe school reporting requirements

Article 33. School Attendance Law of 1963

22-33-102. Definitions
22-33-105. Suspension, expulsion, and denial of admission
22-33-106. Grounds for suspension, expulsion, and denial of admission
22-33-106.5. Information concerning offenses committed by students
22-33-107. Enforcement of compulsory school attendance
22-33-107.5. Notice of failure to attend
22-33-108. Judicial proceedings
22-33-201. Legislative declaration
22-33-202. Identification of at-risk students
22-33-203. Educational alternatives for expelled students

22-33-204. Services for at-risk students - agreements with state agencies and community organizations
22-33-204.5. Legislative declaration
22-33-205. Services for expelled and at-risk students - grants – criteria

Article 93. School bullying Prevention and Education Grant Program

22-93-101. Definitions
22-93-102. School bullying prevention and education grant program – created
22-93-103. School bullying prevention and education grant program - grant process - reports by grant recipients
22-93-104. Rules
22-93-105. School bullying prevention and education cash fund – created
22-93-106. School bullying prevention and education - availability of best practices and other resources

Title 26. Human Services Code

Article 20. Protection of Persons from Restraint

26-20-108. Rules

Colorado Administrative Code

300 Department of Education

301 Colorado State Board of Education

1 CCR 301-45. Rules for the Administration of the Protection of Persons from Restraint Act

2620-R- 1.00. Statement of Basis Purpose
2620-R- 2.01. Basis for the Use of Restraint
2620-R- 2.02. Duties Related to the Use of Restraint
2620-R- 2.03. Staff Training
2620-R- 2.04. Documentation and Notification Requirements
2620-R- 2.05. Review of the Use of Restraint
2620-R- 2.06. Exceptions

General Provisions

Authority to develop and establish rules of conduct

STATUTES

22-1-118. School board to enforce

The boards of directors of all school districts shall enforce the provisions of section 22-1-117, and shall have full power to make, adopt, and modify all rules and regulations which in their judgment and discretion may be necessary for the proper governing of such schools and for the enforcing of all the provisions of section 22-1-117.

22-11-302. School district accountability committees - powers and duties.

(1) Each school district accountability committee shall have the following powers and duties:

(f) To provide input to the local school board concerning the creation and enforcement of its school conduct and discipline code.

22-32-109.1. Board of education - specific powers and duties - safe school plan - conduct and discipline code - safe school reporting requirements.

(1.5) Mission statement. Each school district board of education shall adopt a mission statement for the school district, which statement shall include making safety for all students and staff a priority in each public school of the school district.

(2) Safe school plan. In order to provide a learning environment that is safe, conducive to the learning process, and free from unnecessary disruption, following consultation with the school district accountability committee and school accountability committees, parents, teachers, administrators, students, student councils where available, and, where appropriate, the community at large, each school district board of education shall adopt and implement a safe school plan, or review and revise, as necessary in response to any relevant data collected by the school district, any existing plans or policies already in effect. In addition to the aforementioned parties, each school district board of education, in adopting and implementing its safe school plan, may consult with victims advocacy organizations, school psychologists, and local law enforcement agencies. The plan, at a minimum, shall include the following:

(a) Conduct and discipline code.

(A) General policies on student conduct, safety, and welfare;

(C) Provisions for the initiation of suspension or expulsion proceedings for students who qualify as habitually disruptive students;

(E) General policies and procedures for determining the circumstances under and the manner in which disciplinary actions, including suspension and expulsion, shall be imposed in accordance with the provisions of sections 22-33-105 and 22-33-106;

(F) A specific policy concerning gang-related activities on school grounds, in school vehicles, and at school activities or sanctioned events.

22-33-104. Compulsory school attendance.

(4) (a) The board of education shall adopt a written policy setting forth the district's attendance requirements. Said policy shall provide for excused absences, including those listed as exclusions from compulsory school attendance in accordance with subsection (2) of this section. An attendance policy

developed pursuant to this section may include appropriate penalties for nonattendance due to unexcused absence.

(b) The attendance policy adopted pursuant to this subsection (4) shall specify the maximum number of unexcused absences a child may incur before the attorney for the school district, the attendance officer, or the local board of education may initiate judicial proceedings pursuant to section 22-33-108. Calculation of the number of unexcused absences a child has incurred includes all unexcused absences occurring during any calendar year or during any school year.

(c) On or before January 1, 2009, the state board shall adopt rules establishing a standardized calculation for counting unexcused absences of students, including the circumstance in which a student is absent for part of a school day, and the format for reporting the information to the department pursuant to section 22-33-107.

22-33-105. Suspension, expulsion, and denial of admission.

(2) In addition to the powers provided in section 22-32-110, the board of education of each district may:

(a) Delegate to any school principal within the school district or to a person designated in writing by the principal the power to suspend a pupil in his school for not more than five school days on the grounds stated in section 22-33-106 (1) (a), (1) (b), (1) (c), or (1) (e) or not more than ten school days on the grounds stated in section 22-33-106 (1) (d), unless expulsion is mandatory pursuant to such provision;

(b) Suspend, on the grounds stated in section 22-33-106, a pupil from school for not more than another ten school days, or may delegate such power to its executive officer; except that the latter may extend a suspension to an additional ten school days if necessary in order to present the matter to the next meeting of the board of education, but the total period of suspension pursuant to this paragraph (b) and paragraph (a) of this subsection (2) shall not exceed twenty-five school days; and

(c) Deny admission to, or expel for any period not extending beyond one year, any child whom the board of education, in accordance with the limitations imposed by this article, shall determine does not qualify for admission to, or continued attendance at, the public schools of the district.

26-20-108. Rules.

Each agency that is authorized to promulgate rules or adopt ordinances shall promulgate rules or adopt ordinances applicable to the agencies within their respective jurisdictions that establish procedures for the use of restraint consistent with the provisions of this article. Any agency that has rules or ordinances in existence on April 22, 1999, is not required to promulgate additional rules or adopt additional ordinances unless that agency's existing rules or ordinances do not meet the minimum requirements of this article.

Scope

STATUTES

22-32-109.1. Board of education - specific powers and duties - safe school plan - conduct and discipline code - safe school reporting requirements.

(2) The plan, at a minimum, shall include the following:

(a) Conduct and discipline Code

(B) General policies and procedures for dealing with students who cause a disruption on school grounds, in a school vehicle, or at a school activity or sanctioned event, including a specific policy allowing a teacher to remove a disruptive student from his or her classroom. The policy shall state that, upon the third such removal from a teacher's class, the teacher may remove the disruptive student from the teacher's class for the remainder of the term of the class; except that a disruptive

student shall not be removed from a teacher's class for the remainder of the term of the class unless the principal of the student's school or his or her designee has developed and implemented a behavior plan for the student. A behavior plan may be developed after the first such removal from class and shall be developed after the second removal from class. The general policies and procedures shall include a due process procedure, which at a minimum shall require that, as soon as possible after a removal, the teacher or the school principal shall contact the parent or legal guardian of the student to request his or her attendance at a student-teacher conference regarding the removal. Any policy or procedure adopted shall comply with applicable federal and state laws, including but not limited to laws regarding students with disabilities. (G) Written prohibition, consistent with section 22-33-106, of students from bringing or possessing dangerous weapons, drugs, or other controlled substances on school grounds, in a school vehicle, or at a school activity or sanctioned event and from using drugs or other controlled substances on school grounds, in a school vehicle, or at a school activity or sanctioned event;

22-32-146. School use of on-site peace officers as school resource officers - notifications of arrests and notices issued - reporting requirements.

(1) If a school resource officer or other law enforcement officer acting in his or her official capacity on school grounds, in a school vehicle, or at a school activity or sanctioned event arrests a student of the school, the officer shall notify the principal of the school or his or her designee of the arrest within twenty-four hours after the arrest.

(2) If a school resource officer or other law enforcement officer acting in his or her official capacity on school grounds, in a school vehicle, or at a school activity or sanctioned event issues a summons, ticket, or other notice requiring the appearance of a student of the school in court or at a police station for investigation relating to an offense allegedly committed on school grounds, in a school vehicle, or at a school activity or sanctioned event, the officer shall notify the principal of the school or his or her designee of the issuance of the summons, ticket, or other notice within ten days after the issuance of the summons, ticket, or other notice.

22-33-105. Suspension, expulsion, and denial of admission.

(b) Except as provided in paragraph (c) of this subsection (3), a suspended pupil shall:

(I) Be required to leave the school building and the school grounds immediately, following a determination by the parent, guardian, or legal custodian and the school of the best way to transfer custody of the pupil to the parent, guardian, or legal custodian; and

Communication of policy

STATUTES

22-32-109.1. Board of education - specific powers and duties - safe school plan - conduct and discipline code - safe school reporting requirements.

(2) The plan, at a minimum, shall include the following:

(a) Conduct and discipline code.

(I) A concisely written conduct and discipline code that shall be enforced uniformly, fairly, and consistently for all students. Copies of the code shall be provided to each student upon enrollment at the elementary, middle, and high school levels and shall be posted or kept on file at each public school in the school district. The school district shall take reasonable measures to ensure that each student of each public school in the school district is familiar with the code.

22-33-107. Enforcement of compulsory school attendance.

(3) (b) The board of education of each school district shall adopt and implement policies and procedures concerning children who are habitually truant. The policies and procedures shall include provisions for the development of a plan. The plan shall be developed with the goal of assisting the child to remain in school and, when practicable, with the full participation of the child's parent, guardian, or legal custodian. Appropriate school personnel shall make all reasonable efforts to meet with the parent, guardian, or legal custodian of the child to review and evaluate the reasons for the child's truancy. The policies and procedures may also include but need not be limited to the following:

(II) Annually at the beginning of the school year and upon any enrollment during the school year, notifying the parent of each child enrolled in the public schools in writing of such parent's obligations pursuant to section 22-33-104 (5) and requesting that the parent acknowledge in writing awareness of such obligations;

In-School Discipline

Use of multi-tiered discipline approaches

STATUTES

22-33-201. Legislative declaration.

The general assembly hereby finds that except when a student's behavior would cause imminent harm to others in the school or when an incident requires automatic expulsion as defined by state law or a school's conduct and discipline code, expulsion should be the last step taken after several attempts to deal with a student who has discipline problems. The general assembly further finds that school districts should work with the student's parent or guardian and with state agencies and community-based nonprofit organizations to develop alternatives to help students who are at risk of expulsion before expulsion becomes a necessary step and to support students who are unable to avoid mandatory expulsion.

22-33-202. Identification of at-risk students.

(1) Each school district shall adopt policies to identify students who are at risk of suspension or expulsion from school. Students identified may include those who are truant, who have been or are likely to be declared habitually truant, or who are likely to be declared habitually disruptive. The school district shall provide students who are identified as at risk of suspension or expulsion with a plan to provide the necessary support services to help them avoid expulsion. The school district shall work with the student's parent or guardian in providing the services and may provide the services through agreements with appropriate local governmental agencies, appropriate state agencies, community-based organizations, and institutions of higher education entered into pursuant to section 22-33-204.

Teacher authority to remove students from classrooms

STATUTES

22-32-109.1. Board of education - specific powers and duties - safe school plan - conduct and discipline code - safe school reporting requirements.

(2) The plan, at a minimum, shall include the following:

(b) General policies and procedures for dealing with students who cause a disruption on school grounds, in a school vehicle, or at a school activity or sanctioned event, including a specific policy allowing a teacher to remove a disruptive student from his or her classroom. The policy shall state that, upon the third such removal from a teacher's class, the teacher may remove the disruptive student from the teacher's class for the remainder of the term of the class; except that a disruptive student shall not be removed from a teacher's class for the remainder of the term of the class unless the principal of the student's school or his or her designee has developed and implemented a behavior plan for the student. A behavior plan may be developed after the first such removal from class and shall be developed after the second removal from class. The general policies and procedures shall include a due process procedure, which at a minimum shall require that, as soon as possible after a removal, the teacher or the school principal shall contact the parent or legal guardian of the student to request his or her attendance at a student-teacher conference regarding the removal. Any policy or procedure adopted shall comply with applicable federal and state laws, including but not limited to laws regarding students with disabilities.

Alternatives to suspension

STATUTES

22-32-109.1. Board of education - specific powers and duties - safe school plan - conduct and discipline code - safe school reporting requirements.

(1) Definitions. As used in this section, unless the context otherwise requires:

(a) "Action taken" means a specific type of discipline, including but not limited to the following categories of discipline:

(I) In-school suspension;

(II) Out-of-school suspension;

(III) Classroom removal in accordance with board policy;

(IV) Expulsion;

(V) Referral to a law enforcement agency; or

(VI) Any other form of discipline, which shall be officially identified as part of a board policy.

(b) "Bullying" means any written or verbal expression, or physical or electronic act or gesture, or a pattern thereof, that is intended to coerce, intimidate, or cause any physical, mental, or emotional harm to any student. Bullying is prohibited against any student for any reason, including but not limited to any such behavior that is directed toward a student on the basis of his or her academic performance or against whom federal and state laws prohibit discrimination upon any of the bases described in section 22-32-109 (1) (ll) (I). This definition is not intended to infringe upon any right guaranteed to any person by the first amendment to the United States constitution or to prevent the expression of any religious, political, or philosophical views.

(2) Safe school plan.

(a) Conduct and discipline code.

(II) In creating and enforcing a school conduct and discipline code pursuant to subparagraph (I) of this paragraph (a), each school district board of education, on and after August 1, 2013, shall:

(A) Impose proportionate disciplinary interventions and consequences, including but not limited to in-school suspensions, in response to student misconduct, which interventions and consequences are designed to reduce the number of expulsions, out-of-school suspensions, and referrals to law enforcement, except for such referrals to law enforcement as are required by state or federal law;

(B) Include plans for the appropriate use of prevention, intervention, restorative justice, peer mediation, counseling, or other approaches to address student misconduct, which approaches are designed to minimize student exposure to the criminal and juvenile justice system. The plans shall state that a school administration shall not order a victim's participation in a restorative justice practice or peer mediation if the alleged victim of an offending student's misconduct alleges that the misconduct constitutes unlawful sexual behavior, as defined in section 16-22-102 (9), C.R.S.; a crime in which the underlying factual basis involves domestic violence, as defined in section 18-6-800.3 (1), C.R.S.; stalking as defined in section 18-3-602, C.R.S.; or violation of a protection order, as defined in section 18-6-803.5, C.R.S.;

(C) Ensure that the implementation of the code complies with all state and federal laws concerning the education of students with disabilities, as defined in section 22-20-103 (5); and

(D) Ensure that, in implementing the code, each school of the school district shows due consideration of the impact of certain violations of the code upon victims of such violations, in

accordance with the provisions of title IX of the United States Code and other state and federal laws.

22-33-105. Suspension, expulsion, and denial of admission

(5) (a) Alternatively, the board of education or its designee may determine that it will wait until the conclusion of the juvenile proceedings to consider the expulsion matter, in which case it shall be the responsibility of the district to provide the student with an appropriate alternate education program, including but not limited to an on-line program or on-line school authorized pursuant to article 30.7 of this title, or a home-based education program during the period pending the resolution of the juvenile proceedings. Information made available to the school district and not otherwise available to the public pursuant to the provisions of section 19-1-304, C.R.S., shall remain confidential.

22-33-105. Suspension, expulsion, and denial of admission.

(4) The board of education of each district shall establish, as an alternative to suspension, a policy that allows the pupil to remain in school by encouraging the parent, guardian, or legal custodian, with the consent of the pupil's teacher or teachers, to attend class with the pupil for a period of time specified by the suspending authority. If the parent, guardian, or legal custodian does not agree to attend class with the pupil or fails to attend class with the pupil, the pupil shall be suspended in accordance with the conduct and discipline code of the district.

22-33-201. Legislative declaration.

The general assembly hereby finds that except when a student's behavior would cause imminent harm to others in the school or when an incident requires automatic expulsion as defined by state law or a school's conduct and discipline code, expulsion should be the last step taken after several attempts to deal with a student who has discipline problems. The general assembly further finds that school districts should work with the student's parent or guardian and with state agencies and community-based nonprofit organizations to develop alternatives to help students who are at risk of expulsion before expulsion becomes a necessary step and to support students who are unable to avoid mandatory expulsion.

22-33-202. Identification of at-risk students.

(1) Each school district shall adopt policies to identify students who are at risk of suspension or expulsion from school. Students identified may include those who are truant, who have been or are likely to be declared habitually truant, or who are likely to be declared habitually disruptive. The school district shall provide students who are identified as at risk of suspension or expulsion with a plan to provide the necessary support services to help them avoid expulsion. The school district shall work with the student's parent or guardian in providing the services and may provide the services through agreements with appropriate local governmental agencies, appropriate state agencies, community-based organizations, and institutions of higher education entered into pursuant to section 22-33-204. The failure of the school district to identify a student for participation in an expulsion-prevention program or the failure of such program to remediate a student's behavior shall not be grounds to prevent school personnel from proceeding with appropriate disciplinary measures or used in any way as a defense in an expulsion proceeding.

Use of corporal punishment

STATUTES

22-32-109.1. Board of education - specific powers and duties - safe school plan - conduct and discipline code - safe school reporting requirements.

(2) Safe School plan

(a) Conduct and discipline code. The code shall include, but need not be limited to:

(D) Policies and procedures for the use of acts of reasonable and appropriate physical intervention or force in dealing with disruptive students; except that no board shall adopt a discipline code that includes provisions that are in conflict with the definition of child abuse in section 18-6-401 (1), C.R.S., and section 19-1-103 (1), C.R.S.;

Use of student and locker searches

STATUTES

22-32-109.1. Board of education - specific powers and duties - safe school plan - conduct and discipline code - safe school reporting requirements.

(2) Safe school plan. In order to provide a learning environment that is safe, conducive to the learning process, and free from unnecessary disruption, following consultation with the school district accountability committee and school accountability committees, parents, teachers, administrators, students, student councils where available, and, where appropriate, the community at large, each school district board of education shall adopt and implement a safe school plan, or review and revise, as necessary in response to any relevant data collected by the school district, any existing plans or policies already in effect. In addition to the aforementioned parties, each school district board of education, in adopting and implementing its safe school plan, may consult with victims advocacy organizations, school psychologists, and local law enforcement agencies. The plan, at a minimum, shall include the following:

(I) A written policy concerning searches on school grounds, including searches of student lockers;

Other in-school disciplinary approaches

No relevant statutes found.

Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements

Grounds for possible suspension or expulsion

STATUTES

22-32-109.1. Board of education - specific powers and duties - safe school plan - conduct and discipline code - safe school reporting requirements.

(1) Definitions. As used in this section, unless the context otherwise requires:

(a) "Action taken" means a specific type of discipline, including but not limited to the following categories of discipline:

(II) Out-of-school suspension;

(III) Classroom removal in accordance with board policy;

(IV) Expulsion;

(a) Conduct and discipline code. The code shall include, but need not be limited to:

(C) Provisions for the initiation of suspension or expulsion proceedings for students who qualify as habitually disruptive students;

(E) General policies and procedures for determining the circumstances under and the manner in which disciplinary actions, including suspension and expulsion, shall be imposed in accordance with the provisions of sections 22-33-105 and 22-33-106;

22-33-105. Suspension, expulsion, and denial of admission.

(5) (a) Whenever a petition filed in juvenile court alleges that a child at least twelve years of age but under eighteen years of age has committed an offense that would constitute unlawful sexual behavior, as defined in section 16-22-102 (9), C.R.S., or a crime of violence, as defined in section 18-1.3-406, C.R.S., if committed by an adult or whenever charges filed in district court allege that a child has committed such an offense, basic identification information concerning such child and the details of the alleged delinquent act or offense shall be provided immediately to the school district in which the child is enrolled in accordance with the provisions of section 19-1-304 (5), C.R.S. Upon receipt of such information, the board of education of the school district or its designee shall determine whether the student has exhibited behavior that is detrimental to the safety, welfare, and morals of the other students or of school personnel in the school and whether educating the student in the school may disrupt the learning environment in the school, provide a negative example for other students, or create a dangerous and unsafe environment for students, teachers, and other school personnel. The determination may be made in executive session to the extent allowed by section 24-6-402 (4) (h), C.R.S. If the board of education or its designee, in accordance with the provisions of this subsection (5), makes a determination that the student should not be educated in the school, it may proceed with suspension or expulsion in accordance with subsection (2) of this section and section 22-33-106. Alternatively, the board of education or its designee may determine that it will wait until the conclusion of the juvenile proceedings to consider the expulsion matter, in which case it shall be the responsibility of the district to provide the student with an appropriate alternate education program, including but not limited to an on-line program or on-line school authorized pursuant to article 30.7 of this title, or a home-based education program during the period pending the resolution of the juvenile proceedings.

Information made available to the school district and not otherwise available to the public pursuant to the provisions of section 19-1-304, C.R.S., shall remain confidential.

(b) No student who is being educated in an alternate education program or a home-based education program pursuant to paragraph (a) of this subsection (5) shall be allowed to return to the education program in the public school until there has been a disposition of the charge. If the student pleads guilty, is found guilty, or is adjudicated a delinquent juvenile, the school district may proceed in accordance with section 22-33-106 to expel the student. The time that a student spends in an alternate education program pursuant to paragraph (a) of this subsection (5) shall not be considered a period of expulsion.

22-33-106. Grounds for suspension, expulsion, and denial of admission.

(1) The following may be grounds for suspension or expulsion of a child from a public school during a school year:

(a) Continued willful disobedience or open and persistent defiance of proper authority;

(b) Willful destruction or defacing of school property;

(c) Behavior on or off school property that is detrimental to the welfare or safety of other pupils or of school personnel, including behavior that creates a threat of physical harm to the child or to other children;

(c.5) (I) Declaration as a habitually disruptive student.

(II) For purposes of this paragraph (c.5), "habitually disruptive student" means a child who has caused a material and substantial disruption on school grounds, in a school vehicle, or at a school activity or sanctioned event three or more times during the course of a school year. Any student who is enrolled in a public school may be subject to being declared a habitually disruptive student.

(d) Committing one of the following offenses on school grounds, in a school vehicle, or at a school activity or sanctioned event:

(I) Possession of a dangerous weapon without the authorization of the school or the school district;

(II) The use, possession, or sale of a drug or controlled substance as defined in section 18-18-102 (5), C.R.S.; or

(III) The commission of an act that, if committed by an adult, would be robbery pursuant to part 3 of article 4 of title 18, C.R.S., or assault pursuant to part 2 of article 3 of title 18, C.R.S., other than the commission of an act that would be third degree assault under section 18-3-204, C.R.S., if committed by an adult.

(e) Repeated interference with a school's ability to provide educational opportunities to other students.

(f) Carrying, using, actively displaying, or threatening with the use of a firearm facsimile that could reasonably be mistaken for an actual firearm in a school building or in or on school property.

(g) Pursuant to section 22-12-105 (3), making a false accusation of criminal activity against an employee of an educational entity to law enforcement authorities or school district officials or personnel.

(3) The following may constitute additional grounds for denial of admission to a public school:

(c) Having been expelled from any school district during the preceding twelve months;

(f) Behavior in another school district during the preceding twelve months that is detrimental to the welfare or safety of other pupils or of school personnel.

Grounds for mandatory suspension or expulsion

STATUTES

22-32-109.1. Board of education - specific powers and duties - safe school plan - conduct and discipline code - safe school reporting requirements.

(1) Definitions. As used in this section, unless the context otherwise requires:

(a) "Action taken" means a specific type of discipline, including but not limited to the following categories of discipline:

(II) Out-of-school suspension;

(III) Classroom removal in accordance with board policy;

(IV) Expulsion;

(3) Agreements with state agencies. Each board of education shall cooperate and, to the extent possible, develop written agreements with law enforcement officials, the juvenile justice system, and social services, as allowed under state and federal law, to keep each school environment safe. Each board of education shall adopt a policy whereby procedures will be used following instances of assault upon, disorderly conduct toward, harassment of, the making knowingly of a false allegation of child abuse against, or any alleged offense under the "Colorado Criminal Code" directed toward a school teacher or school employee or instances of damage occurring on the premises to the personal property of a school teacher or school employee by a student. Such procedures shall include, at a minimum, the following provisions:

(b) The school administration shall, after receipt of such report and proof deemed adequate to the school administration, suspend the student for three days, such suspension to be in accordance with the procedures established therefor, and shall initiate procedures for the further suspension or expulsion of the student where injury or property damage has occurred.

22-33-106. Grounds for suspension, expulsion, and denial of admission.

(1.5) Notwithstanding any other provision of law, in accordance with the provisions of 20 U.S.C. sec. 7151, a student who is determined to have brought a firearm to a school, or to have possessed a firearm at a school, shall be expelled for a period of not less than one year; except that the superintendent of the student's school district may modify this requirement for a student on a case-by-case basis if such modification is in writing.

22-33-106.5. Information concerning offenses committed by students.

(1) Upon adjudication or conviction of a person under the age of eighteen years for an offense specified in section 22-33-106 (1) (d), the adjudicating juvenile court or the convicting district court, whichever is applicable, shall notify the school district in which the person is enrolled that the person is subject to mandatory expulsion based on the adjudication or conviction.

Limitations, conditions or exclusions for use of suspension and expulsion

STATUTES

22-33-105. Suspension, expulsion, and denial of admission.

(1) No child who has attained the age of six years and is under the age of twenty-one shall be suspended or expelled from or be denied admission to the public schools, except as provided by this article.

(d) The suspending authority shall:

(II) Not extend a period of suspension because of the failure of the suspending authority to meet with the parent, guardian, or legal custodian during the period of suspension;

22-33-106. Grounds for suspension, expulsion, and denial of admission.

(1) The following may be grounds for suspension or expulsion of a child from a public school during a school year:

(c) Behavior on or off school property that is detrimental to the welfare or safety of other pupils or of school personnel, including behavior that creates a threat of physical harm to the child or to other children; except that, if the child who creates the threat is a child with a disability pursuant to section 22-20-103 (5), the child may not be expelled if the actions creating the threat are a manifestation of the child's disability. However, the child shall be removed from the classroom to an appropriate alternative setting within the district in which the child is enrolled for a length of time that is consistent with federal law, during which time the school in which the student is enrolled shall give priority to and arrange within ten days for a reexamination of the child's individualized education program to amend his or her program as necessary to ensure that the needs of the child are addressed in a more appropriate manner or setting that is less disruptive to other students and is in accordance with the provisions of article 20 of this title. Nothing in this paragraph (c) shall be construed to limit a school district's authority to suspend a child with a disability for a length of time that is consistent with federal law.

(1.2) Each school district is encouraged to consider each of the following factors before suspending or expelling a student pursuant to a provision of subsection (1) of this section:

(a) The age of the student;

(b) The disciplinary history of the student;

(c) Whether the student has a disability;

(d) The seriousness of the violation committed by the student;

(e) Whether the violation committed by the student threatened the safety of any student or staff member; and

(f) Whether a lesser intervention would properly address the violation committed by the student.

22-33-201. Legislative declaration.

The general assembly hereby finds that except when a student's behavior would cause imminent harm to others in the school or when an incident requires automatic expulsion as defined by state law or a school's conduct and discipline code, expulsion should be the last step taken after several attempts to deal with a student who has discipline problems. The general assembly further finds that school districts should work with the student's parent or guardian and with state agencies and community-based nonprofit organizations to develop alternatives to help students who are at risk of expulsion before expulsion becomes a necessary step and to support students who are unable to avoid mandatory expulsion.

22-33-204.5. Legislative declaration

The general assembly finds that a student who is placed in a residential child care facility or other facility licensed by the department of human services or in a hospital or who is receiving educational services through a day treatment center is, in most cases, dealing with significant behavioral and emotional issues. These issues make it difficult, if not impossible, for the student to function within a regular school and often severely impact the student's ability to participate in a facility school. The general assembly further finds that, although a student who is placed in a facility cannot be expelled due to the nature of the placement, the student is at risk of being unable to prosper academically and should be considered an at-risk student for purposes of section 22-33-205.

Administrative procedures related to suspension and expulsion

STATUTES

22-32-109.1. Board of education - specific powers and duties - safe school plan - conduct and discipline code - safe school reporting requirements.

(3) Agreements with state agencies. Each board of education shall cooperate and, to the extent possible, develop written agreements with law enforcement officials, the juvenile justice system, and social services, as allowed under state and federal law, to keep each school environment safe. Each board of education shall adopt a policy whereby procedures will be used following instances of assault upon, disorderly conduct toward, harassment of, the making knowingly of a false allegation of child abuse against, or any alleged offense under the "Colorado Criminal Code" directed toward a school teacher or school employee or instances of damage occurring on the premises to the personal property of a school teacher or school employee by a student. Such procedures shall include, at a minimum, the following provisions:

(a) Such school teacher or school employee shall file a complaint with the school administration and the board of education.

22-33-105. Suspension, expulsion, and denial of admission.

(2) In addition to the powers provided in section 22-32-110, the board of education of each district may:

(c) Deny admission to, or expel for any period not extending beyond one year, any child whom the board of education, in accordance with the limitations imposed by this article, shall determine does not qualify for admission to, or continued attendance at, the public schools of the district. A board of education may delegate such powers to its executive officer or to a designee who shall serve as a hearing officer. If the hearing is conducted by a designee acting as a hearing officer, the hearing officer shall forward findings of fact and recommendations to the executive officer at the conclusion of the hearing. The executive officer shall render a written opinion within five days after a hearing conducted by the executive officer or by a hearing officer. The executive officer shall report on each case acted upon at the next meeting of the board of education, briefly describing the circumstances and the reasons for the executive officer's action. A child who is denied admission or expelled as an outcome of the hearing shall have ten days after the denial of admission or expulsion to appeal the decision of the executive officer to the board of education, after which time the decision to grant or deny the appeal shall be at the discretion of the board of education. The appeal shall consist of a review of the facts that were presented and that were determined at the hearing conducted by the executive officer or by a designee acting as a hearing officer, arguments relating to the decision, and questions of clarification from the board of education. No board of education shall deny admission to, or expel, any child without a hearing, if one is requested by the parent, guardian, or legal custodian of the child, at which evidence may be presented in the child's behalf. If the child is denied admission or expelled, the child shall be entitled to a review of the decision of the board of education in accordance with section 22-33-108.

(3) (c) A pupil suspended for a period of ten days or less shall receive an informal hearing by the school principal or the principal's designee prior to the pupil's removal from school, unless an emergency requires immediate removal from school, in which case an informal hearing shall follow as soon after the pupil's removal as practicable. Any pupil suspended for more than ten days shall be given the opportunity to request a review of the suspension before an appropriate official of the school district.

22-33-106. Grounds for suspension, expulsion, and denial of admission.

(4) (a) Except as provided in paragraph (b) of this subsection (4), a school district shall prohibit any student who is expelled from a public school of the school district pursuant to paragraph (c) or (d) of

subsection (1) of this section or pursuant to subsection (1.5) of this section from enrolling or reenrolling in the same school in which the victim of the offense or member of a victim's immediate family is enrolled or employed. If the school district has no actual knowledge of the name of the victim of the offense for which the student was expelled, the provisions of this subsection (4) shall be implemented only upon request of the victim or a member of the victim's immediate family.

22-33-108. Judicial proceedings.

(2) If a child or his parent desires court review of an order of the board of education issued pursuant to this article, he shall notify the board in writing within five days after receiving official notification of the board's action. The board of education shall thereupon issue, or cause to be issued, to the child or his parent a statement of the reasons for the board's action. Within ten days thereafter the child or his parents may file with the court a petition requesting that the order of the board of education be set aside, to which shall be appended the statement of the board of education. No docket or other fees shall be collected by the court in connection with this proceeding.

(3) After the petition is filed, the court shall notify the board and shall hold a hearing on the matter. The court shall conduct judicial review of a hearing decision pursuant to rule 106 (a) (4) of the Colorado rules of civil procedure and rule 3.8 of the Colorado rules of juvenile procedure.

(4) It is the duty of the attorney for the school district, an employee authorized by the local board of education pursuant to section 13-1-127 (7), C.R.S., to represent the school district in truancy proceedings, the attendance officer designated by the local board of education, or the local board of education to initiate, when appropriate, proceedings for the enforcement of the compulsory attendance provisions of this article upon request by the attendance officer of the district or of the state.

(5) As a last-resort approach for addressing the problem of truancy, to be used only after a school district has attempted other options for addressing truancy that employ best practices and research-based strategies to minimize the need for court action and the risk of detention orders against a child or parent, court proceedings shall be initiated to compel compliance with the compulsory attendance statute after the parent and the child have been given written notice by the attendance officer of the school district or of the state that proceedings will be initiated if the child does not comply with the provisions of this article. The school district may combine the notice and summons. If combined, the petition shall state the date on which proceedings will be initiated, which date shall not be less than five days from the date of the notice and summons. The notice shall state the provisions of this article with which compliance is required and shall state that the proceedings will not be brought if the child complies with that provision before the filing of the proceeding.

In-school suspension

STATUTES

22-32-109.1. Board of education - specific powers and duties - safe school plan - conduct and discipline code - safe school reporting requirements.

(1) Definitions. As used in this section, unless the context otherwise requires:

(a) "Action taken" means a specific type of discipline, including but not limited to the following categories of discipline:

(I) In-school suspension;

(II) In creating and enforcing a school conduct and discipline code pursuant to subparagraph (I) of this paragraph (a), each school district board of education, on and after August 1, 2013, shall:

(A) Impose proportionate disciplinary interventions and consequences, including but not limited to in-school suspensions, in response to student misconduct, which interventions and consequences are designed to reduce the number of expulsions, out-of-school suspensions, and referrals to law enforcement, except for such referrals to law enforcement as are required by state or federal law;

22-33-105. Suspension, expulsion, and denial of admission.

(4) The board of education of each district shall establish, as an alternative to suspension, a policy that allows the pupil to remain in school by encouraging the parent, guardian, or legal custodian, with the consent of the pupil's teacher or teachers, to attend class with the pupil for a period of time specified by the suspending authority. If the parent, guardian, or legal custodian does not agree to attend class with the pupil or fails to attend class with the pupil, the pupil shall be suspended in accordance with the conduct and discipline code of the district.

Return to school following removal

STATUTES

22-33-105. Suspension, expulsion, and denial of admission.

(3) (b) Except as provided in paragraph (c) of this subsection (3), a suspended pupil shall:

(II) Not be readmitted to a public school until a meeting between the parent, guardian, or legal custodian and the suspending authority has taken place or until, in the discretion of the suspending authority, the parent, guardian, or legal custodian of the suspended pupil has substantially agreed to review the suspension with such suspending authority; except that, if the suspending authority cannot contact the parent, guardian, or legal custodian of such pupil or if such parent, guardian, or legal custodian repeatedly fails to appear for scheduled meetings, the suspending authority may readmit the pupil. The meeting shall address whether there is a need to develop a remedial discipline plan for the pupil in an effort to prevent further disciplinary action.

(d) The suspending authority shall:

(III) Provide an opportunity for a pupil to make up school work during the period of suspension for full or partial academic credit to the extent possible. The intent of this provision is to provide an opportunity for the pupil to reintegrate into the educational program of the district and to help prevent the pupil from dropping out of school because of an inability to reintegrate into the educational program following the period of suspension.

(5) (b) No student who is being educated in an alternate education program or a home-based education program pursuant to paragraph (a) of this subsection (5) shall be allowed to return to the education program in the public school until there has been a disposition of the charge. If the student pleads guilty, is found guilty, or is adjudicated a delinquent juvenile, the school district may proceed in accordance with section 22-33-106 to expel the student. The time that a student spends in an alternate education program pursuant to paragraph (a) of this subsection (5) shall not be considered a period of expulsion.

22-33-106. Grounds for suspension, expulsion, and denial of admission.

(3) The following may constitute additional grounds for denial of admission to a public school:

(c) Having been expelled from any school district during the preceding twelve months;

(e) Failure to comply with the provisions of part 9 of article 4 of title 25, C.R.S. Any suspension, expulsion, or denial of admission for such failure to comply shall not be recorded as a disciplinary action but may be recorded with the student's immunization record with an appropriate explanation.

(f) Behavior in another school district during the preceding twelve months that is detrimental to the welfare or safety of other pupils or of school personnel.

(4) (a) Except as provided in paragraph (b) of this subsection (4), a school district shall prohibit any student who is expelled from a public school of the school district pursuant to paragraph (c) or (d) of subsection (1) of this section or pursuant to subsection (1.5) of this section from enrolling or reenrolling in the same school in which the victim of the offense or member of a victim's immediate family is enrolled or employed. If the school district has no actual knowledge of the name of the victim of the offense for which the student was expelled, the provisions of this subsection (4) shall be implemented only upon request of the victim or a member of the victim's immediate family.

(b) In any school district that has only one school in which the expelled student can enroll, the school district shall either:

(I) Prohibit the student expelled from the school district pursuant to paragraph (c) or (d) of subsection (1) of this section or pursuant to subsection (1.5) of this section from enrolling or reenrolling in the same school in which the victim of the offense or member of a victim's immediate family is enrolled or employed; or

(II) Design a schedule for the expelled student that, to the extent possible, avoids contact between the expelled student and the victim or a member of the victim's immediate family.

Use of restraint and seclusion

STATUTES

22-32-109.1. Board of education - specific powers and duties - safe school plan - conduct and discipline code - safe school reporting requirements.

(2) Safe school plan. In order to provide a learning environment that is safe, conducive to the learning process, and free from unnecessary disruption, following consultation with the school district accountability committee and school accountability committees, parents, teachers, administrators, students, student councils where available, and, where appropriate, the community at large, each school district board of education shall adopt and implement a safe school plan, or review and revise, as necessary in response to any relevant data collected by the school district, any existing plans or policies already in effect. In addition to the aforementioned parties, each school district board of education, in adopting and implementing its safe school plan, may consult with victims advocacy organizations, school psychologists, and local law enforcement agencies. The plan, at a minimum, shall include the following:

(D) Policies and procedures for the use of acts of reasonable and appropriate physical intervention or force in dealing with disruptive students; except that no board shall adopt a discipline code that includes provisions that are in conflict with the definition of child abuse in section 18-6-401 (1), C.R.S., and section 19-1-103 (1), C.R.S.;

26-20-108. Rules

Each agency that is authorized to promulgate rules or adopt ordinances shall promulgate rules or adopt ordinances applicable to the agencies within their respective jurisdictions that establish procedures for the use of restraint consistent with the provisions of this article. Any agency that has rules or ordinances in existence on April 22, 1999, is not required to promulgate additional rules or adopt additional ordinances unless that agency's existing rules or ordinances do not meet the minimum requirements of this article.

ADMINISTRATIVE CODE

2620-R- 1.00. Statement of basis and purpose.

(1) These Rules were developed in accordance with C.R.S. 26-20-101, et seq.

Specific statutory authority for the development of these Rules comes from C.R.S. 26-20-108. These Rules are provided pursuant to the terms of the "Protection of Persons from Restraint Act". These Rules outline the procedures to be followed in the administration of restraint, staff training, documentation requirements, and the review of the use of restraint.

(2) The statutory authority for the amendments to these Rules is found in 26-20-108, C.R.S. The purpose of these amendments is to conform these Rules to the Protection of Persons from Restraint Act; add clarifying language; and reorganize these Rules to provide enhanced clarification for implementation.

2620-R- 2.00. Definitions.

(1) “Bodily Injury” means physical pain, illness or any impairment of physical or mental condition as defined in Section 18-1-901(3)(c), C.R.S.

(2) “Emergency” means serious, probable, imminent threat of bodily injury to self or others with the present ability to effect such bodily injury. Emergency includes situations in which the student creates such a threat by abusing or destroying property.

(3) “Parent” means

(a) A biological or adoptive parent of a child;

(b) A foster parent, unless state law, regulations, or contractual obligations with a state or local entity prohibit a foster parent from acting as a parent; 2

(c) A guardian generally authorized to act as the child’s parent or authorized to make educational decisions for the child (but not the State if the child is a ward of the State);

(d) An individual acting in the place of a biological or adoptive parent (including a grandparent, step-parent, or other relative) with whom the child lives, or an individual who is legally responsible for the child’s welfare;

(e) An educational surrogate parent who has been assigned in accordance with 1 C.C.R. 301-8 2220-R-6.02(8);

(f) Except as provided in section (3)(b) of this Rule 2.00(3), the biological or adoptive parent, when attempting to act as the parent under these Rules and when more than one party is qualified under Section (3) of this Rule 2.00 to act as a parent, must be presumed to be the parent for the purposes of this Section unless the biological or adoptive parent does not have legal authority to make educational decisions for the child.

(g) If a judicial decree or order identifies a specific person or persons under Sections 3(a) through (d) of this rule to act as the “parent” of a child or to make educational decisions on behalf of a child, then such persons(s) shall be determined to be the “parent” for the purposes of this Section 2.00(3).

(4) “Positional Asphyxia” means an insufficient intake of oxygen as a result of body position that interferes with one’s ability to breathe.

(5) “Public Education Agency”

(a) For the purposes of these Rules only, means:

(i) Any public school district organized and existing under the laws of Colorado except a junior college district;

(ii) The Charter School Institute as established in Article 30.5 of Title 22, C.R.S.;

(iii) The Colorado School for the Deaf and the Blind as created by Article 80 of TITLE 22, C.R.S.;

(iv) A Board of Cooperative Education Services as created by Article 5 of Title 22, C.R.S.;

(v) An approved facility school as defined in 22-2- 402(1) C.R.S. operated by an eligible facility; or

(vi) Any public or private entity that has entered into a contract for services with an entity described in Subsections (i) through (v) of this Section 2.00(5)(a). 3

(b) "Public Education Agency" does not include:

(i) Educational schools, programs, or facilities operated by or under the supervision, rules or licensing authority of the Colorado Department Of Human Services including:

(A) The Division Of Youth Corrections;

(B) The Mental Health Institutes at Fort Logan and Pueblo; and

(C) An eligible facility that is a day treatment facility; or

(ii) Educational schools, programs or facilities operated by or under the supervision of the Colorado Department of Corrections.

(c) These Rules apply to public education agencies, as defined in Section 2.00(5)(a) and to all educational programs, activities or events provided, supervised or sponsored by such public agencies.

(6) "Restraint" means any method or device used to involuntarily limit freedom of movement, including but not limited to bodily physical force, mechanical devices, chemicals, and seclusion.

(a) "Chemical Restraint" means administering medication to a student (including medications prescribed by his or her physician) on an as needed basis for the sole purpose of involuntarily limiting the student's freedom of movement. "Chemical Restraint" does not include:

(i) Prescription medication that is regularly administered to the student for medical reasons other than to restrain the student's freedom of movement (e.g., Asthma-cort, medications used to treat mood disorders or ADHD, Glucagon); or

(ii) The administration of medication for voluntary or life-saving medical procedures (e.g., EpiPens, Diastat).

(b) "Mechanical Restraint" means a physical device used to involuntarily restrict the movement of a student or the movement or normal function of his or her body. "Mechanical Restraint" does not include:

(i) Devices recommended by a physician, occupational therapist, or physical therapist and agreed to by a student's IEP Team or Section 504 Team and used in accordance with the student's Individualized Education Program (IEP) or Section 504 Plan;

(ii) Protective devices such as helmets, mitts, and similar devices used to prevent self-injury and in accordance with a student's IEP or Section 504 Plan; 4

(iii) Adaptive devices to facilitate instruction or therapy and used as recommended by an occupational therapist or physical therapist, and consistent with a student's IEP or Section 504 Plan; or

(iv) Positioning or securing devices used to allow treatment of a student's medical needs.

(c) "Physical Restraint" means the use of bodily, physical force to involuntarily limit an individual's freedom of movement. "Physical Restraint" does not include:

(i) Holding of a student for less than five minutes by a staff person for the protection of the student or others;

(ii) Brief holding of a student by one adult for the purpose of calming or comforting the student;

(iii) Minimal physical contact for the purpose of safely escorting a student from one area to another; or

(iv) Minimal physical contact for the purpose of assisting the student in completing a task or response.

(d) "Seclusion" means the placement of a student alone in a room from which egress is involuntarily prevented. "Seclusion" does not mean:

(i) Placement of a student in residential services in his or her room for the night; or

(ii) “Time-out” which is the removal of a student from potentially rewarding people or situations. A Time-out is not used primarily to confine the student, but to limit accessibility to reinforcement. In a Time-out, the individual is not physically prevented from leaving the designated Time-out area. Such a Time-out requires effective monitoring by staff.

(7) "School Day" means any day or partial day that students are in attendance at the public education programs, agencies or services or sponsored events.

(8) “Student,” for the purposes of these Rules only, means any individual aged 3 –21 years.

2620-R- 2.01. Basis for the use of restraint.

(1) Restraints shall only be used: 2.01 (1) (a) In an emergency and with extreme caution; and 5

(b) After

(i) The failure of less restrictive alternatives (such as Positive Behavior Supports, constructive and non-physical de-escalation, and re-structuring the environment); or 2.01 (1) (b) (ii) A determination that such alternatives would be inappropriate or ineffective under the circumstances.

(2) Restraints must never be used as a punitive form of discipline or as a threat to control or gain compliance of a student’s behavior.

(3) School personnel shall:

(a) Use restraints only for the period of time necessary and using no more force than is necessary; and

(b) Prioritize the prevention of harm to the student.

2620-R- 2.02. Duties related to the use of restraint.

(1) General Requirements

(a) When restraints, including seclusion, are used, the public education program shall ensure that:

(i) No restraint is administered in such a way that the student is inhibited or impeded from breathing or communicating;

(ii) No restraint is administered in such a way that places excess pressure on the student’s chest, back, or causes positional asphyxia;

(iii) Restraints are administered only by staff who have received training, in accordance with Section 2.03 of these Rules;

(iv) Opportunities to have the restraint removed are provided to the student who indicates that (s)he is willing to cease the violent or dangerous behavior;

(v) When it is determined by trained staff that the restraint is no longer necessary to protect the student or others (i.e., the emergency no longer exists), the restraint must be removed. In the case of seclusion, staff must reintegrate the student or clearly communicate to the student that (s)he is free to leave the area used to seclude the student; and

(vi) Student is reasonably monitored to ensure the student’s physical safety. 6

(2) Proper administration of specific restraints.

(a) “Chemical Restraints” shall not be used by public education agencies.

(b) “Mechanical Restraints” shall not be used by public education agencies, except that this provision shall not apply to armed security officers who:

(i) Have received documented training in defensive tactics utilizing handcuffing procedures; and

(ii) Are detaining a student for law enforcement.

(c) "Physical restraint"

(i) A person administering the physical restraint must use only the amount of force necessary to stop the dangerous or violent actions of the student.

(ii) A restrained student must be continuously monitored to ensure that the breathing of the student in such physical restraint is not compromised.

(iii) A student shall be released from physical restraint within fifteen minutes after the initiation of the restraint, except when precluded for safety reasons.

(d) “Seclusion”

(i) Relief periods from seclusion shall be provided for reasonable access to toilet facilities; and

(ii) Any space in which a student is secluded must have adequate lighting, ventilation, and size. To the extent possible under the specific circumstances, the space should be free of injurious items.

2620-R- 2.03. Staff training.

All public educational programs shall ensure that staff utilizing restraint in schools or facilities are trained. Training shall include:

(1) a continuum of prevention techniques;

(2) environmental management;

(3) a continuum of de-escalation techniques; 7

(4) nationally recognized physical management and restraint practices, including, but not limited to, techniques that allow restraint in an upright or sitting position and information about the dangers created by prone restraint;

(5) methods to explain the use of restraint to the student who is to be restrained and to the individual's family;

(6) appropriate documentation and notification procedures; and

(7) retraining at a frequency of at least every two years.

2620-R- 2.04. Documentation and notification requirements.

(1) If there is a reasonable probability that restraint might be used with a particular student, appropriate school staff must notify, in writing, the parents and, if appropriate, the student of the restraint procedures (including types of restraints) that might be used; specific circumstances in which restraint might be used; and staff involved. For students with disabilities, if the parents request a meeting with school personnel to discuss the notification, school personnel must ensure that the meeting is convened. This notification may occur at the meeting where the student’s Behavior Plan or IEP is developed/reviewed.

(2) If restraints are used, a written report must be submitted within one (1) school day to school administration.

(3) The school principal or designee shall verbally notify the parents as soon as possible but no later than the end of the school day that the restraint was used.

(4) A written report based on the findings of the staff review referenced in Section 2.05(1)(a) of these Rules, must be emailed, faxed, or mailed to the parent within five (5) calendar days of the use of restraint. The written report of the use of restraint must include:

(a) The antecedent to the student’s behavior if known;

(b) A description of the incident;

(c) Efforts made to deescalate the situation;

(d) Alternatives that were attempted;

(e) The type and duration of the restraint used;

(f) Injuries that occurred, if any; and

(g) The staff present and staff involved in administering the restraint.

(5) A copy of the written report on the use of restraint shall be placed in the student's confidential file.

2620-R- 2.05. Review of the use of restraint.

(1) Each public education agency shall ensure that a review process is established and conducted for each incident of restraint used. The purpose of this review shall be to ascertain that appropriate procedures were followed and to minimize future use of restraint. The review shall include, but is not limited to:

(a) Staff review of the incident;

(b) Follow up communication with the student and his/her family;

(c) Review of the documentation to ensure use of alternative strategies; and

(d) Recommendations for adjustment of procedures, if appropriate. If requested by the public education agency or the parent(s) of the student, the public education agency shall convene a meeting to review the incident. For students with IEPs or Section 504 Plans, such a review may occur through the IEP or Section 504 process.

(2) Each public education agency shall ensure that a general review process is established, conducted and documented in writing at least annually. The purpose of the general review is to ascertain that the public education agency is properly administering restraint, identifying additional training needs, minimizing and preventing the use of restraint by increasing the use of positive behavior interventions, and reducing the incidence of injury to students and staff. The review shall include but is not limited to:

(a) Analysis of incident reports, including all reports prepared pursuant to 2.04(2) and 2.04(4); including but not limited to procedures used during the restraint, preventative or alternative techniques tried, documentation, and follow up;

(b) Training needs of staff;

(c) Staff to student ratio; and

(d) Environmental considerations, including physical space, student seating arrangements, and noise levels.

2620-R- 2.06. Exceptions.

(1) The provisions in these Rules shall not apply to Peace Officers, as defined in Section 16-2.5-101, C.R.S. et seq. who are acting within the scope of their employment or in accordance with Section 16-3-109, C.R.S.

(2) The provisions in these Rules shall not apply to any public education agency while engaged in transporting a student from one facility or location to another facility or location when it is within the scope of that agency's powers and authority to effect such transportation.

Alternative placements

STATUTES

22-33-105. Suspension, expulsion, and denial of admission.

(5) (a) Whenever a petition filed in juvenile court alleges that a child at least twelve years of age but under eighteen years of age has committed an offense that would constitute unlawful sexual behavior, as defined in section 16-22-102 (9), C.R.S., or a crime of violence, as defined in section 18-1.3-406, C.R.S., if committed by an adult or whenever charges filed in district court allege that a child has

committed such an offense, basic identification information concerning such child and the details of the alleged delinquent act or offense shall be provided immediately to the school district in which the child is enrolled in accordance with the provisions of section 19-1-304 (5), C.R.S. Upon receipt of such information, the board of education of the school district or its designee shall determine whether the student has exhibited behavior that is detrimental to the safety, welfare, and morals of the other students or of school personnel in the school and whether educating the student in the school may disrupt the learning environment in the school, provide a negative example for other students, or create a dangerous and unsafe environment for students, teachers, and other school personnel. The determination may be made in executive session to the extent allowed by section 24-6-402 (4) (h), C.R.S. If the board of education or its designee, in accordance with the provisions of this subsection (5), makes a determination that the student should not be educated in the school, it may proceed with suspension or expulsion in accordance with subsection (2) of this section and section 22-33-106. Alternatively, the board of education or its designee may determine that it will wait until the conclusion of the juvenile proceedings to consider the expulsion matter, in which case it shall be the responsibility of the district to provide the student with an appropriate alternate education program, including but not limited to an on-line program or on-line school authorized pursuant to article 30.7 of this title, or a home-based education program during the period pending the resolution of the juvenile proceedings. Information made available to the school district and not otherwise available to the public pursuant to the provisions of section 19-1-304, C.R.S., shall remain confidential.

(b) No student who is being educated in an alternate education program or a home-based education program pursuant to paragraph (a) of this subsection (5) shall be allowed to return to the education program in the public school until there has been a disposition of the charge. If the student pleads guilty, is found guilty, or is adjudicated a delinquent juvenile, the school district may proceed in accordance with section 22-33-106 to expel the student. The time that a student spends in an alternate education program pursuant to paragraph (a) of this subsection (5) shall not be considered a period of expulsion.

22-33-203. Educational alternatives for expelled students.

(1) Upon expelling a student, the school district shall provide information to the student's parent or guardian concerning the educational alternatives available to the student during the period of expulsion. If the parent or guardian chooses to provide a home-based educational program for the student, the school district shall assist the parent in obtaining appropriate curricula for the student if requested by the parent or guardian.

(2) (a) Except as otherwise provided in paragraph (b) of this subsection (2), upon request of a student or the student's parent or guardian, the school district shall provide, for any student who is expelled from the school district, any educational services that are deemed appropriate for the student by the school district. The educational services provided shall be designed to enable the student to return to the school in which he or she was enrolled prior to expulsion, to successfully complete the GED, or to enroll in a nonpublic, nonparochial school or in an alternative school, including but not limited to a charter school or a pilot school established pursuant to article 38 of this title. The expelling school district shall determine the amount of credit the student shall receive toward graduation for the educational services provided pursuant to this section.

(b) The educational services provided pursuant to this section are designed to provide a second chance for the student to succeed in achieving an education. While receiving educational services, a student may be suspended or expelled pursuant to the conduct and discipline code of the school district providing the educational services and the provisions of part 1 of this article. Except as required by federal law, the expelling school district is not required to provide educational services to any student

who is suspended or expelled while receiving educational services pursuant to this section until the period of the suspension or expulsion is completed.

(c) (I) Educational services provided pursuant to this section shall be provided by the expelling school district; except that the expelling school district may provide educational services either directly or in cooperation with one or more other school districts, boards of cooperative services, charter schools, nonpublic, nonparochial schools, or pilot schools established pursuant to article 38 of this title under contract with the expelling school district. Any program of educational services provided by a nonpublic, nonparochial school shall be subject to approval by the state board of education pursuant to section 22-2-107.

(4) In addition to the educational services required under this section, a student who is at risk of suspension or expulsion or has been suspended or expelled, or the student's parent or guardian, may request any of the services provided by the school district through an agreement entered into pursuant to section 22-33-204, and the school district may provide such services.

22-33-204. Services for at-risk students - agreements with state agencies and community organizations.

(a) Educational services required to be provided under section 22-33-203 (2) and any educational services provided to at-risk students identified pursuant to section 22-33-202;

Disciplinary Approaches Addressing Specific Infractions and Conditions

Firearms (as required by the Guns-Free Schools Act)

STATUTES

22-12-104. Liability.

(2) An educational entity and its employees are immune from suit for making a report consistent with federal law to the appropriate law enforcement authorities or officials of an educational entity if the individual making the report has reasonable grounds to suspect that a student is:

(b) In possession of a firearm or alcoholic beverages or of a controlled substance not lawfully prescribed to the student;

(c) Involved in the illegal solicitation, sale, or distribution of firearms or alcoholic beverages or of a controlled substance.

22-32-109.1. Board of education - specific powers and duties - safe school plan - conduct and discipline code - safe school reporting requirements.

(1) Definitions. As used in this section, unless the context otherwise requires:

(c) "Dangerous weapon" has the same meaning as set forth in section 22-33-102 (4).

(2) Safe school plan. The plan, at a minimum, shall include the following:

(a) Conduct and discipline code. The code shall include, but need not be limited to:

(G) Written prohibition, consistent with section 22-33-106, of students from bringing or possessing dangerous weapons, drugs, or other controlled substances on school grounds, in a school vehicle, or at a school activity or sanctioned event and from using drugs or other controlled substances on school grounds, in a school vehicle, or at a school activity or sanctioned event;

22-33-102. Definitions.

As used in this article, unless the context otherwise requires:

(4) "Dangerous weapon" means:

(a) A firearm, as defined in section 18-1-901 (3) (h), C.R.S.;

(b) Any pellet gun, BB gun, or other device, whether operational or not, designed to propel projectiles by spring action or compressed air;

22-33-106. Grounds for suspension, expulsion, and denial of admission.

(1) The following may be grounds for suspension or expulsion of a child from a public school during a school year:

(d) Committing one of the following offenses on school grounds, in a school vehicle, or at a school activity or sanctioned event:

(I) Possession of a dangerous weapon without the authorization of the school or the school district;

(f) Carrying, using, actively displaying, or threatening with the use of a firearm facsimile that could reasonably be mistaken for an actual firearm in a school building or in or on school property. Each school district shall develop a policy that shall authorize a student to carry, bring, use, or possess a firearm facsimile on school property for either a school-related or a nonschool-related activity. Such

policy shall also consider student violations under this section on a case-by-case basis using the individual facts and circumstances to determine whether suspension, expulsion, or any other disciplinary action, if any, is necessary.

(1.5) Notwithstanding any other provision of law, in accordance with the provisions of 20 U.S.C. sec. 7151, a student who is determined to have brought a firearm to a school, or to have possessed a firearm at a school, shall be expelled for a period of not less than one year; except that the superintendent of the student's school district may modify this requirement for a student on a case-by-case basis if such modification is in writing.

Other weapons

STATUTES

22-32-109.1. Board of education - specific powers and duties - safe school plan - conduct and discipline code - safe school reporting requirements.

(1) Definitions. As used in this section, unless the context otherwise requires:

(c) "Dangerous weapon" has the same meaning as set forth in section 22-33-102 (4).

(2) Safe school plan. The plan, at a minimum, shall include the following:

(a) Conduct and discipline code. The code shall include, but need not be limited to:

(G) Written prohibition, consistent with section 22-33-106, of students from bringing or possessing dangerous weapons, drugs, or other controlled substances on school grounds, in a school vehicle, or at a school activity or sanctioned event and from using drugs or other controlled substances on school grounds, in a school vehicle, or at a school activity or sanctioned event;

22-33-102. Definitions.

As used in this article, unless the context otherwise requires:

(4) "Dangerous weapon" means:

(b) Any pellet gun, BB gun, or other device, whether operational or not, designed to propel projectiles by spring action or compressed air;

(c) A fixed-blade knife with a blade that exceeds three inches in length;

(d) A spring-loaded knife or a pocket knife with a blade exceeding three and one-half inches in length; or

(e) Any object, device, instrument, material, or substance, whether animate or inanimate, that is used or intended to be used to inflict death or serious bodily injury.

22-33-106. Grounds for suspension, expulsion, and denial of admission.

(1) The following may be grounds for suspension or expulsion of a child from a public school during a school year:

(d) Committing one of the following offenses on school grounds, in a school vehicle, or at a school activity or sanctioned event:

(I) Possession of a dangerous weapon without the authorization of the school or the school district;

Students with chronic disciplinary issues

STATUTES

22-32-109.1. Board of education - specific powers and duties - safe school plan - conduct and discipline code - safe school reporting requirements.

(1) Definitions. As used in this section, unless the context otherwise requires:

(e) "Habitually disruptive student" has the same meaning as set forth in section 22-33-106 (1) (c.5). (a) Conduct and discipline code.

(I) A concisely written conduct and discipline code that shall be enforced uniformly, fairly, and consistently for all students. Copies of the code shall be provided to each student upon enrollment at the elementary, middle, and high school levels and shall be posted or kept on file at each public school in the school district. The school district shall take reasonable measures to ensure that each student of each public school in the school district is familiar with the code. The code shall include, but need not be limited to:

(C) Provisions for the initiation of suspension or expulsion proceedings for students who qualify as habitually disruptive students;

22-33-102. Definitions.

As used in this article, unless the context otherwise requires:

(8) "Habitually disruptive student" has the same meaning as set forth in section 22-33-106 (1) (c.5).

22-33-106. Grounds for suspension, expulsion, and denial of admission.

(1) The following may be grounds for suspension or expulsion of a child from a public school during a school year:

(c.5) (I) Declaration as a habitually disruptive student.

(II) For purposes of this paragraph (c.5), "habitually disruptive student" means a child who has caused a material and substantial disruption on school grounds, in a school vehicle, or at a school activity or sanctioned event three or more times during the course of a school year. Any student who is enrolled in a public school may be subject to being declared a habitually disruptive student.

(III) The student and the parent, legal guardian, or legal custodian shall have been notified in writing of each disruption counted toward declaring the student as habitually disruptive pursuant to this paragraph (c.5) and the student and parent, legal guardian, or legal custodian shall have been notified in writing and by telephone or other means at the home or the place of employment of the parent or legal guardian of the definition of "habitually disruptive student".

22-33-107. Enforcement of compulsory school attendance.

(3) (a) As used in this subsection (3), a child who is "habitually truant" means a child who has attained the age of six years on or before August 1 of the year in question and is under the age of seventeen years having four unexcused absences from public school in any one month or ten unexcused absences from public school during any school year. Absences due to suspension or expulsion of a child shall be considered excused absences for purposes of this subsection (3).

(b) The board of education of each school district shall adopt and implement policies and procedures concerning children who are habitually truant. The policies and procedures shall include provisions for the development of a plan. The plan shall be developed with the goal of assisting the child to remain in school and, when practicable, with the full participation of the child's parent, guardian, or legal custodian.

22-33-108. Judicial proceedings.

(1) Those courts having jurisdiction over juvenile matters in a judicial district shall have original jurisdiction over all matters arising out of the provisions of this article.

(1.5) (a) All proceedings brought under this article shall be commenced in the judicial district in which the child resides or is present.

(b) When proceedings commence under this article in a judicial district other than that of the child's residence or when the child changes his or her judicial district of residence after a proceeding under this article commences, the court in which proceedings commenced may, on its own motion or on the motion of any interested party, transfer the case to the court in the judicial district where the child resides.

(c) When a court transfers venue pursuant to paragraph (b) of this subsection (1.5), the court shall transmit all documents and reports, or certified copies thereof, to the receiving court, which court shall proceed with the case as if the petition had been originally filed in that court.

(2) If a child or his parent desires court review of an order of the board of education issued pursuant to this article, he shall notify the board in writing within five days after receiving official notification of the board's action. The board of education shall thereupon issue, or cause to be issued, to the child or his parent a statement of the reasons for the board's action. Within ten days thereafter the child or his parents may file with the court a petition requesting that the order of the board of education be set aside, to which shall be appended the statement of the board of education. No docket or other fees shall be collected by the court in connection with this proceeding.

(3) After the petition is filed, the court shall notify the board and shall hold a hearing on the matter. The court shall conduct judicial review of a hearing decision pursuant to rule 106 (a) (4) of the Colorado rules of civil procedure and rule 3.8 of the Colorado rules of juvenile procedure.

(4) It is the duty of the attorney for the school district, an employee authorized by the local board of education pursuant to section 13-1-127 (7), C.R.S., to represent the school district in truancy proceedings, the attendance officer designated by the local board of education, or the local board of education to initiate, when appropriate, proceedings for the enforcement of the compulsory attendance provisions of this article upon request by the attendance officer of the district or of the state.

(5) As a last-resort approach for addressing the problem of truancy, to be used only after a school district has attempted other options for addressing truancy that employ best practices and research-based strategies to minimize the need for court action and the risk of detention orders against a child or parent, court proceedings shall be initiated to compel compliance with the compulsory attendance statute after the parent and the child have been given written notice by the attendance officer of the school district or of the state that proceedings will be initiated if the child does not comply with the provisions of this article. The school district may combine the notice and summons. If combined, the petition shall state the date on which proceedings will be initiated, which date shall not be less than five days from the date of the notice and summons. The notice shall state the provisions of this article with which compliance is required and shall state that the proceedings will not be brought if the child complies with that provision before the filing of the proceeding.

(6) In the discretion of the court before which a proceeding to compel attendance is brought, an order may be issued against the child or the child's parent or both compelling the child to attend school as provided by this article or compelling the parent to take reasonable steps to assure the child's attendance. The order may require the child or parent or both to follow an appropriate treatment plan that addresses problems affecting the child's school attendance and that ensures the child has an opportunity to obtain a quality education.

(7) (a) If the child does not comply with the valid court order issued against the child or against both the parent and the child, the court may order that an investigation be conducted as provided in section 19-2-510 (2), C.R.S., and the court may order the child to show cause why he or she should not be held in contempt of court. The court may include as a sanction after a finding of contempt an appropriate treatment plan that may include, but need not be limited to, community service to be performed by the child, supervised activities, participation in services for at-risk students, as described by section 22-33-204, and other activities having goals that shall ensure that the child has an opportunity to obtain a quality education.

(b) The court may impose on the child as a sanction for contempt of court a sentence to incarceration to any juvenile detention facility operated by or under contract with the department of human services pursuant to section 19-2-402, C.R.S., and any rules promulgated by the Colorado supreme court.

22-33-201. Legislative declaration.

The general assembly hereby finds that except when a student's behavior would cause imminent harm to others in the school or when an incident requires automatic expulsion as defined by state law or a school's conduct and discipline code, expulsion should be the last step taken after several attempts to deal with a student who has discipline problems. The general assembly further finds that school districts should work with the student's parent or guardian and with state agencies and community-based nonprofit organizations to develop alternatives to help students who are at risk of expulsion before expulsion becomes a necessary step and to support students who are unable to avoid mandatory expulsion.

22-33-202. Identification of at-risk students.

(1) Each school district shall adopt policies to identify students who are at risk of suspension or expulsion from school. Students identified may include those who are truant, who have been or are likely to be declared habitually truant, or who are likely to be declared habitually disruptive. The school district shall provide students who are identified as at risk of suspension or expulsion with a plan to provide the necessary support services to help them avoid expulsion. The school district shall work with the student's parent or guardian in providing the services and may provide the services through agreements with appropriate local governmental agencies, appropriate state agencies, community-based organizations, and institutions of higher education entered into pursuant to section 22-33-204. The failure of the school district to identify a student for participation in an expulsion-prevention program or the failure of such program to remediate a student's behavior shall not be grounds to prevent school personnel from proceeding with appropriate disciplinary measures or used in any way as a defense in an expulsion proceeding.

Attendance and truancy

STATUTES

22-33-104. Compulsory school attendance.

(1) (a) Except as otherwise provided in subsection (2) of this section, every child who has attained the age of six years on or before August 1 of each year and is under the age of seventeen years, except as provided by this section, shall attend public school for at least the following number of hours during each school year:

(I) One thousand fifty-six hours if a secondary school pupil;

(II) Nine hundred sixty-eight hours if an elementary school pupil in a grade other than kindergarten;

(III) Nine hundred hours if a full-day kindergarten pupil; or

(IV) Four hundred fifty hours if a half-day kindergarten pupil.

(4) (a) The board of education shall adopt a written policy setting forth the district's attendance requirements. Said policy shall provide for excused absences, including those listed as exclusions from compulsory school attendance in accordance with subsection (2) of this section. An attendance policy developed pursuant to this section may include appropriate penalties for nonattendance due to unexcused absence.

(b) The attendance policy adopted pursuant to this subsection (4) shall specify the maximum number of unexcused absences a child may incur before the attorney for the school district, the attendance officer, or the local board of education may initiate judicial proceedings pursuant to section 22-33-108. Calculation of the number of unexcused absences a child has incurred includes all unexcused absences occurring during any calendar year or during any school year.

(c) On or before January 1, 2009, the state board shall adopt rules establishing a standardized calculation for counting unexcused absences of students, including the circumstance in which a student is absent for part of a school day, and the format for reporting the information to the department pursuant to section 22-33-107.

22-33-107. Enforcement of compulsory school attendance.

(1) The board of education of each school district shall designate one or more of the employees of the district to act as attendance officer for the district, or in cooperation with any court of record in the county, the probation officer of that court may be appointed the attendance officer. It is the attendance officer's duty in appropriate cases to counsel with students and parents and investigate the causes of nonattendance and report to the local board of education so as to enforce the provisions of this article which relate to compulsory attendance.

(2) The commissioner of education shall designate an employee of the department of education whose duty it is to assist the individual school districts and to supervise the enforcement of compulsory school attendance for the entire state.

(3) (a) As used in this subsection (3), a child who is "habitually truant" means a child who has attained the age of six years on or before August 1 of the year in question and is under the age of seventeen years having four unexcused absences from public school in any one month or ten unexcused absences from public school during any school year. Absences due to suspension or expulsion of a child shall be considered excused absences for purposes of this subsection (3).

(b) The board of education of each school district shall adopt and implement policies and procedures concerning children who are habitually truant. The policies and procedures shall include provisions for the development of a plan. The plan shall be developed with the goal of assisting the child to remain in school and, when practicable, with the full participation of the child's parent, guardian, or legal custodian. Appropriate school personnel shall make all reasonable efforts to meet with the parent, guardian, or legal custodian of the child to review and evaluate the reasons for the child's truancy. The policies and procedures may also include but need not be limited to the following:

(I) (Deleted by amendment, L. 96, p. 1808, § 4, effective July 1, 1996.)

(II) Annually at the beginning of the school year and upon any enrollment during the school year, notifying the parent of each child enrolled in the public schools in writing of such parent's obligations pursuant to section 22-33-104 (5) and requesting that the parent acknowledge in writing awareness of such obligations;

(III) Annually at the beginning of the school year and upon any enrollment during the school year, obtaining from the parent of each child a telephone number or other means of contacting such parent during the school day; and

(IV) Establishing a system of monitoring individual unexcused absences of children which shall provide that, whenever a child who is enrolled in a public school fails to report to school on a regularly

scheduled school day and school personnel have received no indication that the child's parent is aware of the child's absence, school personnel or volunteers under the direction of school personnel shall make a reasonable effort to notify by telephone such parent. Any person who, in good faith, gives or fails to give notice pursuant to this subparagraph (IV) shall be immune from any liability, civil or criminal, which might otherwise be incurred or imposed and shall have the same immunity with respect to any judicial proceeding which results from such notice or failure to give such notice.

22-33-108. Judicial proceedings.

(4) It is the duty of the attorney for the school district, an employee authorized by the local board of education pursuant to section 13-1-127 (7), C.R.S., to represent the school district in truancy proceedings, the attendance officer designated by the local board of education, or the local board of education to initiate, when appropriate, proceedings for the enforcement of the compulsory attendance provisions of this article upon request by the attendance officer of the district or of the state.

(5) As a last-resort approach for addressing the problem of truancy, to be used only after a school district has attempted other options for addressing truancy that employ best practices and research-based strategies to minimize the need for court action and the risk of detention orders against a child or parent, court proceedings shall be initiated to compel compliance with the compulsory attendance statute after the parent and the child have been given written notice by the attendance officer of the school district or of the state that proceedings will be initiated if the child does not comply with the provisions of this article. The school district may combine the notice and summons. If combined, the petition shall state the date on which proceedings will be initiated, which date shall not be less than five days from the date of the notice and summons. The notice shall state the provisions of this article with which compliance is required and shall state that the proceedings will not be brought if the child complies with that provision before the filing of the proceeding.

(6) In the discretion of the court before which a proceeding to compel attendance is brought, an order may be issued against the child or the child's parent or both compelling the child to attend school as provided by this article or compelling the parent to take reasonable steps to assure the child's attendance. The order may require the child or parent or both to follow an appropriate treatment plan that addresses problems affecting the child's school attendance and that ensures the child has an opportunity to obtain a quality education.

(7) (a) If the child does not comply with the valid court order issued against the child or against both the parent and the child, the court may order that an investigation be conducted as provided in section 19-2-510 (2), C.R.S., and the court may order the child to show cause why he or she should not be held in contempt of court. The court may include as a sanction after a finding of contempt an appropriate treatment plan that may include, but need not be limited to, community service to be performed by the child, supervised activities, participation in services for at-risk students, as described by section 22-33-204, and other activities having goals that shall ensure that the child has an opportunity to obtain a quality education.

(b) The court may impose on the child as a sanction for contempt of court a sentence to incarceration to any juvenile detention facility operated by or under contract with the department of human services pursuant to section 19-2-402, C.R.S., and any rules promulgated by the Colorado supreme court.

22-33-202. Identification of at-risk students.

(1) Each school district shall adopt policies to identify students who are at risk of suspension or expulsion from school. Students identified may include those who are truant, who have been or are likely to be declared habitually truant, or who are likely to be declared habitually disruptive. The school district shall provide students who are identified as at risk of suspension or expulsion with a plan to provide the necessary support services to help them avoid expulsion. The school district shall work with the student's

parent or guardian in providing the services and may provide the services through agreements with appropriate local governmental agencies, appropriate state agencies, community-based organizations, and institutions of higher education entered into pursuant to section 22-33-204. The failure of the school district to identify a student for participation in an expulsion-prevention program or the failure of such program to remediate a student's behavior shall not be grounds to prevent school personnel from proceeding with appropriate disciplinary measures or used in any way as a defense in an expulsion proceeding.

Substance use

STATUTES

22-12-104. Liability.

(2) An educational entity and its employees are immune from suit for making a report consistent with federal law to the appropriate law enforcement authorities or officials of an educational entity if the individual making the report has reasonable grounds to suspect that a student is:

(a) Under the influence of alcoholic beverages or of a controlled substance not lawfully prescribed to the student;

(b) In possession of a firearm or alcoholic beverages or of a controlled substance not lawfully prescribed to the student;

(c) Involved in the illegal solicitation, sale, or distribution of firearms or alcoholic beverages or of a controlled substance.

22-32-109.1. Board of education - specific powers and duties - safe school plan - conduct and discipline code - safe school reporting requirements.

(1.5) Mission statement. Each school district board of education shall adopt a mission statement for the school district, which statement shall include making safety for all students and staff a priority in each public school of the school district.

(2) Safe school plan. In order to provide a learning environment that is safe, conducive to the learning process, and free from unnecessary disruption, following consultation with the school district accountability committee and school accountability committees, parents, teachers, administrators, students, student councils where available, and, where appropriate, the community at large, each school district board of education shall adopt and implement a safe school plan, or review and revise, as necessary in response to any relevant data collected by the school district, any existing plans or policies already in effect. In addition to the aforementioned parties, each school district board of education, in adopting and implementing its safe school plan, may consult with victims advocacy organizations, school psychologists, and local law enforcement agencies. The plan, at a minimum, shall include the following:

(a) Conduct and discipline code.

(I) A concisely written conduct and discipline code that shall be enforced uniformly, fairly, and consistently for all students. Copies of the code shall be provided to each student upon enrollment at the elementary, middle, and high school levels and shall be posted or kept on file at each public school in the school district. The school district shall take reasonable measures to ensure that each student of each public school in the school district is familiar with the code. The code shall include, but need not be limited to:

(G) Written prohibition, consistent with section 22-33-106, of students from bringing or possessing dangerous weapons, drugs, or other controlled substances on school grounds, in a school vehicle,

or at a school activity or sanctioned event and from using drugs or other controlled substances on school grounds, in a school vehicle, or at a school activity or sanctioned event;

(H) Written prohibition of students from using or possessing tobacco products on school grounds, in a school vehicle, or at a school activity or sanctioned event;

(b) Safe school reporting requirements. A policy whereby the principal of each public school in a school district shall submit annually, in a manner and by a date specified by rule of the state board, a written report to the board of education of such school district concerning the learning environment in the school during that school year. The board of education of the school district annually shall compile the reports from every school in the district and shall submit the compiled report to the department of education in a format specified by rule of the state board. The compiled report shall be made available to the general public. Such report shall include, but need not be limited to, the following specific information for the preceding school year:

(IV) The number of conduct and discipline code violations, each of which violations shall be reported only in the most serious category that is applicable to that violation, including but not limited to specific information identifying the number of, and the action taken with respect to, each of the following types of violations:

(B) Use or possession of alcohol on school grounds, in a school vehicle, or at a school activity or sanctioned event;

(C) Use, possession, or sale of a drug or controlled substance on school grounds, in a school vehicle, or at a school activity or sanctioned event;

(D) Use or possession of a tobacco product on school grounds, in a school vehicle, or at a school activity or sanctioned event;

22-33-106. Grounds for suspension, expulsion, and denial of admission.

(1) The following may be grounds for suspension or expulsion of a child from a public school during a school year:

(d) Committing one of the following offenses on school grounds, in a school vehicle, or at a school activity or sanctioned event:

(II) The use, possession, or sale of a drug or controlled substance as defined in section 18-18-102 (5), C.R.S.

Bullying, harassment, or hazing

STATUTES

18-9-124. Hazing - penalties - legislative declaration

(1) (a) The general assembly finds that, while some forms of initiation constitute acceptable behavior, hazing sometimes degenerates into a dangerous form of intimidation and degradation. The general assembly also recognizes that although certain criminal statutes cover the more egregious hazing activities, other activities that may not be covered by existing criminal statutes may threaten the health of students or, if not stopped early enough, may escalate into serious injury.

(b) In enacting this section, it is not the intent of the general assembly to change the penalty for any activity that is covered by any other criminal statute. It is rather the intent of the general assembly to define hazing activities not covered by any other criminal statute.

(2) As used in this section, unless the context otherwise requires:

(a) "Hazing" means any activity by which a person recklessly endangers the health or safety of or causes a risk of bodily injury to an individual for purposes of initiation or admission into or affiliation with any student organization; except that "hazing" does not include customary athletic events or other similar contests or competitions, or authorized training activities conducted by members of the armed forces of the state of Colorado or the United States.

(b) "Hazing" includes but is not limited to:

(I) Forced and prolonged physical activity;

(II) Forced consumption of any food, beverage, medication or controlled substance, whether or not prescribed, in excess of the usual amounts for human consumption or forced consumption of any substance not generally intended for human consumption;

(III) Prolonged deprivation of sleep, food, or drink.

(3) It shall be unlawful for any person to engage in hazing.

(4) Any person who violates subsection (3) of this section commits a class 3 misdemeanor.

22-32-109.1. Board of education - specific powers and duties - safe school plan - conduct and discipline code - safe school reporting requirements.

(1) Definitions. As used in this section, unless the context otherwise requires:

(b) "Bullying" means any written or verbal expression, or physical or electronic act or gesture, or a pattern thereof, that is intended to coerce, intimidate, or cause any physical, mental, or emotional harm to any student. Bullying is prohibited against any student for any reason, including but not limited to any such behavior that is directed toward a student on the basis of his or her academic performance or against whom federal and state laws prohibit discrimination upon any of the bases described in section 22-32-109 (1) (ll) (I). This definition is not intended to infringe upon any right guaranteed to any person by the first amendment to the United States constitution or to prevent the expression of any religious, political, or philosophical views.

(2) Safe school plan. In order to provide a learning environment that is safe, conducive to the learning process, and free from unnecessary disruption, following consultation with the school district accountability committee and school accountability committees, parents, teachers, administrators, students, student councils where available, and, where appropriate, the community at large, each school district board of education shall adopt and implement a safe school plan, or review and revise, as necessary in response to any relevant data collected by the school district, any existing plans or policies already in effect. In addition to the aforementioned parties, each school district board of education, in adopting and implementing its safe school plan, may consult with victims advocacy organizations, school psychologists, and local law enforcement agencies. The plan, at a minimum, shall include the following:

(II) In creating and enforcing a school conduct and discipline code pursuant to subparagraph (I) of this paragraph (a), each school district board of education, on and after August 1, 2013, shall:

(G) Behavior on school grounds, in a school vehicle, or at a school activity or sanctioned event that is detrimental to the welfare or safety of other students or of school personnel, including but not limited to incidents of bullying and other behavior that creates a threat of physical harm to the student or to other students;

(K) On and after August 8, 2001, a specific policy concerning bullying prevention and education. Each school district is encouraged to ensure that its policy, at a minimum, incorporates the biennial administration of surveys of students' impressions of the severity of bullying in their schools, as described in section 22-93-104 (1) (c); character building; and the designation of a team of persons at each school of the school district who advise the school administration concerning the severity and frequency of bullying incidents that occur in the school, which team may include, but need not be

limited to, law enforcement officials, social workers, prosecutors, health professionals, mental health professionals, school psychologists, counselors, teachers, administrators, parents, and students. Each school district's policy shall set forth appropriate disciplinary consequences for students who bully other students and for any person who takes any retaliatory action against a student who reports in good faith an incident of bullying, which consequences shall comply with all applicable state and federal laws.

(b) Safe school reporting requirements. A policy whereby the principal of each public school in a school district shall submit annually, in a manner and by a date specified by rule of the state board, a written report to the board of education of such school district concerning the learning environment in the school during that school year. The board of education of the school district annually shall compile the reports from every school in the district and shall submit the compiled report to the department of education in a format specified by rule of the state board. The compiled report shall be made available to the general public. Such report shall include, but need not be limited to, the following specific information for the preceding school year:

(IV) The number of conduct and discipline code violations, each of which violations shall be reported only in the most serious category that is applicable to that violation, including but not limited to specific information identifying the number of, and the action taken with respect to, each of the following types of violations:

(G) Behavior on school grounds, in a school vehicle, or at a school activity or sanctioned event that is detrimental to the welfare or safety of other students or of school personnel, including but not limited to incidents of bullying and other behavior that creates a threat of physical harm to the student or to other students;

(VIII) The school's policy concerning bullying prevention and education, including information related to the development and implementation of any bullying prevention programs.

(c) Internet safety plan.

(I) Each school district is encouraged to provide a comprehensive, age-appropriate curriculum that teaches safety in working and interacting on the internet in grades kindergarten through twelve. At a minimum, the curriculum may address the following topics:

(A) Interaction with persons in the cybercommunity;

(B) Personal safety in interacting with persons on the internet;

(C) Recognition and avoidance of on-line bullying;

Other special infractions or conditions

STATUTES

22-1-117. Secret fraternities forbidden.

It is unlawful for any pupil who is registered in and attending any high school, district, primary, or graded school which is partially or wholly maintained by public funds to join or become a member of any secret fraternity, sorority, or society wholly or partially formed from the membership of pupils attending any such schools or to belong to or to take part in the organization or formation of any fraternity, sorority, or society, except such societies or associations as shall be sanctioned by the board of directors of the school districts wherein such schools are maintained.

22-32-109.1. Board of education - specific powers and duties - safe school plan - conduct and discipline code - safe school reporting requirements.

(2) Safe school plan. In order to provide a learning environment that is safe, conducive to the learning process, and free from unnecessary disruption, following consultation with the school district accountability committee and school accountability committees, parents, teachers, administrators, students, student councils where available, and, where appropriate, the community at large, each school district board of education shall adopt and implement a safe school plan, or review and revise, as necessary in response to any relevant data collected by the school district, any existing plans or policies already in effect. In addition to the aforementioned parties, each school district board of education, in adopting and implementing its safe school plan, may consult with victims advocacy organizations, school psychologists, and local law enforcement agencies. The plan, at a minimum, shall include the following:

(a) Conduct and discipline code.

(I) A concisely written conduct and discipline code that shall be enforced uniformly, fairly, and consistently for all students. Copies of the code shall be provided to each student upon enrollment at the elementary, middle, and high school levels and shall be posted or kept on file at each public school in the school district. The school district shall take reasonable measures to ensure that each student of each public school in the school district is familiar with the code. The code shall include, but need not be limited to:

(F) A specific policy concerning gang-related activities on school grounds, in school vehicles, and at school activities or sanctioned events;

(J) A dress code policy that prohibits students from wearing apparel that is deemed disruptive to the classroom environment or to the maintenance of a safe and orderly school. The dress code policy may require students to wear a school uniform or may establish minimum standards of dress;

22-33-106. Grounds for suspension, expulsion, and denial of admission.

(1) The following may be grounds for suspension or expulsion of a child from a public school during a school year:

(a) Continued willful disobedience or open and persistent defiance of proper authority;

(b) Willful destruction or defacing of school property;

(c) Behavior on or off school property that is detrimental to the welfare or safety of other pupils or of school personnel, including behavior that creates a threat of physical harm to the child or to other children;

(d) Committing one of the following offenses on school grounds, in a school vehicle, or at a school activity or sanctioned event:

(III) The commission of an act that, if committed by an adult, would be robbery pursuant to part 3 of article 4 of title 18, C.R.S., or assault pursuant to part 2 of article 3 of title 18, C.R.S., other than the commission of an act that would be third degree assault under section 18-3-204, C.R.S., if committed by an adult.

(e) Repeated interference with a school's ability to provide educational opportunities to other students.

(g) Pursuant to section 22-12-105 (3), making a false accusation of criminal activity against an employee of an educational entity to law enforcement authorities or school district officials or personnel.

Prevention and Behavioral Interventions (Non-Punitive)

Prevention

STATUTES

22-32-109.1. Board of education - specific powers and duties - safe school plan - conduct and discipline code - safe school reporting requirements.

(K) On and after August 8, 2001, a specific policy concerning bullying prevention and education. Each school district is encouraged to ensure that its policy, at a minimum, incorporates the biennial administration of surveys of students' impressions of the severity of bullying in their schools, as described in section 22-93-104 (1) (c); character building; and the designation of a team of persons at each school of the school district who advise the school administration concerning the severity and frequency of bullying incidents that occur in the school, which team may include, but need not be limited to, law enforcement officials, social workers, prosecutors, health professionals, mental health professionals, school psychologists, counselors, teachers, administrators, parents, and students. Each school district's policy shall set forth appropriate disciplinary consequences for students who bully other students and for any person who takes any retaliatory action against a student who reports in good faith an incident of bullying, which consequences shall comply with all applicable state and federal laws.

(II) In creating and enforcing a school conduct and discipline code pursuant to subparagraph (I) of this paragraph (a), each school district board of education, on and after August 1, 2013, shall:

(A) Impose proportionate disciplinary interventions and consequences, including but not limited to in-school suspensions, in response to student misconduct, which interventions and consequences are designed to reduce the number of expulsions, out-of-school suspensions, and referrals to law enforcement, except for such referrals to law enforcement as are required by state or federal law;

(B) Include plans for the appropriate use of prevention, intervention, restorative justice, peer mediation, counseling, or other approaches to address student misconduct, which approaches are designed to minimize student exposure to the criminal and juvenile justice system. The plans shall state that a school administration shall not order a victim's participation in a restorative justice practice or peer mediation if the alleged victim of an offending student's misconduct alleges that the misconduct constitutes unlawful sexual behavior, as defined in section 16-22-102 (9), C.R.S.; a crime in which the underlying factual basis involves domestic violence, as defined in section 18-6-800.3 (1), C.R.S.; stalking as defined in section 18-3-602, C.R.S.; or violation of a protection order, as defined in section 18-6-803.5, C.R.S.;

(C) Ensure that the implementation of the code complies with all state and federal laws concerning the education of students with disabilities, as defined in section 22-20-103 (5); and

(D) Ensure that, in implementing the code, each school of the school district shows due consideration of the impact of certain violations of the code upon victims of such violations, in accordance with the provisions of title IX of the United States Code and other state and federal laws.

(VIII) The school's policy concerning bullying prevention and education, including information related to the development and implementation of any bullying prevention programs.

22-33-107. Enforcement of compulsory school attendance.

(5) The department of education may post on its web site information concerning effective, research-based, truancy- and dropout-prevention programs for the benefit of school districts.

22-33-201. Legislative declaration.

The general assembly hereby finds that except when a student's behavior would cause imminent harm to others in the school or when an incident requires automatic expulsion as defined by state law or a school's conduct and discipline code, expulsion should be the last step taken after several attempts to deal with a student who has discipline problems. The general assembly further finds that school districts should work with the student's parent or guardian and with state agencies and community-based nonprofit organizations to develop alternatives to help students who are at risk of expulsion before expulsion becomes a necessary step and to support students who are unable to avoid mandatory expulsion.

22-33-202. Identification of at-risk students.

(1) Each school district shall adopt policies to identify students who are at risk of suspension or expulsion from school. Students identified may include those who are truant, who have been or are likely to be declared habitually truant, or who are likely to be declared habitually disruptive. The school district shall provide students who are identified as at risk of suspension or expulsion with a plan to provide the necessary support services to help them avoid expulsion. The school district shall work with the student's parent or guardian in providing the services and may provide the services through agreements with appropriate local governmental agencies, appropriate state agencies, community-based organizations, and institutions of higher education entered into pursuant to section 22-33-204. The failure of the school district to identify a student for participation in an expulsion-prevention program or the failure of such program to remediate a student's behavior shall not be grounds to prevent school personnel from proceeding with appropriate disciplinary measures or used in any way as a defense in an expulsion proceeding.

(2) Each school district may provide educational services to students who are identified as at risk of suspension or expulsion from school. Any school district that provides educational services to students who are at risk of suspension or expulsion may apply for moneys through the expelled and at-risk student services grant program established in section 22-33-205 to assist in providing such educational services.

Behavioral interventions and student support services

STATUTES

22-32-109.1. Board of education - specific powers and duties - safe school plan - conduct and discipline code - safe school reporting requirements.

(2) Safe school plan. In order to provide a learning environment that is safe, conducive to the learning process, and free from unnecessary disruption, following consultation with the school district accountability committee and school accountability committees, parents, teachers, administrators, students, student councils where available, and, where appropriate, the community at large, each school district board of education shall adopt and implement a safe school plan, or review and revise, as necessary in response to any relevant data collected by the school district, any existing plans or policies already in effect. In addition to the aforementioned parties, each school district board of education, in adopting and implementing its safe school plan, may consult with victims advocacy organizations, school psychologists, and local law enforcement agencies. The plan, at a minimum, shall include the following:

(a) Conduct and discipline code.

(I) A concisely written conduct and discipline code that shall be enforced uniformly, fairly, and consistently for all students. Copies of the code shall be provided to each student upon enrollment at the elementary, middle, and high school levels and shall be posted or kept on file at each public school in the school district. The school district shall take reasonable measures to ensure that each

student of each public school in the school district is familiar with the code. The code shall include, but need not be limited to:

(K) On and after August 8, 2001, a specific policy concerning bullying prevention and education. Each school district is encouraged to ensure that its policy, at a minimum, incorporates the biennial administration of surveys of students' impressions of the severity of bullying in their schools, as described in section 22-93-104 (1) (c); character building; and the designation of a team of persons at each school of the school district who advise the school administration concerning the severity and frequency of bullying incidents that occur in the school, which team may include, but need not be limited to, law enforcement officials, social workers, prosecutors, health professionals, mental health professionals, school psychologists, counselors, teachers, administrators, parents, and students. Each school district's policy shall set forth appropriate disciplinary consequences for students who bully other students and for any person who takes any retaliatory action against a student who reports in good faith an incident of bullying, which consequences shall comply with all applicable state and federal laws.

(II) In creating and enforcing a school conduct and discipline code pursuant to subparagraph (I) of this paragraph (a), each school district board of education, on and after August 1, 2013, shall:

(A) Impose proportionate disciplinary interventions and consequences, including but not limited to in-school suspensions, in response to student misconduct, which interventions and consequences are designed to reduce the number of expulsions, out-of-school suspensions, and referrals to law enforcement, except for such referrals to law enforcement as are required by state or federal law;

(B) Include plans for the appropriate use of prevention, intervention, restorative justice, peer mediation, counseling, or other approaches to address student misconduct, which approaches are designed to minimize student exposure to the criminal and juvenile justice system. The plans shall state that a school administration shall not order a victim's participation in a restorative justice practice or peer mediation if the alleged victim of an offending student's misconduct alleges that the misconduct constitutes unlawful sexual behavior, as defined in section 16-22-102 (9), C.R.S.; a crime in which the underlying factual basis involves domestic violence, as defined in section 18-6-800.3 (1), C.R.S.; stalking as defined in section 18-3-602, C.R.S.; or violation of a protection order, as defined in section 18-6-803.5, C.R.S.;

(C) Ensure that the implementation of the code complies with all state and federal laws concerning the education of students with disabilities, as defined in section 22-20-103 (5); and

(D) Ensure that, in implementing the code, each school of the school district shows due consideration of the impact of certain violations of the code upon victims of such violations, in accordance with the provisions of title IX of the United States Code and other state and federal laws.

22-33-202. Identification of at-risk students.

(1) Each school district shall adopt policies to identify students who are at risk of suspension or expulsion from school. Students identified may include those who are truant, who have been or are likely to be declared habitually truant, or who are likely to be declared habitually disruptive. The school district shall provide students who are identified as at risk of suspension or expulsion with a plan to provide the necessary support services to help them avoid expulsion. The school district shall work with the student's parent or guardian in providing the services and may provide the services through agreements with appropriate local governmental agencies, appropriate state agencies, community-based organizations, and institutions of higher education entered into pursuant to section 22-33-204. The failure of the school district to identify a student for participation in an expulsion-prevention program or the failure of such program to remediate a student's behavior shall not be grounds to prevent school personnel from

proceeding with appropriate disciplinary measures or used in any way as a defense in an expulsion proceeding.

(2) Each school district may provide educational services to students who are identified as at risk of suspension or expulsion from school. Any school district that provides educational services to students who are at risk of suspension or expulsion may apply for moneys through the expelled and at-risk student services grant program established in section 22-33-205 to assist in providing such educational services.

22-33-204. Services for at-risk students - agreements with state agencies and community organizations.

(1) Each school district, regardless of the number of students expelled by the district, may enter into agreements with appropriate local governmental agencies and, to the extent necessary, with the managing state agencies, including but not limited to the department of human services and the department of public health and environment, with community-based nonprofit and faith-based organizations, with nonpublic, nonparochial schools, with the department of military and veterans affairs, and with public and private institutions of higher education to work with the student's parent or guardian to provide services to any student who is identified as being at risk of suspension or expulsion or who has been suspended or expelled and to the student's family. Any services provided pursuant to an agreement with a nonpublic, nonparochial school shall be subject to approval by the state board of education pursuant to section 22-2-107, C.R.S. Services provided through such agreements may include, but are not limited to:

(a) Educational services required to be provided under section 22-33-203 (2) and any educational services provided to at-risk students identified pursuant to section 22-33-202;

(b) Counseling services;

(c) Drug or alcohol-addiction treatment programs;

(d) Family preservation services.

22-33-205. Services for expelled and at-risk students - grants - criteria.

(1) (a) There is hereby established in the department of education the expelled and at-risk student services grant program, referred to in this section as the "program". The program shall provide grants to school districts, to charter schools, to alternative schools within school districts, to nonpublic, nonparochial schools, to boards of cooperative services, to facility schools, and to pilot schools established pursuant to article 38 of this title to assist them in providing educational services, and other services provided pursuant to section 22-33-204, to expelled students pursuant to section 22-33-203 (2), to students at risk of expulsion as identified pursuant to section 22-33-202 (1), and to truant students.

(b) In addition to school districts, charter schools, alternative schools within school districts, nonpublic, nonparochial schools, boards of cooperative services, facility schools, and pilot schools, the department of military and veterans affairs may apply for a grant pursuant to the provisions of this section to assist the department with a program to provide educational services to expelled students; except that nonpublic, nonparochial schools may only apply for a grant pursuant to the provisions of this section to fund educational services that have been approved by the state board pursuant to section 22-2-107. The department shall follow application procedures established by the department of education pursuant to subsection (2) of this section. The department of education shall determine whether to award a grant to the department of military and veterans affairs and the amount of the grant.

Professional development

STATUTES

22-32-109.1. Board of education - specific powers and duties - safe school plan - conduct and discipline code - safe school reporting requirements.

(4) School response framework - school safety, readiness, and incident management plan. Each board of education shall establish a school response framework that shall consist of policies described in this subsection (4). By satisfying the requirements of this subsection (4), a school or school district shall be in compliance with the national incident management system, referred to in this subsection (4) as "NIMS", developed by the federal emergency management agency. At a minimum, the policies shall require:

(l) School district employee safety and incident management training, including provisions stating that completion of any courses identified by the department of public safety pursuant to section 24-33.5-1606.5 (3), C.R.S., as related to NIMS count toward the professional development requirements of a person licensed pursuant to article 60.5 of this title;

(m) Each school district to work with community partners to update and revise all standard operating procedures, ensuring that all aspects of NIMS are incorporated, including but not limited to policies and principles, planning, procedures, training, response, exercises, equipment, evaluation, and corrective actions;

ADMINISTRATIVE CODE

2620-R- 2.03. Staff training.

All public educational programs shall ensure that staff utilizing restraint in schools or facilities are trained. Training shall include:

(1) a continuum of prevention techniques;

(2) environmental management;

(3) a continuum of de-escalation techniques;

(4) nationally recognized physical management and restraint practices, including, but not limited to, techniques that allow restraint in an upright or sitting position and information about the dangers created by prone restraint;

(5) methods to explain the use of restraint to the student who is to be restrained and to the individual's family;

(6) appropriate documentation and notification procedures; and

(7) retraining at a frequency of at least every two years.

Monitoring and Accountability

Formal incident reporting of conduct violations

STATUTES

22-32-146. School use of on-site peace officers as school resource officers - notifications of arrests and notices issued - reporting requirements.

(1) If a school resource officer or other law enforcement officer acting in his or her official capacity on school grounds, in a school vehicle, or at a school activity or sanctioned event arrests a student of the school, the officer shall notify the principal of the school or his or her designee of the arrest within twenty-four hours after the arrest.

(2) If a school resource officer or other law enforcement officer acting in his or her official capacity on school grounds, in a school vehicle, or at a school activity or sanctioned event issues a summons, ticket, or other notice requiring the appearance of a student of the school in court or at a police station for investigation relating to an offense allegedly committed on school grounds, in a school vehicle, or at a school activity or sanctioned event, the officer shall notify the principal of the school or his or her designee of the issuance of the summons, ticket, or other notice within ten days after the issuance of the summons, ticket, or other notice.

22-33-105. Suspension, expulsion, and denial of admission.

(2.5) Each board of education shall annually report to the state board the number of students expelled from schools within the district pursuant to this section and pursuant to section 25-4-907, C.R.S. Any pupil who is expelled pursuant to this section shall not be included in calculating the dropout rate for the school from which such student is expelled or in calculating the dropout rate for the school district in which such pupil was enrolled prior to being expelled.

22-33-107. Enforcement of compulsory school attendance.

(4) On or before September 15, 2010, and on or before September 15 each year thereafter, the board of education of each school district shall report to the department of education the number of students identified as habitually truant, as defined in paragraph (a) of subsection (3) of this section, for the preceding academic year. The department shall post this information for each school district on its web site for the public to access and may post additional information reported by school districts related to truancy.

Parental notification

STATUTES

22-32-109.1. Board of education - specific powers and duties - safe school plan - conduct and discipline code - safe school reporting requirements.

(2) Safe school plan. In order to provide a learning environment that is safe, conducive to the learning process, and free from unnecessary disruption, following consultation with the school district accountability committee and school accountability committees, parents, teachers, administrators, students, student councils where available, and, where appropriate, the community at large, each school district board of education shall adopt and implement a safe school plan, or review and revise, as necessary in response to any relevant data collected by the school district, any existing plans or policies

already in effect. In addition to the aforementioned parties, each school district board of education, in adopting and implementing its safe school plan, may consult with victims advocacy organizations, school psychologists, and local law enforcement agencies. The plan, at a minimum, shall include the following:

(B) General policies and procedures for dealing with students who cause a disruption on school grounds, in a school vehicle, or at a school activity or sanctioned event, including a specific policy allowing a teacher to remove a disruptive student from his or her classroom. The policy shall state that, upon the third such removal from a teacher's class, the teacher may remove the disruptive student from the teacher's class for the remainder of the term of the class; except that a disruptive student shall not be removed from a teacher's class for the remainder of the term of the class unless the principal of the student's school or his or her designee has developed and implemented a behavior plan for the student. A behavior plan may be developed after the first such removal from class and shall be developed after the second removal from class. The general policies and procedures shall include a due process procedure, which at a minimum shall require that, as soon as possible after a removal, the teacher or the school principal shall contact the parent or legal guardian of the student to request his or her attendance at a student-teacher conference regarding the removal. Any policy or procedure adopted shall comply with applicable federal and state laws, including but not limited to laws regarding students with disabilities.

22-33-105. Suspension, expulsion, and denial of admission.

(3) (a) If a pupil is suspended pursuant to subsection (2) of this section, the suspending authority shall immediately notify the parent, guardian, or legal custodian of the pupil that the pupil has been suspended and of the grounds for the suspension, the period of the suspension, and the time and place for the parent, guardian, or legal custodian to meet with the suspending authority to review the suspension.

(6) When a pupil is expelled by a school district, the pupil's parent, guardian, or legal custodian is responsible for seeing that the pupil complies with the provisions of this article during the period of expulsion.

22-33-106. Grounds for suspension, expulsion, and denial of admission.

(c.5) (I) Declaration as a habitually disruptive student.

(II) For purposes of this paragraph (c.5), "habitually disruptive student" means a child who has caused a material and substantial disruption on school grounds, in a school vehicle, or at a school activity or sanctioned event three or more times during the course of a school year. Any student who is enrolled in a public school may be subject to being declared a habitually disruptive student.

(III) The student and the parent, legal guardian, or legal custodian shall have been notified in writing of each disruption counted toward declaring the student as habitually disruptive pursuant to this paragraph (c.5) and the student and parent, legal guardian, or legal custodian shall have been notified in writing and by telephone or other means at the home or the place of employment of the parent or legal guardian of the definition of "habitually disruptive student".

22-33-107. Enforcement of compulsory school attendance.

(1) The board of education of each school district shall designate one or more of the employees of the district to act as attendance officer for the district, or in cooperation with any court of record in the county, the probation officer of that court may be appointed the attendance officer. It is the attendance officer's duty in appropriate cases to counsel with students and parents and investigate the causes of nonattendance and report to the local board of education so as to enforce the provisions of this article which relate to compulsory attendance.

(b) The board of education of each school district shall adopt and implement policies and procedures concerning children who are habitually truant. The policies and procedures shall include provisions for the development of a plan. The plan shall be developed with the goal of assisting the child to remain in school and, when practicable, with the full participation of the child's parent, guardian, or legal custodian. Appropriate school personnel shall make all reasonable efforts to meet with the parent, guardian, or legal custodian of the child to review and evaluate the reasons for the child's truancy. The policies and procedures may also include but need not be limited to the following:

(II) Annually at the beginning of the school year and upon any enrollment during the school year, notifying the parent of each child enrolled in the public schools in writing of such parent's obligations pursuant to section 22-33-104 (5) and requesting that the parent acknowledge in writing awareness of such obligations;

(III) Annually at the beginning of the school year and upon any enrollment during the school year, obtaining from the parent of each child a telephone number or other means of contacting such parent during the school day; and

(IV) Establishing a system of monitoring individual unexcused absences of children which shall provide that, whenever a child who is enrolled in a public school fails to report to school on a regularly scheduled school day and school personnel have received no indication that the child's parent is aware of the child's absence, school personnel or volunteers under the direction of school personnel shall make a reasonable effort to notify by telephone such parent. Any person who, in good faith, gives or fails to give notice pursuant to this subparagraph (IV) shall be immune from any liability, civil or criminal, which might otherwise be incurred or imposed and shall have the same immunity with respect to any judicial proceeding which results from such notice or failure to give such notice.

22-33-108. Judicial proceedings.

(1) Those courts having jurisdiction over juvenile matters in a judicial district shall have original jurisdiction over all matters arising out of the provisions of this article.

(1.5) (a) All proceedings brought under this article shall be commenced in the judicial district in which the child resides or is present.

(2) If a child or his parent desires court review of an order of the board of education issued pursuant to this article, he shall notify the board in writing within five days after receiving official notification of the board's action. The board of education shall thereupon issue, or cause to be issued, to the child or his parent a statement of the reasons for the board's action. Within ten days thereafter the child or his parents may file with the court a petition requesting that the order of the board of education be set aside, to which shall be appended the statement of the board of education. No docket or other fees shall be collected by the court in connection with this proceeding.

(6) In the discretion of the court before which a proceeding to compel attendance is brought, an order may be issued against the child or the child's parent or both compelling the child to attend school as provided by this article or compelling the parent to take reasonable steps to assure the child's attendance. The order may require the child or parent or both to follow an appropriate treatment plan that addresses problems affecting the child's school attendance and that ensures the child has an opportunity to obtain a quality education.

(7) (a) If the child does not comply with the valid court order issued against the child or against both the parent and the child, the court may order that an investigation be conducted as provided in section 19-2-510 (2), C.R.S., and the court may order the child to show cause why he or she should not be held in contempt of court. The court may include as a sanction after a finding of contempt an appropriate treatment plan that may include, but need not be limited to, community service to be performed by the child, supervised activities, participation in services for at-risk students, as described by section 22-33-

204, and other activities having goals that shall ensure that the child has an opportunity to obtain a quality education.

(8) If the parent refuses or neglects to obey the order issued against the parent or against both the parent and the child, the court may order the parent to show cause why he or she should not be held in contempt of court, and, if the parent fails to show cause, the court may impose a fine of up to but not more than twenty-five dollars per day or confine the parent in the county jail until the order is complied with.

22-33-203. Educational alternatives for expelled students.

(1) Upon expelling a student, the school district shall provide information to the student's parent or guardian concerning the educational alternatives available to the student during the period of expulsion. If the parent or guardian chooses to provide a home-based educational program for the student, the school district shall assist the parent in obtaining appropriate curricula for the student if requested by the parent or guardian.

(2) (a) Except as otherwise provided in paragraph (b) of this subsection (2), upon request of a student or the student's parent or guardian, the school district shall provide, for any student who is expelled from the school district, any educational services that are deemed appropriate for the student by the school district.

(3) If a student is expelled and the student is not receiving educational services pursuant to this section, the school district shall contact the expelled student's parent or guardian at least once every sixty days until the beginning of the next school year to determine whether the student is receiving educational services from some other source; except that the school district need not contact a student's parent or guardian after the student is enrolled in another school district or in an independent or parochial school or if the student is committed to the department of human services or is sentenced pursuant to article 2 of title 19, C.R.S.

(4) In addition to the educational services required under this section, a student who is at risk of suspension or expulsion or has been suspended or expelled, or the student's parent or guardian, may request any of the services provided by the school district through an agreement entered into pursuant to section 22-33-204, and the school district may provide such services.

ADMINISTRATIVE CODE

2620-R- 2.04. Documentation and notification requirements.

2.04 (1) If there is a reasonable probability that restraint might be used with a particular student, appropriate school staff must notify, in writing, the parents and, if appropriate, the student of the restraint procedures (including types of restraints) that might be used; specific circumstances in which restraint might be used; and staff involved. For students with disabilities, if the parents request a meeting with school personnel to discuss the notification, school personnel must ensure that the meeting is convened. This notification may occur at the meeting where the student’s Behavior Plan or IEP is developed/reviewed.

2620-R- 2.05. Review of the use of restraint.

(1) Each public education agency shall ensure that a review process is established and conducted for each incident of restraint used. The purpose of this review shall be to ascertain that appropriate procedures were followed and to minimize future use of restraint. The review shall include, but is not limited to:

(b) Follow up communication with the student and his/her family;

Reporting and referrals between schools and law enforcement

STATUTES

22-12-104. Liability.

(2) An educational entity and its employees are immune from suit for making a report consistent with federal law to the appropriate law enforcement authorities or officials of an educational entity if the individual making the report has reasonable grounds to suspect that a student is:

(a) Under the influence of alcoholic beverages or of a controlled substance not lawfully prescribed to the student;

(b) In possession of a firearm or alcoholic beverages or of a controlled substance not lawfully prescribed to the student;

(c) Involved in the illegal solicitation, sale, or distribution of firearms or alcoholic beverages or of a controlled substance.

22-32-109.1. Board of education - specific powers and duties - safe school plan - conduct and discipline code - safe school reporting requirements.

(1) Definitions. As used in this section, unless the context otherwise requires:

(f) (I) "Referral to law enforcement" means a communication between a school administrator, teacher, or other school employee and a law enforcement agency, which communication:

(A) Is initiated by the school administrator, teacher, or other school employee; and

(B) Concerns behavior by a student that the school administrator, teacher, or other school employee believes may constitute a violation of the school conduct and discipline code or a criminal or delinquent offense and for which the school administrator, teacher, or other school employee requests an investigation or other involvement by a law enforcement agency.

(II) "Referral to law enforcement" does not include:

(A) Contact with a law enforcement agency that is made for the purpose of education, prevention, or intervention regarding a student's behavior; or

(B) Routine or incidental communication between a school administrator, teacher, or other school employee and a law enforcement officer.

(3) Agreements with state agencies. Each board of education shall cooperate and, to the extent possible, develop written agreements with law enforcement officials, the juvenile justice system, and social services, as allowed under state and federal law, to keep each school environment safe. Each board of education shall adopt a policy whereby procedures will be used following instances of assault upon, disorderly conduct toward, harassment of, the making knowingly of a false allegation of child abuse against, or any alleged offense under the "Colorado Criminal Code" directed toward a school teacher or school employee or instances of damage occurring on the premises to the personal property of a school teacher or school employee by a student. Such procedures shall include, at a minimum, the following provisions:

(c) The school administration shall report the incident to the district attorney or the appropriate local law enforcement agency or officer, who shall, upon receiving such report, investigate the incident to determine the appropriateness of filing criminal charges or initiating delinquency proceedings.

22-32-146. School use of on-site peace officers as school resource officers - notifications of arrests and notices issued - reporting requirements.

(4) Commencing August 1, 2013, and continuing each August 1 thereafter, each law enforcement agency employing or contracting with any law enforcement officer who is acting or has acted in his or her official capacity on school grounds, in a school vehicle, or at a school activity or sanctioned event shall report to the division of criminal justice created in section 24-33.5-502, C.R.S., in aggregate form without personal identifying information, data about the cases handled by the agency on school grounds, in a school vehicle, or at a school activity or sanctioned event. Each such report shall include, at a minimum, the following information relating to the preceding twelve months:

(a) The number of students investigated by the officer for delinquent offenses, including the number of students investigated for each type of delinquent offense for which the officer investigated at least one student;

(b) The number of students arrested by the officer, including the offense for which each such arrest was made;

(c) The number of summonses or tickets issued by the officer to students; and

(d) The age, gender, school, and race or ethnicity of each student whom the officer arrested or to whom the officer issued a summons, ticket, or other notice requiring the appearance of the student in court or at a police station for investigation relating to an offense allegedly committed on school grounds, in a school vehicle, or at a school activity or sanctioned event.

22-33-105. Suspension, expulsion, and denial of admission.

(5) (a) Whenever a petition filed in juvenile court alleges that a child at least twelve years of age but under eighteen years of age has committed an offense that would constitute unlawful sexual behavior, as defined in section 16-22-102 (9), C.R.S., or a crime of violence, as defined in section 18-1.3-406, C.R.S., if committed by an adult or whenever charges filed in district court allege that a child has committed such an offense, basic identification information concerning such child and the details of the alleged delinquent act or offense shall be provided immediately to the school district in which the child is enrolled.

22-33-106.5. Information concerning offenses committed by students.

(1) Upon adjudication or conviction of a person under the age of eighteen years for an offense specified in section 22-33-106 (1) (d), the adjudicating juvenile court or the convicting district court, whichever is applicable, shall notify the school district in which the person is enrolled that the person is subject to mandatory expulsion based on the adjudication or conviction.

(2) Upon adjudication or conviction of a person under the age of eighteen years for an offense that constitutes a crime of violence, as defined in section 18-1.3-406, C.R.S., or for an offense involving controlled substances, or, for a person under eighteen years of age but at least twelve years of age, for an offense that would constitute unlawful sexual behavior, as defined in section 16-22-102 (9), C.R.S., if committed by an adult the adjudicating or convicting court shall notify the school district in which the person is enrolled of the person's adjudication or conviction.

22-33-107.5. Notice of failure to attend.

(1) Except as otherwise provided in subsection (2) of this section, a school district shall notify the appropriate court or parole board if a student fails to attend all or any portion of a school day, where the school district has received notice from the court or parole board:

(a) Pursuant to section 19-2-508 (3) (a) (VI), C.R.S., that the student is required to attend school as a condition of release pending an adjudicatory trial;

(b) Pursuant to section 17-22.5-404, 18-1.3-204 (2.3), 19-2-907 (4), 19-2-925 (5), or 19-2-1002 (1) or (3), C.R.S., that the student is required to attend school as a condition of or in connection with any sentence imposed by the court, including a condition of probation or parole; or

(c) Pursuant to section 13-10-113 (8), C.R.S., that the student is required to attend school as a condition of or in connection with any sentence imposed by a municipal court.

(2) If the school district has notice that a student who is required to attend school as a condition of release or as a condition of or in connection with any sentence imposed by a court, including a condition of probation or parole, has enrolled in a nonpublic home-based educational program, pursuant to section 22-33-104.5, or in an independent or parochial school, the school district shall notify the appropriate court or parole board and shall no longer be required to notify the court or parole board, pursuant to subsection (1) of this section, if the student fails to attend.

22-33-108. Judicial proceedings.

(2) If a child or his parent desires court review of an order of the board of education issued pursuant to this article, he shall notify the board in writing within five days after receiving official notification of the board's action. The board of education shall thereupon issue, or cause to be issued, to the child or his parent a statement of the reasons for the board's action. Within ten days thereafter the child or his parents may file with the court a petition requesting that the order of the board of education be set aside, to which shall be appended the statement of the board of education. No docket or other fees shall be collected by the court in connection with this proceeding.

(3) After the petition is filed, the court shall notify the board and shall hold a hearing on the matter. The court shall conduct judicial review of a hearing decision pursuant to rule 106 (a) (4) of the Colorado rules of civil procedure and rule 3.8 of the Colorado rules of juvenile procedure.

(4) It is the duty of the attorney for the school district, an employee authorized by the local board of education pursuant to section 13-1-127 (7), C.R.S., to represent the school district in truancy proceedings, the attendance officer designated by the local board of education, or the local board of education to initiate, when appropriate, proceedings for the enforcement of the compulsory attendance provisions of this article upon request by the attendance officer of the district or of the state.

Disclosure of school records

No relevant statutes found.

Data collection, review, and reporting of disciplinary policies and actions

STATUTES

22-32-109.1. Board of education - specific powers and duties - safe school plan - conduct and discipline code - safe school reporting requirements.

(b) Safe school reporting requirements. A policy whereby the principal of each public school in a school district shall submit annually, in a manner and by a date specified by rule of the state board, a written report to the board of education of such school district concerning the learning environment in the school during that school year. The board of education of the school district annually shall compile the reports from every school in the district and shall submit the compiled report to the department of education in a format specified by rule of the state board. The compiled report shall be made available to the general public. Such report shall include, but need not be limited to, the following specific information for the preceding school year:

(IV) The number of conduct and discipline code violations, each of which violations shall be reported only in the most serious category that is applicable to that violation, including but not limited to specific information identifying the number of, and the action taken with respect to, each of the following types of violations:

(A) Possessing a dangerous weapon on school grounds, in a school vehicle, or at a school activity or sanctioned event without the authorization of the school or the school district;

(B) Use or possession of alcohol on school grounds, in a school vehicle, or at a school activity or sanctioned event;

(C) Use, possession, or sale of a drug or controlled substance on school grounds, in a school vehicle, or at a school activity or sanctioned event;

(D) Use or possession of a tobacco product on school grounds, in a school vehicle, or at a school activity or sanctioned event;

(E) Being willfully disobedient or openly and persistently defiant or repeatedly interfering with the school's ability to provide educational opportunities to, and a safe environment for, other students;

(F) Commission of an act on school grounds, in a school vehicle, or at a school activity or sanctioned event that, if committed by an adult, would be considered first degree assault, as described in section 18-3-202, C.R.S., second degree assault, as described in section 18-3-203, C.R.S., or vehicular assault, as described in section 18-3-205, C.R.S.;

(G) Behavior on school grounds, in a school vehicle, or at a school activity or sanctioned event that is detrimental to the welfare or safety of other students or of school personnel, including but not limited to incidents of bullying and other behavior that creates a threat of physical harm to the student or to other students;

(H) Willful destruction or defacement of school property;

(I) Commission of an act on school grounds, in a school vehicle, or at a school activity or sanctioned event that, if committed by an adult, would be considered third degree assault, as described in section 18-3-204, C.R.S., or disorderly conduct, as described in section 18-9-106 (1) (d), C.R.S., but not disorderly conduct involving firearms or other deadly weapons, as described in section 18-9-106 (1) (e) and (1) (f), C.R.S.;

(J) Commission of an act on school grounds, in a school vehicle, or at a school activity or sanctioned event that, if committed by an adult, would be considered robbery; and

(K) Other violations of the code of conduct and discipline that resulted in documentation of the conduct in a student's record;

(VIII) The school's policy concerning bullying prevention and education, including information related to the development and implementation of any bullying prevention programs.

22-32-146. School use of on-site peace officers as school resource officers - notifications of arrests and notices issued - reporting requirements.

(4) Commencing August 1, 2013, and continuing each August 1 thereafter, each law enforcement agency employing or contracting with any law enforcement officer who is acting or has acted in his or her official capacity on school grounds, in a school vehicle, or at a school activity or sanctioned event shall report to the division of criminal justice created in section 24-33.5-502, C.R.S., in aggregate form without personal identifying information, data about the cases handled by the agency on school grounds, in a school vehicle, or at a school activity or sanctioned event. Each such report shall include, at a minimum, the following information relating to the preceding twelve months:

(a) The number of students investigated by the officer for delinquent offenses, including the number of students investigated for each type of delinquent offense for which the officer investigated at least one student;

(b) The number of students arrested by the officer, including the offense for which each such arrest was made;

(c) The number of summonses or tickets issued by the officer to students; and

(d) The age, gender, school, and race or ethnicity of each student whom the officer arrested or to whom the officer issued a summons, ticket, or other notice requiring the appearance of the student in court or at a police station for investigation relating to an offense allegedly committed on school grounds, in a school vehicle, or at a school activity or sanctioned event.

22-33-107. Enforcement of compulsory school attendance.

(4) On or before September 15, 2010, and on or before September 15 each year thereafter, the board of education of each school district shall report to the department of education the number of students identified as habitually truant, as defined in paragraph (a) of subsection (3) of this section, for the preceding academic year. The department shall post this information for each school district on its web site for the public to access and may post additional information reported by school districts related to truancy.

22-33-205. Services for expelled and at-risk students - grants - criteria.

(4) The department of education is authorized to retain up to one percent of any moneys appropriated for the program for the purpose of annually evaluating the program. The department of education is authorized and encouraged to retain up to an additional two percent of any moneys appropriated for the program for the purpose of partnering with organizations or agencies that provide services and supports that are designed to reduce the number of truancy cases requiring court involvement and that also reflect the best interests of students and families. The services and supports shall include, but need not be limited to, alternatives to guardian ad litem representation in truancy proceedings. On or before January 1, 2006, and on or before January 1 each year thereafter, the department of education shall report to the education committees of the house of representatives and the senate, or any successor committees, the evaluation findings on the outcomes and the effectiveness of the program related to school attendance, attachment, and achievement. The report shall also include specific information on the efficacy of services and supports that provide alternatives to court involvement and guardian ad litem representation in truancy proceedings.

School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers

Authority and power to implement school arrest

STATUTES

22-32-146. School use of on-site peace officers as school resource officers - notifications of arrests and notices issued - reporting requirements.

(1) If a school resource officer or other law enforcement officer acting in his or her official capacity on school grounds, in a school vehicle, or at a school activity or sanctioned event arrests a student of the school, the officer shall notify the principal of the school or his or her designee of the arrest within twenty-four hours after the arrest.

(2) If a school resource officer or other law enforcement officer acting in his or her official capacity on school grounds, in a school vehicle, or at a school activity or sanctioned event issues a summons, ticket, or other notice requiring the appearance of a student of the school in court or at a police station for investigation relating to an offense allegedly committed on school grounds, in a school vehicle, or at a school activity or sanctioned event, the officer shall notify the principal of the school or his or her designee of the issuance of the summons, ticket, or other notice within ten days after the issuance of the summons, ticket, or other notice.

(3) A school resource officer shall be familiar with the provisions of the conduct and discipline code of the school to which he or she is assigned.

(4) Commencing August 1, 2013, and continuing each August 1 thereafter, each law enforcement agency employing or contracting with any law enforcement officer who is acting or has acted in his or her official capacity on school grounds, in a school vehicle, or at a school activity or sanctioned event shall report to the division of criminal justice created in section 24-33.5-502, C.R.S., in aggregate form without personal identifying information, data about the cases handled by the agency on school grounds, in a school vehicle, or at a school activity or sanctioned event. Each such report shall include, at a minimum, the following information relating to the preceding twelve months:

(a) The number of students investigated by the officer for delinquent offenses, including the number of students investigated for each type of delinquent offense for which the officer investigated at least one student;

(b) The number of students arrested by the officer, including the offense for which each such arrest was made;

(c) The number of summonses or tickets issued by the officer to students; and

(d) The age, gender, school, and race or ethnicity of each student whom the officer arrested or to whom the officer issued a summons, ticket, or other notice requiring the appearance of the student in court or at a police station for investigation relating to an offense allegedly committed on school grounds, in a school vehicle, or at a school activity or sanctioned event.

22-33-104. Compulsory school attendance.

(b) The attendance policy adopted pursuant to this subsection (4) shall specify the maximum number of unexcused absences a child may incur before the attorney for the school district, the attendance officer, or the local board of education may initiate judicial proceedings pursuant to section 22-33-108.

Calculation of the number of unexcused absences a child has incurred includes all unexcused absences occurring during any calendar year or during any school year.

22-33-107. Enforcement of compulsory school attendance.

(1) The board of education of each school district shall designate one or more of the employees of the district to act as attendance officer for the district, or in cooperation with any court of record in the county, the probation officer of that court may be appointed the attendance officer. It is the attendance officer's duty in appropriate cases to counsel with students and parents and investigate the causes of nonattendance and report to the local board of education so as to enforce the provisions of this article which relate to compulsory attendance.

(2) The commissioner of education shall designate an employee of the department of education whose duty it is to assist the individual school districts and to supervise the enforcement of compulsory school attendance for the entire state.

(b) The board of education of each school district shall adopt and implement policies and procedures concerning children who are habitually truant. The policies and procedures shall include provisions for the development of a plan. The plan shall be developed with the goal of assisting the child to remain in school and, when practicable, with the full participation of the child's parent, guardian, or legal custodian. Appropriate school personnel shall make all reasonable efforts to meet with the parent, guardian, or legal custodian of the child to review and evaluate the reasons for the child's truancy.

22-33-108. Judicial proceedings.

(4) It is the duty of the attorney for the school district, an employee authorized by the local board of education pursuant to section 13-1-127 (7), C.R.S., to represent the school district in truancy proceedings, the attendance officer designated by the local board of education, or the local board of education to initiate, when appropriate, proceedings for the enforcement of the compulsory attendance provisions of this article upon request by the attendance officer of the district or of the state.

Certification or training

STATUTES

22-32-109.1. Board of education - specific powers and duties - safe school plan - conduct and discipline code - safe school reporting requirements.

(4) School response framework - school safety, readiness, and incident management plan. Each board of education shall establish a school response framework that shall consist of policies described in this subsection (4). By satisfying the requirements of this subsection (4), a school or school district shall be in compliance with the national incident management system, referred to in this subsection (4) as "NIMS", developed by the federal emergency management agency. At a minimum, the policies shall require:

(d) Each school district, on or before July 1, 2009, to start to develop a school safety, readiness, and incident management plan, including, to the extent possible, emergency communications, that coordinates with any statewide or local emergency operation plans. In developing the plan, a school district may collaborate with local fire departments, state and local law enforcement agencies, local 911 agencies, interoperable communications providers, the safe2tell program described in section 16-15.8-103, C.R.S., local emergency medical service personnel, local mental health organizations, local public health agencies, local emergency management personnel, and local or regional homeland security personnel, which entities are collectively referred to in this subsection (4) as "community partners". The school safety, readiness, and incident management plan shall, at a minimum, identify for each public school in the school district:

(I) Safety teams and backups who are responsible for interacting with community partners and assuming key incident command positions; and

(k) Key emergency school personnel, including but not limited to safety teams and backups, to complete courses provided by the federal emergency management agency's emergency management institute or by institutions of higher education in the state system of community and technical colleges;

(l) School district employee safety and incident management training, including provisions stating that completion of any courses identified by the department of public safety pursuant to section 24-33.5-1606.5 (3), C.R.S., as related to NIMS count toward the professional development requirements of a person licensed pursuant to article 60.5 of this title;

22-32-146. School use of on-site peace officers as school resource officers - notifications of arrests and notices issued - reporting requirements.

(3) A school resource officer shall be familiar with the provisions of the conduct and discipline code of the school to which he or she is assigned.

MOUs, authorization, and/or funding

No relevant statutes found.

State Education Agency Support

State model policies and implementation support

No relevant statutes found.

Funding appropriations

STATUTES

22-33-202. Identification of at-risk students.

(2) Each school district may provide educational services to students who are identified as at risk of suspension or expulsion from school. Any school district that provides educational services to students who are at risk of suspension or expulsion may apply for moneys through the expelled and at-risk student services grant program established in section 22-33-205 to assist in providing such educational services.

22-33-203. Educational alternatives for expelled students.

(1) Upon expelling a student, the school district shall provide information to the student's parent or guardian concerning the educational alternatives available to the student during the period of expulsion.

(c) (I) Educational services provided pursuant to this section shall be provided by the expelling school district; except that the expelling school district may provide educational services either directly or in cooperation with one or more other school districts, boards of cooperative services, charter schools, nonpublic, nonparochial schools, or pilot schools established pursuant to article 38 of this title under contract with the expelling school district. Any program of educational services provided by a nonpublic, nonparochial school shall be subject to approval by the state board of education pursuant to section 22-2-107.

(d) If an expelled student is receiving educational services delivered by a school district other than the expelling school district, by a charter school in a school district other than the expelling school district, by a board of cooperative services, by a nonpublic, nonparochial school, or by a pilot school pursuant to an agreement entered into pursuant to subparagraph (I) of paragraph (c) of this subsection (2), the expelling school district shall transfer ninety-five percent of the district per pupil revenues, as defined in section 22-30.5-112 (2) (a.5) (II) to the school district, charter school, nonpublic, nonparochial school, board of cooperative services, or pilot school that is providing educational services, reduced in proportion to the amount of time remaining in the school year at the time the student begins receiving educational services.

(e) Any school district, charter school, nonpublic, nonparochial school, board of cooperative services, or pilot school that is providing educational services to expelled students pursuant to this subsection (2) may apply for moneys through the expelled student services grant program established in section 22-33-205 to assist in providing educational services.

22-33-204. Services for at-risk students - agreements with state agencies and community organizations.

(1) Each school district, regardless of the number of students expelled by the district, may enter into agreements with appropriate local governmental agencies and, to the extent necessary, with the managing state agencies, including but not limited to the department of human services and the department of public health and environment, with community-based nonprofit and faith-based organizations, with nonpublic, nonparochial schools, with the department of military and veterans affairs,

and with public and private institutions of higher education to work with the student's parent or guardian to provide services to any student who is identified as being at risk of suspension or expulsion or who has been suspended or expelled and to the student's family.

(2) At a minimum, each agreement entered into pursuant to this section shall specify the services to be provided under the agreement, the entity that will coordinate and oversee provision of the services, and the responsibilities of each entity entering into the agreement. In addition, each agreement shall require each entity entering into the agreement to contribute the services or funds for the provision of the services specified in the agreement. The agreement shall specify the services or the amount and source of funds that each entity will provide and the mechanism for providing said services or funds.

(3) Each school district shall use a portion of its per pupil revenues to provide services under agreements entered into pursuant to this section for each student who is at risk of suspension or expulsion or who is suspended or expelled. In addition, the school district may use federal moneys, moneys received from any other state appropriation, and moneys received from any other public or private grant to provide said services.

22-33-205. Services for expelled and at-risk students - grants - criteria.

(1) (a) There is hereby established in the department of education the expelled and at-risk student services grant program, referred to in this section as the "program". The program shall provide grants to school districts, to charter schools, to alternative schools within school districts, to nonpublic, nonparochial schools, to boards of cooperative services, to facility schools, and to pilot schools established pursuant to article 38 of this title to assist them in providing educational services, and other services provided pursuant to section 22-33-204, to expelled students pursuant to section 22-33-203 (2), to students at risk of expulsion as identified pursuant to section 22-33-202 (1), and to truant students.

(b) In addition to school districts, charter schools, alternative schools within school districts, nonpublic, nonparochial schools, boards of cooperative services, facility schools, and pilot schools, the department of military and veterans affairs may apply for a grant pursuant to the provisions of this section to assist the department with a program to provide educational services to expelled students; except that nonpublic, nonparochial schools may only apply for a grant pursuant to the provisions of this section to fund educational services that have been approved by the state board pursuant to section 22-2-107. The department shall follow application procedures established by the department of education pursuant to subsection (2) of this section. The department of education shall determine whether to award a grant to the department of military and veterans affairs and the amount of the grant.

(c) Grants awarded pursuant to this section shall be paid for out of any moneys appropriated to the department of education for implementation of the program.

(2) (a) The state board by rule shall establish application procedures by which a school district, a charter school, an alternative school within a school district, a nonpublic, nonparochial school, a board of cooperative services, a facility school, or a pilot school may annually apply for a grant under the program. At a minimum, the application shall include a plan for provision of educational services, including the type of educational services to be provided, the estimated cost of providing such educational services, and the criteria that will be used to evaluate the effectiveness of the educational services provided.

(b) The state board shall determine which of the applicants shall receive grants and the amount of each grant. In awarding grants, the state board shall consider the following criteria:

(I) The costs incurred by the applicant in providing educational services to expelled or at-risk students pursuant to the provisions of this part 2 during the school year preceding the school year for which the grant is requested;

(II) (Deleted by amendment, L. 98, p. 570, § 4, effective April 30, 1998.)

(III) The number of expelled, at-risk, or truant students who are receiving educational services through the applicant under agreements entered into pursuant to the provisions of this part 2 during the school year preceding the year for which the grant is requested;

(IV) The quality of educational services to be provided by the applicant under the plan;

(V) The cost-effectiveness of the educational services to be provided under the plan;

(VI) The amount of funding received by the applicant in relation to the cost of the educational services provided under the plan; and

(VII) If the applicant is seeking to renew a grant or has been awarded a grant pursuant to this section in the previous five years, the demonstrated effectiveness of the educational services funded by the previous grant.

(3) The state board shall annually award at least forty-five percent of any moneys appropriated for the program to applicants that provide educational services to students from more than one school district and at least one-half of any increase in the appropriation for the program for the 2009-10 fiscal year to applicants that provide services and supports that are designed to reduce the number of truancy cases requiring court involvement and that also reflect the best interests of students and families. The services and supports shall include, but need not be limited to, alternatives to guardian ad litem representation in truancy proceedings.

(4) The department of education is authorized to retain up to one percent of any moneys appropriated for the program for the purpose of annually evaluating the program. The department of education is authorized and encouraged to retain up to an additional two percent of any moneys appropriated for the program for the purpose of partnering with organizations or agencies that provide services and supports that are designed to reduce the number of truancy cases requiring court involvement and that also reflect the best interests of students and families. The services and supports shall include, but need not be limited to, alternatives to guardian ad litem representation in truancy proceedings. On or before January 1, 2006, and on or before January 1 each year thereafter, the department of education shall report to the education committees of the house of representatives and the senate, or any successor committees, the evaluation findings on the outcomes and the effectiveness of the program related to school attendance, attachment, and achievement. The report shall also include specific information on the efficacy of services and supports that provide alternatives to court involvement and guardian ad litem representation in truancy proceedings.

Other/Uncategorized

Professional immunity or liability

STATUTES

22-12-104. Liability.

(1) An educational entity and its employees are immune from suit for taking an action regarding the supervision, grading, suspension, expulsion, or discipline of a student while the student is on the property of the educational entity or under the supervision of the educational entity or its employees; except that immunity shall not apply if the action is committed willfully and wantonly and violates a statute, rule, or regulation or a clearly articulated policy of the educational entity. The burden of proving the violation shall rest with the plaintiff and must be established by clear and convincing evidence to the court as part of a summary proceeding. If at the summary proceeding the court finds a violation exists, the educational entity and its employee may raise immunity at trial under the provisions of this article and the "Colorado Governmental Immunity Act", article 10 of title 24, C.R.S.

(2) An educational entity and its employees are immune from suit for making a report consistent with federal law to the appropriate law enforcement authorities or officials of an educational entity if the individual making the report has reasonable grounds to suspect that a student is:

(a) Under the influence of alcoholic beverages or of a controlled substance not lawfully prescribed to the student;

(b) In possession of a firearm or alcoholic beverages or of a controlled substance not lawfully prescribed to the student;

(c) Involved in the illegal solicitation, sale, or distribution of firearms or alcoholic beverages or of a controlled substance.

(3) A person claiming to have suffered an injury by an educational entity or an employee, whether or not by a violation of a statute, rule, or regulation or a clearly articulated policy of the educational entity, shall file a written notice as provided in section 24-10-109, C.R.S., within one hundred eighty days after the date of discovery of the injury, regardless of whether the person then knew all of the elements of a claim or of a cause of action for the injury. Compliance with the provisions of this subsection (3) shall be a jurisdictional prerequisite to any action brought under the provisions of this article, and failure of compliance shall forever bar any such action.

22-32-109.1. Board of education - specific powers and duties - safe school plan - conduct and discipline code - safe school reporting requirements.

(a) Conduct and discipline code. The code shall include, but need not be limited to:

(D) Policies and procedures for the use of acts of reasonable and appropriate physical intervention or force in dealing with disruptive students; except that no board shall adopt a discipline code that includes provisions that are in conflict with the definition of child abuse in section 18-6-401 (1), C.R.S., and section 19-1-103 (1), C.R.S.;

(9) Immunity.

(a) A school district board of education or a teacher or any other person acting in good faith in accordance with the provisions of subsection (2) of this section in carrying out the powers or duties authorized by said subsection shall be immune from criminal prosecution or civil liability for such actions; except that a teacher or any other person acting willfully or wantonly in violation of said

subsection shall not be immune from criminal prosecution or civil liability pursuant to said subsection. A teacher or any other person claiming immunity from criminal prosecution under this paragraph (a) may file a motion that shall be heard prior to trial. At the hearing, the teacher or other person claiming immunity shall bear the burden of establishing the right to immunity by a preponderance of the evidence.

(b) A teacher or any other person acting in good faith and in compliance with the conduct and discipline code adopted by the board of education pursuant to paragraph (a) of subsection (2) of this section shall be immune from civil liability; except that a person acting willfully and wantonly shall not be immune from liability pursuant to this paragraph (b). The court shall dismiss any civil action resulting from actions taken by a teacher or any other person pursuant to the conduct and discipline code adopted by the board of education pursuant to paragraph (a) of subsection (2) of this section upon a finding by the court that the person acted in good faith and in compliance with such conduct and discipline code and was therefore immune from civil liability pursuant to paragraph (a) of this subsection (9). The court shall award court costs and reasonable attorney fees to the prevailing party in such a civil action.

(c) If a teacher or any other person does not claim or is not granted immunity from criminal prosecution pursuant to paragraph (a) of this subsection (9) and a criminal action is brought against a teacher or any other person for actions taken pursuant to the conduct and discipline code adopted by the board of education pursuant to paragraph (a) of subsection (2) of this section, it shall be an affirmative defense in the criminal action that the teacher or such other person was acting in good faith and in compliance with the conduct and discipline code and was not acting in a willful or wanton manner in violation of the conduct and discipline code.

(d) An act of a teacher or any other person shall not be considered child abuse pursuant to sections 18-6-401 (1) and 19-1-103 (1), C.R.S., if:

(I) The act was performed in good faith and in compliance with the conduct and discipline code adopted by the board of education pursuant to paragraph (a) of subsection (2) of this section; or

(II) The act was an appropriate expression of affection or emotional support, as determined by the board of education.

(e) A teacher or any other person who acts in good faith and in compliance with the conduct and discipline code adopted by the board of education pursuant to paragraph (a) of subsection (2) of this section shall not have his or her contract nonrenewed or be subject to any disciplinary proceedings, including dismissal, as a result of such lawful actions, nor shall the actions of the teacher or other person be reflected in any written evaluation or other personnel record concerning such teacher or other person. A teacher or any other person aggrieved by an alleged violation of this paragraph (e) may file a civil action in the appropriate district court within two years after the alleged violation.

22-33-107. Enforcement of compulsory school attendance.

(3) (b) The board of education of each school district shall adopt and implement policies and procedures concerning children who are habitually truant. The policies and procedures shall include provisions for the development of a plan. The plan shall be developed with the goal of assisting the child to remain in school and, when practicable, with the full participation of the child's parent, guardian, or legal custodian. Appropriate school personnel shall make all reasonable efforts to meet with the parent, guardian, or legal custodian of the child to review and evaluate the reasons for the child's truancy. The policies and procedures may also include but need not be limited to the following:

(IV) Establishing a system of monitoring individual unexcused absences of children which shall provide that, whenever a child who is enrolled in a public school fails to report to school on a regularly

scheduled school day and school personnel have received no indication that the child's parent is aware of the child's absence, school personnel or volunteers under the direction of school personnel shall make a reasonable effort to notify by telephone such parent. Any person who, in good faith, gives or fails to give notice pursuant to this subparagraph (IV) shall be immune from any liability, civil or criminal, which might otherwise be incurred or imposed and shall have the same immunity with respect to any judicial proceeding which results from such notice or failure to give such notice.

Community input or involvement

STATUTES

22-32-109.1. Board of education - specific powers and duties - safe school plan - conduct and discipline code - safe school reporting requirements.

(2) Safe school plan. In order to provide a learning environment that is safe, conducive to the learning process, and free from unnecessary disruption, following consultation with the school district accountability committee and school accountability committees, parents, teachers, administrators, students, student councils where available, and, where appropriate, the community at large, each school district board of education shall adopt and implement a safe school plan, or review and revise, as necessary in response to any relevant data collected by the school district, any existing plans or policies already in effect. In addition to the aforementioned parties, each school district board of education, in adopting and implementing its safe school plan, may consult with victims advocacy organizations, school psychologists, and local law enforcement agencies.

22-33-201. Legislative declaration.

The general assembly hereby finds that except when a student's behavior would cause imminent harm to others in the school or when an incident requires automatic expulsion as defined by state law or a school's conduct and discipline code, expulsion should be the last step taken after several attempts to deal with a student who has discipline problems. The general assembly further finds that school districts should work with the student's parent or guardian and with state agencies and community-based nonprofit organizations to develop alternatives to help students who are at risk of expulsion before expulsion becomes a necessary step and to support students who are unable to avoid mandatory expulsion.

22-33-202. Identification of at-risk students.

(1) Each school district shall adopt policies to identify students who are at risk of suspension or expulsion from school. Students identified may include those who are truant, who have been or are likely to be declared habitually truant, or who are likely to be declared habitually disruptive. The school district shall provide students who are identified as at risk of suspension or expulsion with a plan to provide the necessary support services to help them avoid expulsion. The school district shall work with the student's parent or guardian in providing the services and may provide the services through agreements with appropriate local governmental agencies, appropriate state agencies, community-based organizations, and institutions of higher education entered into pursuant to section 22-33-204.

22-33-204. Services for at-risk students - agreements with state agencies and community organizations.

(1) Each school district, regardless of the number of students expelled by the district, may enter into agreements with appropriate local governmental agencies and, to the extent necessary, with the managing state agencies, including but not limited to the department of human services and the department of public health and environment, with community-based nonprofit and faith-based organizations, with nonpublic, nonparochial schools, with the department of military and veterans affairs,

and with public and private institutions of higher education to work with the student's parent or guardian to provide services to any student who is identified as being at risk of suspension or expulsion or who has been suspended or expelled and to the student's family. Any services provided pursuant to an agreement with a nonpublic, nonparochial school shall be subject to approval by the state board of education pursuant to section 22-2-107, C.R.S. Services provided through such agreements may include, but are not limited to:

(a) Educational services required to be provided under section 22-33-203 (2) and any educational services provided to at-risk students identified pursuant to section 22-33-202;

(b) Counseling services;

(c) Drug or alcohol-addiction treatment programs;

(d) Family preservation services.

(e) and (f) (Deleted by amendment, L. 98, p. 570, § 3, effective April 30, 1998.)

(2) At a minimum, each agreement entered into pursuant to this section shall specify the services to be provided under the agreement, the entity that will coordinate and oversee provision of the services, and the responsibilities of each entity entering into the agreement. In addition, each agreement shall require each entity entering into the agreement to contribute the services or funds for the provision of the services specified in the agreement. The agreement shall specify the services or the amount and source of funds that each entity will provide and the mechanism for providing said services or funds.

(3) Each school district shall use a portion of its per pupil revenues to provide services under agreements entered into pursuant to this section for each student who is at risk of suspension or expulsion or who is suspended or expelled. In addition, the school district may use federal moneys, moneys received from any other state appropriation, and moneys received from any other public or private grant to provide said services.

22-33-205. Services for expelled and at-risk students - grants - criteria.

(b) In addition to school districts, charter schools, alternative schools within school districts, nonpublic, nonparochial schools, boards of cooperative services, facility schools, and pilot schools, the department of military and veterans affairs may apply for a grant pursuant to the provisions of this section to assist the department with a program to provide educational services to expelled students; except that nonpublic, nonparochial schools may only apply for a grant pursuant to the provisions of this section to fund educational services that have been approved by the state board pursuant to section 22-2-107. The department shall follow application procedures established by the department of education pursuant to subsection (2) of this section. The department of education shall determine whether to award a grant to the department of military and veterans affairs and the amount of the grant.

Other/Uncategorized

No relevant statutes found.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by Colorado provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
Website		
Expelled and At-Risk Student Services (EARSS) Policies	Provides current overview of Colorado Statutes that impact school disciplinary actions.	http://www.cde.state.co.us/DropoutPreventionEARSS_PoliciesandStateStatutes.htm
Colorado Department of Education's Bully Prevention and Intervention Website	Contains definitions and analysis of bullying behavior as well as student and teacher resources for dealing with the issue.	http://www.cde.state.co.us/pbis/Bullying/index.htm
Documents		
Expelled and At-Risk Student Services (EARSS) Supported Truancy Reduction Efforts	A needs assessment report on truancy court in Colorado	http://www.cde.state.co.us/DropoutPrevention/EARSS_TruancyReductionEfforts.htm
Other Resources		
No relevant resources found		

Connecticut Compilation of School Discipline Laws and Regulations

Prepared: August 12, 2013

Introduction

This compilation presents school discipline-related state statutes, school discipline-related regulations, and, where available, links to state-sponsored websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSLE). For example, one major category encompasses all state laws or regulations mandating specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of state legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in each state.

Discipline categories were not mutually exclusive. Statutes and regulations often appeared across multiple categories. For states with more extensive statutes covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. State laws, ordered by chapter and section number, appear first within each category followed by state regulations. All statutes and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists statutes by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to state-sponsored websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of May 2013, with the exception of the state laws related to seclusion and restraint, which are complete and current as of December 2012. Readers should also note that the information in this document was compiled from individual state sources that are created by each state and which are maintained and updated with varying frequencies. Readers should consult the source information provided for each state directly in order to check for updates to this state's laws and regulations or conduct further research.

For further information, including definitions of the different policy categories, please refer to the Discipline Laws and Regulations Compendium posted on the Center's website.

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Safe Supportive Learning
Engagement | Safety | Environment

Table of Contents

Connecticut State Codes Cited **1**

General Provisions **2**

Authority to develop and establish rules of conduct 2
Scope 5
Communication of policy 6

In-School Discipline **7**

Use of multi-tiered discipline approaches 7
Teacher authority to remove students from classrooms 7
Alternatives to suspension 7
Use of corporal punishment 8
Use of student and locker searches 8
Other in-school disciplinary approaches 8

Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements **9**

Grounds for possible suspension or expulsion 9
Grounds for mandatory suspension or expulsion 10
Limitations, conditions or exclusions for use of suspension and expulsion 10
Administrative procedures related to suspension and expulsion 11
In-school suspension 13
Return to school following removal 14
Use of restraint and seclusion 15
Alternative placements 15

Disciplinary Approaches Addressing Specific Infractions and Conditions **17**

Firearms (as required by the Guns-Free Schools Act) 17
Other weapons 18
Students with chronic disciplinary issues 19
Attendance and truancy 20
Substance use 20
Bullying, harassment, or hazing 21
Other special infractions or conditions 24

Prevention and Behavioral Interventions (Non-Punitive) **26**

Prevention 26
Behavioral interventions and student support services 27
Professional development 28

Monitoring and Accountability **30**

Formal incident reporting of conduct violations 30
Parental notification 32
Reporting and referrals between schools and law enforcement 33
Disclosure of school records 35
Data collection, review, and reporting of disciplinary policies and actions 36

School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers 39
Authority and power to implement school arrest 39
Certification or training 39
MOUs, authorization, and/or funding 39
State Education Agency Support 40
State model policies and implementation support 40
Funding appropriations 40
Other/Uncategorized 42
Professional immunity or liability 42
Community input or involvement 42
Other/Uncategorized 42
State-Sponsored, Publicly Available Websites or Other Resources on School Discipline 43

Connecticut State Codes Cited

Connecticut Revised Statutes

Title 10 Education and Culture

Chapter 164 Educational Opportunities

10-76b.	State supervision of special education programs and services. Regulations. Coordinating agency

Chapter 170 Boards of Education

10-221.	Boards of education to prescribe rules, policies and procedures
10-222d.	Safe school climate plans. Definitions. School climate assessments
10-222g.	Prevention and intervention strategy re bullying
10-222h.	Analysis of school districts' efforts re prevention of and response to bullying in schools
10-222i.	State-wide safe school climate resource network
10-222j.	Training re prevention, identification and response to school bullying and youth suicide
10-222k.	District safe school climate coordinator. Safe school climate specialist. Safe school climate committee
10-222l.	Immunity of school employees, students, parents or guardians, individuals and boards of education from liability for certain actions relating to reporting, investigating and responding to school bullying
10-233a.	Definitions
10-233b.	Removal of pupils from class
10-233c.	Suspension of pupils
10-233d.	Expulsion of pupils
10-233e.	Notice as to disciplinary policies and action
10-233f.	In-school suspension of pupils. Reassignment
10-233g.	Reports of principals to police authority concerning physical assaults upon school employees by students
10-233h.	Arrested students. Reports by police, disclosure, confidentiality. Police testimony at expulsion hearings
10-233i.	Students placed on probation by a court
10-233j.	Student possession and use of telecommunication devices
10-233k.	Notification of school officials of potentially dangerous students. Provision of educational records of children returning to school from detention centers

Title 54 Education and Culture

Chapter 959 Educational Opportunities

54-33n.	Search of school lockers and property

Connecticut Administrative Code

No relevant regulations found.

General Provisions

Authority to develop and establish rules of conduct

STATUTES

10-221. Boards of education to prescribe rules, policies and procedures.

(a) Boards of education shall prescribe rules for the management, studies, classification and discipline of the public schools and, subject to the control of the State Board of Education, the textbooks to be used; shall make rules for the control, within their respective jurisdictions, of school library media centers and approve the selection of books and other educational media therefor, and shall approve plans for public school buildings and superintend any high or graded school in the manner specified in this title.

(b) Not later than July 1, 1985, each local and regional board of education shall develop, adopt and implement written policies concerning homework, attendance, promotion and retention. The Department of Education shall make available model policies and guidelines to assist local and regional boards of education in meeting the responsibilities enumerated in this subsection.

(c) Boards of education may prescribe rules to impose sanctions against pupils who damage or fail to return textbooks, library materials or other educational materials. Said boards may charge pupils for such damaged or lost textbooks, library materials or other educational materials and may withhold grades, transcripts or report cards until the pupil pays for or returns the textbook, library book or other educational material.

(d) Not later than July 1, 1991, each local and regional board of education shall develop, adopt and implement policies and procedures in conformity with section 10-154a for (1) dealing with the use, sale or possession of alcohol or controlled drugs, as defined in subdivision (8) of section 21a-240, by public school students on school property, including a process for coordination with, and referral of such students to, appropriate agencies, and (2) cooperating with law enforcement officials.

10-222d. Safe school climate plans. Definitions. School climate assessments.

(b) Each local and regional board of education shall develop and implement a safe school climate plan to address the existence of bullying in its schools. Such plan shall:

(1) Enable students to anonymously report acts of bullying to school employees and require students and the parents or guardians of students to be notified annually of the process by which students may make such reports,

(2) enable the parents or guardians of students to file written reports of suspected bullying,

(3) require school employees who witness acts of bullying or receive reports of bullying to orally notify the safe school climate specialist, described in section 10-222k, or another school administrator if the safe school climate specialist is unavailable, not later than one school day after such school employee witnesses or receives a report of bullying, and to file a written report not later than two school days after making such oral report,

(4) require the safe school climate specialist to investigate or supervise the investigation of all reports of bullying and ensure that such investigation is completed promptly after receipt of any written reports made under this section,

(5) require the safe school climate specialist to review any anonymous reports, except that no disciplinary action shall be taken solely on the basis of an anonymous report,

(6) include a prevention and intervention strategy, as defined by section 10-222g, for school employees to deal with bullying,

(7) provide for the inclusion of language in student codes of conduct concerning bullying,

(8) require each school to notify the parents or guardians of students who commit any verified acts of bullying and the parents or guardians of students against whom such acts were directed not later than forty-eight hours after the completion of the investigation described in subdivision (4) of this subsection,

(9) require each school to invite the parents or guardians of a student who commits any verified act of bullying and the parents or guardians of the student against whom such act was directed to a meeting to communicate to such parents or guardians the measures being taken by the school to ensure the safety of the student against whom such act was directed and to prevent further acts of bullying,

(10) establish a procedure for each school to document and maintain records relating to reports and investigations of bullying in such school and to maintain a list of the number of verified acts of bullying in such school and make such list available for public inspection, and annually report such number to the Department of Education, and in such manner as prescribed by the Commissioner of Education,

(11) direct the development of case-by-case interventions for addressing repeated incidents of bullying against a single individual or recurrently perpetrated bullying incidents by the same individual that may include both counseling and discipline,

(12) prohibit discrimination and retaliation against an individual who reports or assists in the investigation of an act of bullying,

(13) direct the development of student safety support plans for students against whom an act of bullying was directed that address safety measures the school will take to protect such students against further acts of bullying,

(14) require the principal of a school, or the principal's designee, to notify the appropriate local law enforcement agency when such principal, or the principal's designee, believes that any acts of bullying constitute criminal conduct,

(15) prohibit bullying (A) on school grounds, at a school-sponsored or school-related activity, function or program whether on or off school grounds, at a school bus stop, on a school bus or other vehicle owned, leased or used by a local or regional board of education, or through the use of an electronic device or an electronic mobile device owned, leased or used by the local or regional board of education, and (B) outside of the school setting if such bullying (i) creates a hostile environment at school for the student against whom such bullying was directed, (ii) infringes on the rights of the student against whom such bullying was directed at school, or (iii) substantially disrupts the education process or the orderly operation of a school,

(16) require, at the beginning of each school year, each school to provide all school employees with a written or electronic copy of the school district's safe school climate plan, and

(17) require that all school employees annually complete the training described in section 10-220a or section 10-222j. The notification required pursuant to subdivision (8) of this subsection and the invitation required pursuant to subdivision (9) of this subsection shall include a description of the response of school employees to such acts and any consequences that may result from the commission of further acts of bullying.

10-222g. Prevention and intervention strategy re bullying.

For the purposes of section 10-222d, the term "prevention and intervention strategy" may include, but is not limited to,

(1) implementation of a positive behavioral interventions and supports process or another evidence-based model approach for safe school climate or for the prevention of bullying identified by the Department of Education,

(2) a school survey to determine the prevalence of bullying,

(3) establishment of a bullying prevention coordinating committee with broad representation to review the survey results and implement the strategy,

(4) school rules prohibiting bullying, harassment and intimidation and establishing appropriate consequences for those who engage in such acts,

(5) adequate adult supervision of outdoor areas, hallways, the lunchroom and other specific areas where bullying is likely to occur,

(6) inclusion of grade-appropriate bullying prevention curricula in kindergarten through high school,

(7) individual interventions with the bully, parents and school staff, and interventions with the bullied child, parents and school staff,

(8) school-wide training related to safe school climate, and

(9) promotion of parent involvement in bullying prevention through individual or team participation in meetings, trainings and individual interventions.

10-233c. Suspension of pupils.

(a) Any local or regional board of education may authorize the administration of the schools under its direction to suspend from school privileges any pupil whose conduct on school grounds or at a school sponsored activity is violative of a publicized policy of such board or is seriously disruptive of the educational process or endangers persons or property or whose conduct off school grounds is violative of such policy and is seriously disruptive of the educational process. In making a determination as to whether conduct is seriously disruptive of the educational process, the administration may consider, but such consideration shall not be limited to:

(1) Whether the incident occurred within close proximity of a school;

(2) whether other students from the school were involved or whether there was any gang involvement;

(3) whether the conduct involved violence, threats of violence or the unlawful use of a weapon, as defined in section 29-38, and whether any injuries occurred; and

(4) whether the conduct involved the use of alcohol.

Any such board may authorize the administration to suspend transportation services for any pupil whose conduct while awaiting or receiving transportation to and from school endangers persons or property or is violative of a publicized policy of such board. Unless an emergency exists, no pupil shall be suspended without an informal hearing by the administration, at which such pupil shall be informed of the reasons for the disciplinary action and given an opportunity to explain the situation, provided nothing herein shall be construed to prevent a more formal hearing from being held if the circumstances surrounding the incident so require, and further provided no pupil shall be suspended more than ten times or a total of fifty days in one school year, whichever results in fewer days of exclusion, unless such pupil is granted a formal hearing pursuant to sections 4-176e to 4-180a, inclusive, and section 4-181a. If an emergency situation exists, such hearing shall be held as soon after the suspension as possible.

Scope

STATUTES

10-222d. Safe school climate plans. Definitions. School climate assessments.

(b) Each local and regional board of education shall develop and implement a safe school climate plan to address the existence of bullying in its schools. Such plan shall:

(15) prohibit bullying

(A) on school grounds, at a school-sponsored or school-related activity, function or program whether on or off school grounds, at a school bus stop, on a school bus or other vehicle owned, leased or used by a local or regional board of education, or through the use of an electronic device or an electronic mobile device owned, leased or used by the local or regional board of education, and

(B) outside of the school setting if such bullying

(i) creates a hostile environment at school for the student against whom such bullying was directed,

(ii) infringes on the rights of the student against whom such bullying was directed at school, or (iii) substantially disrupts the education process or the orderly operation of a school,

10-233c. Suspension of pupils.

(a) Any local or regional board of education may authorize the administration of the schools under its direction to suspend from school privileges any pupil whose conduct on school grounds or at a school sponsored activity is violative of a publicized policy of such board or is seriously disruptive of the educational process or endangers persons or property or whose conduct off school grounds is violative of such policy and is seriously disruptive of the educational process. In making a determination as to whether conduct is seriously disruptive of the educational process, the administration may consider, but such consideration shall not be limited to:

(1) Whether the incident occurred within close proximity of a school;

(2) whether other students from the school were involved or whether there was any gang involvement;

(3) whether the conduct involved violence, threats of violence or the unlawful use of a weapon, as defined in section 29-38, and whether any injuries occurred; and

(4) whether the conduct involved the use of alcohol.

Any such board may authorize the administration to suspend transportation services for any pupil whose conduct while awaiting or receiving transportation to and from school endangers persons or property or is violative of a publicized policy of such board.

10-233d. Expulsion of pupils.

(a) (1) Any local or regional board of education, at a meeting at which three or more members of such board are present, or the impartial hearing board established pursuant to subsection (b) of this section, may expel, subject to the provisions of this subsection, any pupil whose conduct on school grounds or at a school-sponsored activity is violative of a publicized policy of such board or is seriously disruptive of the educational process or endangers persons or property or whose conduct off school grounds is violative of such policy and is seriously disruptive of the educational process, provided a majority of the board members sitting in the expulsion hearing vote to expel and that at least three affirmative votes for expulsion are cast. In making a determination as to whether conduct is seriously disruptive of the educational process, the board of education or impartial hearing board may consider, but such consideration shall not be limited to:

(A) Whether the incident occurred within close proximity of a school;

(B) whether other students from the school were involved or whether there was any gang involvement;

(2) Expulsion proceedings pursuant to this section, except as provided in subsection (i) of this section shall be required whenever there is reason to believe that any pupil

(A) on school grounds or at a school-sponsored activity, was in possession of a firearm, as defined in 18 USC 921, as amended from time to time, or deadly weapon, dangerous instrument or martial arts weapon, as defined in section 53a-3,

(B) off school grounds, did possess such a firearm in violation of section 29-35 or did possess and use such a firearm, instrument or weapon in the commission of a crime under chapter 952, or

(C) on or off school grounds, offered for sale or distribution a controlled substance, as defined in subdivision (9) of section 21a-240, whose manufacture, distribution, sale, prescription, dispensing, transporting or possessing with intent to sell or dispense, offering, or administering is subject to criminal penalties under sections 21a-277 and 21a-278.

Communication of policy

STATUTES

10-222d. Safe school climate plans. Definitions. School climate assessments.

(b) Each local and regional board of education shall develop and implement a safe school climate plan to address the existence of bullying in its schools. Such plan shall:

(1) Enable students to anonymously report acts of bullying to school employees and require students and the parents or guardians of students to be notified annually of the process by which students may make such reports,

(16) require, at the beginning of each school year, each school to provide all school employees with a written or electronic copy of the school district's safe school climate plan,

(c) Not later than January 1, 2012, each local and regional board of education shall approve the safe school climate plan developed pursuant to this section and submit such plan to the Department of Education. Not later than thirty calendar days after approval of such plan by the local or regional board of education, the board shall make such plan available on the board's and each individual school in the school district's Internet web site and ensure that such plan is included in the school district's publication of the rules, procedures and standards of conduct for schools and in all student handbooks.

10-233e. Notice as to disciplinary policies and action.

Each local or regional board of education shall inform all pupils within its jurisdiction and their parents, guardians and surrogate parents, if appointed pursuant to section 10-94g, at least annually, of the board policies governing student conduct and school discipline. Each board shall further provide an effective means of notifying the parents, guardian or surrogate parent, if appointed, of any minor pupil against whom the disciplinary action authorized by the provisions of this section and sections 10-233a to 10-233d, inclusive, has been taken. Such notice shall be given within twenty-four hours of the time such pupil has been excluded.

In-School Discipline

Use of multi-tiered discipline approaches

No relevant statutes found.

Teacher authority to remove students from classrooms

STATUTES

10-233b. Removal of pupils from class.

(a) Any local or regional board of education may authorize teachers in its employ to remove a pupil from class when such pupil deliberately causes a serious disruption of the educational process within the classroom, provided no pupil shall be removed from class more than six times in any school year nor more than twice in one week unless such pupil is referred to the building principal or such principal's designee and granted an informal hearing in accordance with the provisions of section 10-233c.

(b) Whenever any teacher removes a pupil from the classroom, such teacher shall send such pupil to a designated area and shall immediately inform the building principal or such principal's designee as to the name of the pupil against whom such disciplinary action was taken and the reason therefor.

Alternatives to suspension

STATUTES

Sec. 10-233c. Suspension of pupils.

(e) For any pupil who is suspended for the first time pursuant to this section and who has never been expelled pursuant to section 10-233d, the administration may shorten the length of or waive the suspension period if the pupil successfully completes an administration-specified program and meets any other conditions required by the administration. Such administration-specified program shall not require the pupil or the parent or guardian of the pupil to pay for participation in the program.

10-233d. Expulsion of pupils.

(c) (2) For any pupil expelled for the first time pursuant to this section and who has never been suspended pursuant to section 10-233c, the local or regional board of education may shorten the length of or waive the expulsion period if the pupil successfully completes a board-specified program and meets any other conditions required by the board. Such board-specified program shall not require the pupil or the parent or guardian of the pupil to pay for participation in the program.

(2) In the case of a pupil for which the length of the expulsion period is shortened or the expulsion period is waived pursuant to subdivision (2) of subsection (c) of this section, such notice shall be expunged from the cumulative educational record by the local or regional board of education (A) if the pupil graduates from high school, or (B) if the board so chooses, at the time the pupil completes the board-specified program and meets any other conditions required by the board pursuant to subdivision (2) of subsection (c) of this section, whichever is earlier.

10-233f. In-school suspension of pupils. Reassignment.

(a) Any local or regional board of education may authorize the administration of schools under its direction to impose an in-school suspension on any pupil whose conduct endangers persons or property

or is seriously disruptive of the educational process, or is violative of a publicized policy of such board. No pupil shall be placed in in-school suspension without an informal hearing before the building principal or such principal's designee at which such pupil shall be informed of the reasons for the disciplinary action and given an opportunity to explain the situation, provided no pupil shall be placed in in-school suspension more than fifteen times or a total of fifty days in one school year, whichever results in fewer days of exclusion.

(b) A local or regional board of education may reassign a pupil to a regular classroom program in a different school in the school district and such reassignment shall not constitute a suspension pursuant to section 10-233c, or an expulsion pursuant to section 10-233d.

Use of corporal punishment

No relevant statutes found.

Use of student and locker searches

STATUTES

54-33n. Search of school lockers and property.

All local and regional boards of education and all private elementary and secondary schools may authorize the search by school or law enforcement officials of lockers and other school property available for use by students for the presence of weapons, contraband or the fruits of a crime if (1) the search is justified at its inception and (2) the search as actually conducted is reasonably related in scope to the circumstances which justified the interference in the first place. A search is justified at its inception when there are reasonable grounds for suspecting that the search will turn up evidence that the student has violated or is violating either the law or the rules of the school. A search is reasonably related in scope when the measures adopted are reasonably related to the objectives of the search and not excessively intrusive in light of the age and sex of the student and the nature of the infraction.

Other in-school disciplinary approaches

No relevant statutes found.

Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements

Grounds for possible suspension or expulsion

STATUTES

10-233c. Suspension of pupils.

(a) Any local or regional board of education may authorize the administration of the schools under its direction to suspend from school privileges any pupil whose conduct on school grounds or at a school sponsored activity is violative of a publicized policy of such board or is seriously disruptive of the educational process or endangers persons or property or whose conduct off school grounds is violative of such policy and is seriously disruptive of the educational process. In making a determination as to whether conduct is seriously disruptive of the educational process, the administration may consider, but such consideration shall not be limited to:

(1) Whether the incident occurred within close proximity of a school;

(2) whether other students from the school were involved or whether there was any gang involvement;

(3) whether the conduct involved violence, threats of violence or the unlawful use of a weapon, as defined in section 29-38, and whether any injuries occurred; and

(4) whether the conduct involved the use of alcohol.

10-233d. Expulsion of pupils.

(a) (1) Any local or regional board of education, at a meeting at which three or more members of such board are present, or the impartial hearing board established pursuant to subsection (b) of this section, may expel, subject to the provisions of this subsection, any pupil whose conduct on school grounds or at a school-sponsored activity is violative of a publicized policy of such board or is seriously disruptive of the educational process or endangers persons or property or whose conduct off school grounds is violative of such policy and is seriously disruptive of the educational process, provided a majority of the board members sitting in the expulsion hearing vote to expel and that at least three affirmative votes for expulsion are cast. In making a determination as to whether conduct is seriously disruptive of the educational process, the board of education or impartial hearing board may consider, but such consideration shall not be limited to:

(A) Whether the incident occurred within close proximity of a school;

(B) whether other students from the school were involved or whether there was any gang involvement;

(C) whether the conduct involved violence, threats of violence or the unlawful use of a weapon, as defined in section 29-38, and whether any injuries occurred; and

(D) whether the conduct involved the use of alcohol.

(l) (1) Any student who commits an expellable offense and is subsequently committed to a juvenile detention center, the Connecticut Juvenile Training School or any other residential placement for such offense may be expelled by a local or regional board of education in accordance with the provisions of this section. The period of expulsion shall run concurrently with the period of commitment to a juvenile detention center, the Connecticut Juvenile Training School or any other residential placement.

Grounds for mandatory suspension or expulsion

STATUTES

10-233d. Expulsion of pupils.

(a) (2) Expulsion proceedings pursuant to this section, except as provided in subsection (i) of this section shall be required whenever there is reason to believe that any pupil

(A) on school grounds or at a school-sponsored activity, was in possession of a firearm, as defined in 18 USC 921, as amended from time to time, or deadly weapon, dangerous instrument or martial arts weapon, as defined in section 53a-3,

(B) off school grounds, did possess such a firearm in violation of section 29-35 or did possess and use such a firearm, instrument or weapon in the commission of a crime under chapter 952, or

(C) on or off school grounds, offered for sale or distribution a controlled substance, as defined in subdivision (9) of section 21a-240, whose manufacture, distribution, sale, prescription, dispensing, transporting or possessing with intent to sell or dispense, offering, or administering is subject to criminal penalties under sections 21a-277 and 21a-278.

Such a pupil shall be expelled for one calendar year if the local or regional board of education or impartial hearing board finds that the pupil did so possess or so possess and use, as appropriate, such a firearm, instrument or weapon or did so offer for sale or distribution such a controlled substance, provided the board of education or the hearing board may modify the period of expulsion for a pupil on a case by case basis, and as provided for in subdivision (2) of subsection (c) of this section.

(3) Unless an emergency exists, no pupil shall be expelled without a formal hearing held pursuant to sections 4-176e to 4-180a, inclusive, and section 4-181a, provided whenever such pupil is a minor, the notice required by section 4-177 and section 4-180 shall also be given to the parents or guardian of the pupil. If an emergency exists, such hearing shall be held as soon after the expulsion as possible. The notice shall include information concerning legal services provided free of charge or at a reduced rate that are available locally and how to access such services.

Limitations, conditions or exclusions for use of suspension and expulsion

STATUTES

10-233c. Suspension of pupils.

(a) Unless an emergency exists, no pupil shall be suspended without an informal hearing by the administration, at which such pupil shall be informed of the reasons for the disciplinary action and given an opportunity to explain the situation, provided nothing herein shall be construed to prevent a more formal hearing from being held if the circumstances surrounding the incident so require, and further provided no pupil shall be suspended more than ten times or a total of fifty days in one school year, whichever results in fewer days of exclusion, unless such pupil is granted a formal hearing pursuant to sections 4-176e to 4-180a, inclusive, and section 4-181a. If an emergency situation exists, such hearing shall be held as soon after the suspension as possible.

10-233d. Expulsion of pupils.

(i) Prior to conducting an expulsion hearing for a child requiring special education and related services described in subparagraph (A) of subdivision (5) of section 10-76a, a planning and placement team shall convene to determine whether the misconduct was caused by the child's disability. If it is determined that the misconduct was caused by the child's disability, the child shall not be expelled. The planning and

placement team shall reevaluate the child for the purpose of modifying the child's individualized education program to address the misconduct and to ensure the safety of other children and staff in the school. If it is determined that the misconduct was not caused by the child's disability, the child may be expelled in accordance with the provisions of this section applicable to children who do not require special education and related services. Notwithstanding the provisions of subsections (d) and (e) of this section, whenever a child requiring such special education and related services is expelled, an alternative educational opportunity, consistent with such child's educational needs shall be provided during the period of expulsion.

10-233f. In-school suspension of pupils. Reassignment.

(a) Any local or regional board of education may authorize the administration of schools under its direction to impose an in-school suspension on any pupil whose conduct endangers persons or property or is seriously disruptive of the educational process, or is violative of a publicized policy of such board. No pupil shall be placed in in-school suspension without an informal hearing before the building principal or such principal's designee at which such pupil shall be informed of the reasons for the disciplinary action and given an opportunity to explain the situation, provided no pupil shall be placed in in-school suspension more than fifteen times or a total of fifty days in one school year, whichever results in fewer days of exclusion.

(b) A local or regional board of education may reassign a pupil to a regular classroom program in a different school in the school district and such reassignment shall not constitute a suspension pursuant to section 10-233c, or an expulsion pursuant to section 10-233d.

Administrative procedures related to suspension and expulsion

STATUTES

10-233c. Suspension of pupils.

(a) Unless an emergency exists, no pupil shall be suspended without an informal hearing by the administration, at which such pupil shall be informed of the reasons for the disciplinary action and given an opportunity to explain the situation, provided nothing herein shall be construed to prevent a more formal hearing from being held if the circumstances surrounding the incident so require, and further provided no pupil shall be suspended more than ten times or a total of fifty days in one school year, whichever results in fewer days of exclusion, unless such pupil is granted a formal hearing pursuant to sections 4-176e to 4-180a, inclusive, and section 4-181a. If an emergency situation exists, such hearing shall be held as soon after the suspension as possible.

(b) In determining the length of a suspension period, the administration may receive and consider evidence of past disciplinary problems which have led to removal from a classroom, suspension or expulsion of such pupil.

(c) Whenever any administration suspends a pupil, such administration shall not later than twenty-four hours after the suspension notify the superintendent or such superintendent's designee as to the name of the pupil against whom such disciplinary action was taken and the reason therefor.

(f) Whenever a pupil is suspended pursuant to the provisions of this section, notice of the suspension and the conduct for which the pupil was suspended shall be included on the pupil's cumulative educational record. Such notice shall be expunged from the cumulative educational record by the local or regional board of education if a pupil graduates from high school, or in the case of a suspension of a pupil for which the length of the suspension period is shortened or the suspension period is waived pursuant to subsection (e) of this section, such notice shall be expunged from the cumulative educational record by the local or regional board of education (1) if the pupil graduates from high school, or (2) if the

administration so chooses, at the time the pupil completes the administration-specified program and meets any other conditions required by the administration pursuant to said subsection (e), whichever is earlier.

10-233d. Expulsion of pupils.

(a) (1) Any local or regional board of education, at a meeting at which three or more members of such board are present, or the impartial hearing board established pursuant to subsection (b) of this section, may expel, subject to the provisions of this subsection, any pupil whose conduct on school grounds or at a school-sponsored activity is violative of a publicized policy of such board or is seriously disruptive of the educational process or endangers persons or property or whose conduct off school grounds is violative of such policy and is seriously disruptive of the educational process, provided a majority of the board members sitting in the expulsion hearing vote to expel and that at least three affirmative votes for expulsion are cast.

(3) Unless an emergency exists, no pupil shall be expelled without a formal hearing held pursuant to sections 4-176e to 4-180a, inclusive, and section 4-181a, provided whenever such pupil is a minor, the notice required by section 4-177 and section 4-180 shall also be given to the parents or guardian of the pupil. If an emergency exists, such hearing shall be held as soon after the expulsion as possible. The notice shall include information concerning legal services provided free of charge or at a reduced rate that are available locally and how to access such services.

(b) For purposes of conducting expulsion hearings as required by subsection (a) of this section, any local or regional board of education or any two or more of such boards in cooperation may establish an impartial hearing board of one or more persons. No member of any such board or boards shall be a member of the hearing board. The hearing board shall have the authority to conduct the expulsion hearing and render a final decision in accordance with the provisions of sections 4-176e to 4-180a, inclusive, and section 4-181a.

(f) (1) Whenever a pupil is expelled pursuant to the provisions of this section, notice of the expulsion and the conduct for which the pupil was expelled shall be included on the pupil's cumulative educational record. Such notice, except for notice of an expulsion based on possession of a firearm or deadly weapon as described in subsection (a) of this section, shall be expunged from the cumulative educational record by the local or regional board of education if a pupil graduates from high school, except as provided for in subdivision (2) of this subsection.

(2) In the case of a pupil for which the length of the expulsion period is shortened or the expulsion period is waived pursuant to subdivision (2) of subsection (c) of this section, such notice shall be expunged from the cumulative educational record by the local or regional board of education (A) if the pupil graduates from high school, or (B) if the board so chooses, at the time the pupil completes the board-specified program and meets any other conditions required by the board pursuant to subdivision (2) of subsection (c) of this section, whichever is earlier.

(g) A local or regional board of education may adopt the decision of a pupil expulsion hearing conducted by another school district provided such local or regional board of education or impartial hearing board shall hold a hearing pursuant to the provisions of subsection (a) of this section which shall be limited to a determination of whether the conduct which was the basis for the expulsion would also warrant expulsion under the policies of such board. The pupil shall be excluded from school pending such hearing. The excluded student shall be offered an alternative educational opportunity in accordance with the provisions of subsections (d) and (e) of this section.

(h) Whenever a pupil against whom an expulsion hearing is pending withdraws from school after notification of such hearing but before the hearing is completed and a decision rendered pursuant to this section, (1) notice of the pending expulsion hearing shall be included on the pupil's cumulative

educational record, and (2) the local or regional board of education or impartial hearing board shall complete the expulsion hearing and render a decision. If such pupil enrolls in school in another school district, such pupil shall not be excluded from school in the other district pending completion of the expulsion hearing pursuant to this subsection unless an emergency exists, provided nothing in this subsection shall limit the authority of the local or regional board of education for such district to suspend the pupil or to conduct its own expulsion hearing in accordance with this section.

(i) Prior to conducting an expulsion hearing for a child requiring special education and related services described in subparagraph (A) of subdivision (5) of section 10-76a, a planning and placement team shall convene to determine whether the misconduct was caused by the child's disability.

10-233h. Arrested students. Reports by police, disclosure, confidentiality. Police testimony at expulsion hearings.

If any person who is at least seven years of age but less than twenty-one years of age and an enrolled student is arrested for a violation of section 53-206c, a class A misdemeanor or a felony, the municipal police department or Division of State Police within the Department of Emergency Services and Public Protection that made such arrest shall, not later than the end of the weekday following such arrest, orally notify the superintendent of schools of the school district in which such person resides or attends school of the identity of such person and the offense or offenses for which he was arrested and shall, within seventy-two hours of such arrest, provide written notification of such arrest, containing a brief description of the incident, to such superintendent. The superintendent shall maintain such written report in a secure location and the information in such report shall be maintained as confidential in accordance with section 46b-124. The superintendent may disclose such information only to the principal of the school in which such person is a student or to the principal or supervisory agent of any other school in which the superintendent knows such person is a student. The principal or supervisory agent may disclose such information only to special services staff or a consultant, such as a psychiatrist, psychologist or social worker, for the purposes of assessing the risk of danger posed by such person to himself, other students, school employees or school property and effectuating an appropriate modification of such person's educational plan or placement, and for disciplinary purposes. If the arrest occurred during the school year, such assessment shall be completed not later than the end of the next school day. If an expulsion hearing is held pursuant to section 10-233d, a representative of the municipal police department or the Division of State Police, as appropriate, may testify and provide reports and information on the arrest at such hearing, provided such police participation is requested by any of the following: The local or regional board of education, the impartial hearing board, the principal of the school or the student or his parent or guardian. Such information with respect to a child under eighteen years of age shall be confidential in accordance with sections 46b-124 and 54-76l, and shall only be disclosed as provided in this section and shall not be further disclosed.

In-school suspension

STATUTES

Sec. 10-233c. Suspension of pupils.

(g) On and after July 1, 2010, suspensions pursuant to this section shall be in-school suspensions, unless during the hearing held pursuant to subsection (a) of this section,

(1) the administration determines that the pupil being suspended poses such a danger to persons or property or such a disruption of the educational process that the pupil shall be excluded from school during the period of suspension, or

(2) the administration determines that an out-of-school suspension is appropriate for such pupil based on evidence of

(A) previous disciplinary problems that have led to suspensions or expulsion of such pupil, and

(B) efforts by the administration to address such disciplinary problems through means other than out-of-school suspension or expulsion, including positive behavioral support strategies. An in-school suspension may be served in the school that the pupil attends, or in any school building under the jurisdiction of the local or regional board of education, as determined by such board.

10-233f. In-school suspension of pupils. Reassignment.

(a) Any local or regional board of education may authorize the administration of schools under its direction to impose an in-school suspension on any pupil whose conduct endangers persons or property or is seriously disruptive of the educational process, or is violative of a publicized policy of such board. No pupil shall be placed in in-school suspension without an informal hearing before the building principal or such principal's designee at which such pupil shall be informed of the reasons for the disciplinary action and given an opportunity to explain the situation, provided no pupil shall be placed in in-school suspension more than fifteen times or a total of fifty days in one school year, whichever results in fewer days of exclusion.

(b) A local or regional board of education may reassign a pupil to a regular classroom program in a different school in the school district and such reassignment shall not constitute a suspension pursuant to section 10-233c, or an expulsion pursuant to section 10-233d.

Return to school following removal

STATUTES

10-233d. Expulsion of pupils.

(j) An expelled pupil may apply for early readmission to school. Except as provided in this subsection, such readmission shall be at the discretion of the local or regional board of education. The board of education may delegate authority for readmission decisions to the superintendent of schools for the school district. If the board delegates such authority, readmission shall be at the discretion of the superintendent. Readmission decisions shall not be subject to appeal to Superior Court. The board or superintendent, as appropriate, may condition such readmission on specified criteria.

(l) If a student who committed an expellable offense seeks to return to a school district after having been in a juvenile detention center, the Connecticut Juvenile Training School or any other residential placement for one year or more, the district to which the student is returning shall allow such student to return and may not expel the student for additional time for such offense.

10-233i. Students placed on probation by a court.

A student placed on probation by a court may return to school on a conditional basis, within the limits prescribed by the court, provided the court has requested, from the superintendent of schools of the school district in which the student resides, and considered

(1) information on the student's school attendance, adjustment and behavior and

(2) any recommendations for conditions for disposition or sentencing. Superintendents of schools shall provide such information to the court in a timely manner.

10-233k. Notification of school officials of potentially dangerous students. Provision of educational records of children returning to school from detention centers.

(b) The Department of Children and Families and the Judicial Department or the local or regional board of education shall provide to the superintendent of schools any educational records within their custody of a child seeking to enter or return to a school district from a juvenile detention center, the Connecticut Juvenile Training School, or any other residential placement, prior to the child's entry or return. The agencies shall also require any contracting entity that holds custody of such records to provide them to the superintendent of schools prior to the child's entry or return. Receipt of the educational records shall not delay a child from enrolling in school. The superintendent of schools shall provide such information to the principal at the school the child will be attending. The principal shall disclose such information to appropriate staff as is necessary to the education or care of the child.

Use of restraint and seclusion

STATUTES

10-76b. State supervision of special education programs and services. Regulations. Coordinating agency.

(a) The State Board of Education shall provide for the development and supervision of the educational programs and services for children requiring special education and may regulate curriculum, conditions of instruction, including the use of physical restraint and seclusion pursuant to chapter 814e, physical facilities and equipment, class composition and size, admission of students, and the requirements respecting necessary special services and instruction to be provided by local and regional boards of education. The State Board of Education shall adopt regulations, in accordance with the provisions of chapter 54, concerning the use of physical restraint and seclusion pursuant to chapter 814e. The educational aspects of all programs and instructional facilities in any day or residential child-caring agency or school which provides training for children requiring special education and which receives funding from the state under the provisions of sections 10-76a to 10-76g, inclusive, shall be subject to the approval and supervision of the commissioner in accordance with regulations adopted by the State Board of Education concerning requirements for such programs and accommodations.

(b) The commissioner shall designate by regulation, subject to the approval of the State Board of Education, the procedures which shall be used to identify exceptional children.

(c) Said board shall be the agency for cooperation and consultation with federal agencies, other state agencies and private bodies on matters of public school education of children requiring special education, provided the full responsibilities for other aspects of the care of such children shall be reserved to such other agencies.

Alternative placements

STATUTES

10-233d. Expulsion of pupils.

(d) Notwithstanding the provisions of subsection (a) of section 10-220, local and regional boards of education shall only be required to offer an alternative educational opportunity in accordance with this section. Any pupil under sixteen years of age who is expelled shall be offered an alternative educational opportunity during the period of expulsion, provided any parent or guardian of such pupil who does not choose to have his or her child enrolled in an alternative program shall not be subject to the provisions of section 10-184. Any pupil expelled for the first time who is between the ages of sixteen and eighteen and

who wishes to continue his or her education shall be offered an alternative educational opportunity if he or she complies with conditions established by his or her local or regional board of education. Such alternative may include, but shall not be limited to, the placement of a pupil who is at least sixteen years of age in an adult education program pursuant to section 10-69. A local or regional board of education shall count the expulsion of a pupil when he was under sixteen years of age for purposes of determining whether an alternative educational opportunity is required for such pupil when he is between the ages of sixteen and eighteen. A local or regional board of education may offer an alternative educational opportunity to a pupil for whom such alternative educational opportunity is not required pursuant to this section.

(e) Notwithstanding the provisions of subsection (d) of this section concerning the provision of an alternative educational opportunity for pupils between the ages of sixteen and eighteen, local and regional boards of education shall not be required to offer such alternative to any pupil between the ages of sixteen and eighteen who is expelled because of conduct which endangers persons if it is determined at the expulsion hearing that the conduct for which the pupil is expelled involved

(1) possession of a firearm, as defined in 18 USC 921, as amended from time to time, or deadly weapon, dangerous instrument or martial arts weapon, as defined in section 53a-3, on school property or at a school-sponsored activity, or

(2) offering for sale or distribution on school property or at a school-sponsored activity a controlled substance, as defined in subdivision (9) of section 21a-240, whose manufacture, distribution, sale, prescription, dispensing, transporting or possessing with the intent to sell or dispense, offering, or administration is subject to criminal penalties under sections 21a-277 and 21a-278.

If a pupil is expelled pursuant to this section for possession of a firearm or deadly weapon the board of education shall report the violation to the local police department or in the case of a student enrolled in a regional vocational-technical school to the state police. If a pupil is expelled pursuant to this section for the sale or distribution of such a controlled substance, the board of education shall refer the pupil to an appropriate state or local agency for rehabilitation, intervention or job training, or any combination thereof, and inform the agency of its action. Whenever a local or regional board of education notifies a pupil between the ages of sixteen and eighteen or the parents or guardian of such pupil that an expulsion hearing will be held, the notification shall include a statement that the board of education is not required to offer an alternative educational opportunity to any pupil who is found to have engaged in the conduct described in this subsection.

10-233f. In-school suspension of pupils. Reassignment.

(a) Any local or regional board of education may authorize the administration of schools under its direction to impose an in-school suspension on any pupil whose conduct endangers persons or property or is seriously disruptive of the educational process, or is violative of a publicized policy of such board. No pupil shall be placed in in-school suspension without an informal hearing before the building principal or such principal's designee at which such pupil shall be informed of the reasons for the disciplinary action and given an opportunity to explain the situation, provided no pupil shall be placed in in-school suspension more than fifteen times or a total of fifty days in one school year, whichever results in fewer days of exclusion.

(b) A local or regional board of education may reassign a pupil to a regular classroom program in a different school in the school district and such reassignment shall not constitute a suspension pursuant to section 10-233c, or an expulsion pursuant to section 10-233d.

Disciplinary Approaches Addressing Specific Infractions and Conditions

Firearms (as required by the Guns-Free Schools Act)

STATUTES

10-233c. Suspension of pupils.

(a) Any local or regional board of education may authorize the administration of the schools under its direction to suspend from school privileges any pupil whose conduct on school grounds or at a school sponsored activity is violative of a publicized policy of such board or is seriously disruptive of the educational process or endangers persons or property or whose conduct off school grounds is violative of such policy and is seriously disruptive of the educational process. In making a determination as to whether conduct is seriously disruptive of the educational process, the administration may consider, but such consideration shall not be limited to:

(3) whether the conduct involved violence, threats of violence or the unlawful use of a weapon, as defined in section 29-38, and whether any injuries occurred

10-233d. Expulsion of pupils.

(a) (1) Any local or regional board of education, at a meeting at which three or more members of such board are present, or the impartial hearing board established pursuant to subsection (b) of this section, may expel, subject to the provisions of this subsection, any pupil whose conduct on school grounds or at a school-sponsored activity is violative of a publicized policy of such board or is seriously disruptive of the educational process or endangers persons or property or whose conduct off school grounds is violative of such policy and is seriously disruptive of the educational process, provided a majority of the board members sitting in the expulsion hearing vote to expel and that at least three affirmative votes for expulsion are cast. In making a determination as to whether conduct is seriously disruptive of the educational process, the board of education or impartial hearing board may consider, but such consideration shall not be limited to:

(A) Whether the incident occurred within close proximity of a school;

(C) whether the conduct involved violence, threats of violence or the unlawful use of a weapon, as defined in section 29-38, and whether any injuries occurred;

(2) Expulsion proceedings pursuant to this section, except as provided in subsection (i) of this section shall be required whenever there is reason to believe that any pupil

(A) on school grounds or at a school-sponsored activity, was in possession of a firearm, as defined in 18 USC 921, as amended from time to time, or deadly weapon, dangerous instrument or martial arts weapon, as defined in section 53a-3,

(B) off school grounds, did possess such a firearm in violation of section 29-35 or did possess and use such a firearm, instrument or weapon in the commission of a crime under chapter 952, or

(C) on or off school grounds, offered for sale or distribution a controlled substance, as defined in subdivision (9) of section 21a-240, whose manufacture, distribution, sale, prescription, dispensing, transporting or possessing with intent to sell or dispense, offering, or administering is subject to criminal penalties under sections 21a-277 and 21a-278.

Such a pupil shall be expelled for one calendar year if the local or regional board of education or impartial hearing board finds that the pupil did so possess or so possess and use, as appropriate, such a firearm, instrument or weapon or did so offer for sale or distribution such a controlled substance, provided the board of education or the hearing board may modify the period of expulsion for a pupil on a case by case basis, and as provided for in subdivision (2) of subsection (c) of this section.

(e) Notwithstanding the provisions of subsection (d) of this section concerning the provision of an alternative educational opportunity for pupils between the ages of sixteen and eighteen, local and regional boards of education shall not be required to offer such alternative to any pupil between the ages of sixteen and eighteen who is expelled because of conduct which endangers persons if it is determined at the expulsion hearing that the conduct for which the pupil is expelled involved

(1) possession of a firearm, as defined in 18 USC 921, as amended from time to time, or deadly weapon, dangerous instrument or martial arts weapon, as defined in section 53a-3, on school property or at a school-sponsored activity, If a pupil is expelled pursuant to this section for possession of a firearm or deadly weapon the board of education shall report the violation to the local police department or in the case of a student enrolled in a technical high school to the state police.

Other weapons

STATUTES

10-233c. Suspension of pupils.

(a) Any local or regional board of education may authorize the administration of the schools under its direction to suspend from school privileges any pupil whose conduct on school grounds or at a school sponsored activity is violative of a publicized policy of such board or is seriously disruptive of the educational process or endangers persons or property or whose conduct off school grounds is violative of such policy and is seriously disruptive of the educational process. In making a determination as to whether conduct is seriously disruptive of the educational process, the administration may consider, but such consideration shall not be limited to:

(3) whether the conduct involved violence, threats of violence or the unlawful use of a weapon, as defined in section 29-38, and whether any injuries occurred

10-233d. Expulsion of pupils.

(a) (1) Any local or regional board of education, at a meeting at which three or more members of such board are present, or the impartial hearing board established pursuant to subsection (b) of this section, may expel, subject to the provisions of this subsection, any pupil whose conduct on school grounds or at a school-sponsored activity is violative of a publicized policy of such board or is seriously disruptive of the educational process or endangers persons or property or whose conduct off school grounds is violative of such policy and is seriously disruptive of the educational process, provided a majority of the board members sitting in the expulsion hearing vote to expel and that at least three affirmative votes for expulsion are cast. In making a determination as to whether conduct is seriously disruptive of the educational process, the board of education or impartial hearing board may consider, but such consideration shall not be limited to:

(C) whether the conduct involved violence, threats of violence or the unlawful use of a weapon, as defined in section 29-38, and whether any injuries occurred;

(2) Expulsion proceedings pursuant to this section, except as provided in subsection (i) of this section shall be required whenever there is reason to believe that any pupil

(A) on school grounds or at a school-sponsored activity, was in possession of a firearm, as defined in 18 USC 921, as amended from time to time, or deadly weapon, dangerous instrument or martial arts weapon, as defined in section 53a-3,

(B) off school grounds, did possess such a firearm in violation of section 29-35 or did possess and use such a firearm, instrument or weapon in the commission of a crime under chapter 952,

Students with chronic disciplinary issues

STATUTES

10-222d. Safe school climate plans. Definitions. School climate assessments.

(a) As used in this section, sections 10-222g to 10-222i, inclusive, and section 10-222k:

(1) "Bullying" means

(A) the repeated use by one or more students of a written, oral or electronic communication, such as cyberbullying, directed at or referring to another student attending school in the same school district, or

(B) a physical act or gesture by one or more students repeatedly directed at another student attending school in the same school district, that:

(i) Causes physical or emotional harm to such student or damage to such student's property,

(ii) places such student in reasonable fear of harm to himself or herself, or of damage to his or her property,

(iii) creates a hostile environment at school for such student,

(iv) infringes on the rights of such student at school, or

(v) substantially disrupts the education process or the orderly operation of a school.

"Bullying" shall include, but not be limited to, a written, oral or electronic communication or physical act or gesture based on any actual or perceived differentiating characteristic, such as race, color, religion, ancestry, national origin, gender, sexual orientation, gender identity or expression, socioeconomic status, academic status, physical appearance, or mental, physical, developmental or sensory disability, or by association with an individual or group who has or is perceived to have one or more of such characteristics;

(b) Each local and regional board of education shall develop and implement a safe school climate plan to address the existence of bullying in its schools. Such plan shall:

(11) direct the development of case-by-case interventions for addressing repeated incidents of bullying against a single individual or recurrently perpetrated bullying incidents by the same individual that may include both counseling and discipline,

10-233c. Suspension of pupils.

(b) In determining the length of a suspension period, the administration may receive and consider evidence of past disciplinary problems which have led to removal from a classroom, suspension or expulsion of such pupil.

10-233d. Expulsion of pupils.

(c) (1) In determining the length of an expulsion and the nature of the alternative educational opportunity to be offered under subsection (d) of this section, the local or regional board of education, or the impartial hearing board established pursuant to subsection (b) of this section, may receive and consider

evidence of past disciplinary problems which have led to removal from a classroom, suspension or expulsion of such pupil.

Attendance and truancy

STATUTES

10-221. Boards of education to prescribe rules, policies and procedures.

(b) Not later than July 1, 1985, each local and regional board of education shall develop, adopt and implement written policies concerning homework, attendance, promotion and retention. The Department of Education shall make available model policies and guidelines to assist local and regional boards of education in meeting the responsibilities enumerated in this subsection.

Substance use

STATUTES

10-221. Boards of education to prescribe rules, policies and procedures.

(d) Not later than July 1, 1991, each local and regional board of education shall develop, adopt and implement policies and procedures in conformity with section 10-154a for (1) dealing with the use, sale or possession of alcohol or controlled drugs, as defined in subdivision (8) of section 21a-240, by public school students on school property, including a process for coordination with, and referral of such students to, appropriate agencies, and (2) cooperating with law enforcement officials.

10-233c. Suspension of pupils.

(a) Any local or regional board of education may authorize the administration of the schools under its direction to suspend from school privileges any pupil whose conduct on school grounds or at a school sponsored activity is violative of a publicized policy of such board or is seriously disruptive of the educational process or endangers persons or property or whose conduct off school grounds is violative of such policy and is seriously disruptive of the educational process. In making a determination as to whether conduct is seriously disruptive of the educational process, the administration may consider, but such consideration shall not be limited to:

(4) whether the conduct involved the use of alcohol.

10-233d. Expulsion of pupils.

(a) (1) Any local or regional board of education, at a meeting at which three or more members of such board are present, or the impartial hearing board established pursuant to subsection (b) of this section, may expel, subject to the provisions of this subsection, any pupil whose conduct on school grounds or at a school-sponsored activity is violative of a publicized policy of such board or is seriously disruptive of the educational process or endangers persons or property or whose conduct off school grounds is violative of such policy and is seriously disruptive of the educational process, provided a majority of the board members sitting in the expulsion hearing vote to expel and that at least three affirmative votes for expulsion are cast. In making a determination as to whether conduct is seriously disruptive of the educational process, the board of education or impartial hearing board may consider, but such consideration shall not be limited to:

(D) whether the conduct involved the use of alcohol.

(2) Expulsion proceedings pursuant to this section, except as provided in subsection (i) of this section shall be required whenever there is reason to believe that any pupil

(C) on or off school grounds, offered for sale or distribution a controlled substance, as defined in subdivision (9) of section 21a-240, whose manufacture, distribution, sale, prescription, dispensing, transporting or possessing with intent to sell or dispense, offering, or administering is subject to criminal penalties under sections 21a-277 and 21a-278.

Such a pupil shall be expelled for one calendar year if the local or regional board of education or impartial hearing board finds that the pupil did so possess or so possess and use, as appropriate, such a firearm, instrument or weapon or did so offer for sale or distribution such a controlled substance, provided the board of education or the hearing board may modify the period of expulsion for a pupil on a case by case basis, and as provided for in subdivision (2) of subsection (c) of this section.

(e) Notwithstanding the provisions of subsection (d) of this section concerning the provision of an alternative educational opportunity for pupils between the ages of sixteen and eighteen, local and regional boards of education shall not be required to offer such alternative to any pupil between the ages of sixteen and eighteen who is expelled because of conduct which endangers persons if it is determined at the expulsion hearing that the conduct for which the pupil is expelled involved

(2) offering for sale or distribution on school property or at a school-sponsored activity a controlled substance, as defined in subdivision (9) of section 21a-240, whose manufacture, distribution, sale, prescription, dispensing, transporting or possessing with the intent to sell or dispense, offering, or administration is subject to criminal penalties under sections 21a-277 and 21a-278. If a pupil is expelled pursuant to this section for the sale or distribution of such a controlled substance, the board of education shall refer the pupil to an appropriate state or local agency for rehabilitation, intervention or job training, or any combination thereof, and inform the agency of its action

Bullying, harassment, or hazing

STATUTES

10-222d. Safe school climate plans. Definitions. School climate assessments.

(a) As used in this section, sections 10-222g to 10-222i, inclusive, and section 10-222k:

(1) "Bullying" means

(A) the repeated use by one or more students of a written, oral or electronic communication, such as cyberbullying, directed at or referring to another student attending school in the same school district, or

(B) a physical act or gesture by one or more students repeatedly directed at another student attending school in the same school district, that:

(i) Causes physical or emotional harm to such student or damage to such student's property,

(ii) places such student in reasonable fear of harm to himself or herself, or of damage to his or her property,

(iii) creates a hostile environment at school for such student,

(iv) infringes on the rights of such student at school, or

(v) substantially disrupts the education process or the orderly operation of a school.

"Bullying" shall include, but not be limited to, a written, oral or electronic communication or physical act or gesture based on any actual or perceived differentiating characteristic, such as race, color, religion, ancestry, national origin, gender, sexual orientation, gender identity or expression, socioeconomic status, academic status, physical appearance, or mental, physical, developmental or sensory disability, or by association with an individual or group who has or is perceived to have one or more of such characteristics;

(2) "Cyberbullying" means any act of bullying through the use of the Internet, interactive and digital technologies, cellular mobile telephone or other mobile electronic devices or any electronic communications;

(3) "Mobile electronic device" means any hand-held or other portable electronic equipment capable of providing data communication between two or more individuals, including, but not limited to, a text messaging device, a paging device, a personal digital assistant, a laptop computer, equipment that is capable of playing a video game or a digital video disk, or equipment on which digital images are taken or transmitted;

(4) "Electronic communication" means any transfer of signs, signals, writing, images, sounds, data or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectronic or photo-optical system;

(5) "Hostile environment" means a situation in which bullying among students is sufficiently severe or pervasive to alter the conditions of the school climate;

(6) "Outside of the school setting" means at a location, activity or program that is not school related, or through the use of an electronic device or a mobile electronic device that is not owned, leased or used by a local or regional board of education;

(7) "School employee" means

(A) a teacher, substitute teacher, school administrator, school superintendent, guidance counselor, psychologist, social worker, nurse, physician, school paraprofessional or coach employed by a local or regional board of education or working in a public elementary, middle or high school; or

(B) any other individual who, in the performance of his or her duties, has regular contact with students and who provides services to or on behalf of students enrolled in a public elementary, middle or high school, pursuant to a contract with the local or regional board of education; and

(8) "School climate" means the quality and character of school life with a particular focus on the quality of the relationships within the school community between and among students and adults.

(b) Each local and regional board of education shall develop and implement a safe school climate plan to address the existence of bullying in its schools. Such plan shall:

(1) Enable students to anonymously report acts of bullying to school employees and require students and the parents or guardians of students to be notified annually of the process by which students may make such reports,

(2) enable the parents or guardians of students to file written reports of suspected bullying,

(3) require school employees who witness acts of bullying or receive reports of bullying to orally notify the safe school climate specialist, described in section 10-222k, or another school administrator if the safe school climate specialist is unavailable, not later than one school day after such school employee witnesses or receives a report of bullying, and to file a written report not later than two school days after making such oral report,

(4) require the safe school climate specialist to investigate or supervise the investigation of all reports of bullying and ensure that such investigation is completed promptly after receipt of any written reports made under this section,

(5) require the safe school climate specialist to review any anonymous reports, except that no disciplinary action shall be taken solely on the basis of an anonymous report,

(6) include a prevention and intervention strategy, as defined by section 10-222g, for school employees to deal with bullying,

(7) provide for the inclusion of language in student codes of conduct concerning bullying,

(8) require each school to notify the parents or guardians of students who commit any verified acts of bullying and the parents or guardians of students against whom such acts were directed not later than forty-eight hours after the completion of the investigation described in subdivision (4) of this subsection,

(9) require each school to invite the parents or guardians of a student who commits any verified act of bullying and the parents or guardians of the student against whom such act was directed to a meeting to communicate to such parents or guardians the measures being taken by the school to ensure the safety of the student against whom such act was directed and to prevent further acts of bullying,

(10) establish a procedure for each school to document and maintain records relating to reports and investigations of bullying in such school and to maintain a list of the number of verified acts of bullying in such school and make such list available for public inspection, and annually report such number to the Department of Education, and in such manner as prescribed by the Commissioner of Education,

(11) direct the development of case-by-case interventions for addressing repeated incidents of bullying against a single individual or recurrently perpetrated bullying incidents by the same individual that may include both counseling and discipline,

(12) prohibit discrimination and retaliation against an individual who reports or assists in the investigation of an act of bullying,

(13) direct the development of student safety support plans for students against whom an act of bullying was directed that address safety measures the school will take to protect such students against further acts of bullying,

(14) require the principal of a school, or the principal's designee, to notify the appropriate local law enforcement agency when such principal, or the principal's designee, believes that any acts of bullying constitute criminal conduct,

(15) prohibit bullying

(A) on school grounds, at a school-sponsored or school-related activity, function or program whether on or off school grounds, at a school bus stop, on a school bus or other vehicle owned, leased or used by a local or regional board of education, or through the use of an electronic device or an electronic mobile device owned, leased or used by the local or regional board of education, and

(B) outside of the school setting if such bullying

(i) creates a hostile environment at school for the student against whom such bullying was directed,

(ii) infringes on the rights of the student against whom such bullying was directed at school, or

(iii) substantially disrupts the education process or the orderly operation of a school,

(16) require, at the beginning of each school year, each school to provide all school employees with a written or electronic copy of the school district's safe school climate plan, and

(17) require that all school employees annually complete the training described in section 10-220a or section 10-222j. The notification required pursuant to subdivision (8) of this subsection and the invitation required pursuant to subdivision (9) of this subsection shall include a description of the response of school employees to such acts and any consequences that may result from the commission of further acts of bullying.

Other special infractions or conditions

STATUTES

10-221. Boards of education to prescribe rules, policies and procedures.

(c) Boards of education may prescribe rules to impose sanctions against pupils who damage or fail to return textbooks, library materials or other educational materials. Said boards may charge pupils for such damaged or lost textbooks, library materials or other educational materials and may withhold grades, transcripts or report cards until the pupil pays for or returns the textbook, library book or other educational material.

10-233c. Suspension of pupils.

(a) Any local or regional board of education may authorize the administration of the schools under its direction to suspend from school privileges any pupil whose conduct on school grounds or at a school sponsored activity is violative of a publicized policy of such board or is seriously disruptive of the educational process or endangers persons or property or whose conduct off school grounds is violative of such policy and is seriously disruptive of the educational process. In making a determination as to whether conduct is seriously disruptive of the educational process, the administration may consider, but such consideration shall not be limited to:

(2) whether other students from the school were involved or whether there was any gang involvement;

(3) whether the conduct involved violence, threats of violence or the unlawful use of a weapon, as defined in section 29-38, and whether any injuries occurred;

10-233d. Expulsion of pupils.

(a) (1) Any local or regional board of education, at a meeting at which three or more members of such board are present, or the impartial hearing board established pursuant to subsection (b) of this section, may expel, subject to the provisions of this subsection, any pupil whose conduct on school grounds or at a school-sponsored activity is violative of a publicized policy of such board or is seriously disruptive of the educational process or endangers persons or property or whose conduct off school grounds is violative of such policy and is seriously disruptive of the educational process, provided a majority of the board members sitting in the expulsion hearing vote to expel and that at least three affirmative votes for expulsion are cast. In making a determination as to whether conduct is seriously disruptive of the educational process, the board of education or impartial hearing board may consider, but such consideration shall not be limited to:

(B) whether other students from the school were involved or whether there was any gang involvement;

(C) whether the conduct involved violence, threats of violence or the unlawful use of a weapon, as defined in section 29-38, and whether any injuries occurred;

10-233g. Reports of principals to police authority concerning physical assaults upon school employees by students.

(a) Where there is a physical assault made by a student upon a teacher or other school employee on school property or in performance of school duties and such teacher or employee files a written report with the school principal based upon such assault, the school building principal shall report such physical assault to the local police authority.

(b) No school administrator shall interfere with the right of a teacher or other employee of a board of education to file a complaint with the local police authority in cases of threats of physical violence and in cases of physical assaults by a student against such teacher or employee.

10-233h. Arrested students. Reports by police, disclosure, confidentiality. Police testimony at expulsion hearings.

If any person who is at least seven years of age but less than twenty-one years of age and an enrolled student is arrested for a violation of section 53-206c, a class A misdemeanor or a felony, the municipal police department or Division of State Police within the Department of Emergency Services and Public Protection that made such arrest shall, not later than the end of the weekday following such arrest, orally notify the superintendent of schools of the school district in which such person resides or attends school of the identity of such person and the offense or offenses for which he was arrested and shall, within seventy-two hours of such arrest, provide written notification of such arrest, containing a brief description of the incident, to such superintendent. The superintendent shall maintain such written report in a secure location and the information in such report shall be maintained as confidential in accordance with section 46b-124. The superintendent may disclose such information only to the principal of the school in which such person is a student or to the principal or supervisory agent of any other school in which the superintendent knows such person is a student. The principal or supervisory agent may disclose such information only to special services staff or a consultant, such as a psychiatrist, psychologist or social worker, for the purposes of assessing the risk of danger posed by such person to himself, other students, school employees or school property and effectuating an appropriate modification of such person's educational plan or placement, and for disciplinary purposes. If the arrest occurred during the school year, such assessment shall be completed not later than the end of the next school day. If an expulsion hearing is held pursuant to section 10-233d, a representative of the municipal police department or the Division of State Police, as appropriate, may testify and provide reports and information on the arrest at such hearing, provided such police participation is requested by any of the following: The local or regional board of education, the impartial hearing board, the principal of the school or the student or his parent or guardian. Such information with respect to a child under eighteen years of age shall be confidential in accordance with sections 46b-124 and 54-76l, and shall only be disclosed as provided in this section and shall not be further disclosed.

10-233j. Student possession and use of telecommunication devices.

(a) No student in a public school in the state shall possess or use a remotely activated paging device unless such student obtains the written permission of the school principal for such possession and use. The principal shall grant such permission only if the student or his parent or guardian establishes to the satisfaction of the principal that a reasonable basis exists for the possession and use of the device.

(b) A local or regional board of education may restrict the student possession or use of cellular mobile telephones in the schools under its jurisdiction. In determining whether to restrict such possession or use, the local or regional board of education shall consider the special needs of parents and students.

Prevention and Behavioral Interventions (Non-Punitive)

Prevention

STATUTES

10-222d. Safe school climate plans. Definitions. School climate assessments.

(b) Each local and regional board of education shall develop and implement a safe school climate plan to address the existence of bullying in its schools. Such plan shall:

(6) include a prevention and intervention strategy, as defined by section 10-222g, for school employees to deal with bullying,

10-222g. Prevention and intervention strategy re bullying.

For the purposes of section 10-222d, the term "prevention and intervention strategy" may include, but is not limited to,

(1) implementation of a positive behavioral interventions and supports process or another evidence-based model approach for safe school climate or for the prevention of bullying identified by the Department of Education,

(2) a school survey to determine the prevalence of bullying,

(3) establishment of a bullying prevention coordinating committee with broad representation to review the survey results and implement the strategy,

(4) school rules prohibiting bullying, harassment and intimidation and establishing appropriate consequences for those who engage in such acts,

(5) adequate adult supervision of outdoor areas, hallways, the lunchroom and other specific areas where bullying is likely to occur,

(6) inclusion of grade-appropriate bullying prevention curricula in kindergarten through high school,

(7) individual interventions with the bully, parents and school staff, and interventions with the bullied child, parents and school staff,

(8) school-wide training related to safe school climate, and

(9) promotion of parent involvement in bullying prevention through individual or team participation in meetings, trainings and individual interventions.

10-222k. District safe school climate coordinator. Safe school climate specialist. Safe school climate committee.

(a) For the school year commencing July 1, 2012, and each school year thereafter, the superintendent of each local or regional board of education shall appoint, from among existing school district staff, a district safe school climate coordinator. The district safe school climate coordinator shall:

(1) Be responsible for implementing the district's safe school climate plan, developed pursuant to section 10-222d,

(2) collaborate with the safe school climate specialists, described in subsection (b) of this section, the board of education for the district and the superintendent of schools of the school district to prevent, identify and respond to bullying in the schools of the district,

(3) provide data and information, in collaboration with the superintendent of schools of the district, to the Department of Education regarding bullying, in accordance with the provisions of subsection (b) of section 10-222d and subsection (a) of section 10-222h, and

(4) meet with the safe school climate specialists at least twice during the school year to discuss issues relating to bullying in the school district and to make recommendations concerning amendments to the district's safe school climate plan.

(b) For the school year commencing July 1, 2012, and each school year thereafter, the principal of each school, or the principal's designee, shall serve as the safe school climate specialist and shall (1) investigate or supervise the investigation of reported acts of bullying in the school in accordance with the district's safe school climate plan, (2) collect and maintain records of reports and investigations of bullying in the school, and (3) act as the primary school official responsible for preventing, identifying and responding to reports of bullying in the school.

(c) (1) For the school year commencing July 1, 2012, and each school year thereafter, the principal of each school shall establish a committee or designate at least one existing committee in the school to be responsible for developing and fostering a safe school climate and addressing issues relating to bullying in the school. Such committee shall include at least one parent or guardian of a student enrolled in the school appointed by the school principal.

(2) Any such committee shall: (A) receive copies of completed reports following investigations of bullying, (B) identify and address patterns of bullying among students in the school, (C) review and amend school policies relating to bullying, (D) review and make recommendations to the district safe school climate coordinator regarding the district's safe school climate plan based on issues and experiences specific to the school, (E) educate students, school employees and parents and guardians of students on issues relating to bullying, (F) collaborate with the district safe school climate coordinator in the collection of data regarding bullying, in accordance with the provisions of subsection (b) of section 10-222d and subsection (a) of section 10-222h, and (G) perform any other duties as determined by the school principal that are related to the prevention, identification and response to school bullying for the school.

(3) Any parent or guardian serving as a member of any such committee shall not participate in the activities described in subparagraphs (A) and (B) of subdivision (2) of this subsection or any other activity that may compromise the confidentiality of a student.

Behavioral interventions and student support services

STATUTES

10-222d. Safe school climate plans. Definitions. School climate assessments.

(b) Each local and regional board of education shall develop and implement a safe school climate plan to address the existence of bullying in its schools. Such plan shall:

(6) include a prevention and intervention strategy, as defined by section 10-222g, for school employees to deal with bullying,

(11) direct the development of case-by-case interventions for addressing repeated incidents of bullying against a single individual or recurrently perpetrated bullying incidents by the same individual that may include both counseling and discipline,

10-222g. Prevention and intervention strategy re bullying.

For the purposes of section 10-222d, the term "prevention and intervention strategy" may include, but is not limited to,

(1) implementation of a positive behavioral interventions and supports process or another evidence-based model approach for safe school climate or for the prevention of bullying identified by the Department of Education,

(2) a school survey to determine the prevalence of bullying,

(3) establishment of a bullying prevention coordinating committee with broad representation to review the survey results and implement the strategy,

(4) school rules prohibiting bullying, harassment and intimidation and establishing appropriate consequences for those who engage in such acts,

(5) adequate adult supervision of outdoor areas, hallways, the lunchroom and other specific areas where bullying is likely to occur,

(6) inclusion of grade-appropriate bullying prevention curricula in kindergarten through high school,

(7) individual interventions with the bully, parents and school staff, and interventions with the bullied child, parents and school staff,

(8) school-wide training related to safe school climate, and

(9) promotion of parent involvement in bullying prevention through individual or team participation in meetings, trainings and individual interventions.

10-233c. Suspension of pupils.

(e) For any pupil who is suspended for the first time pursuant to this section and who has never been expelled pursuant to section 10-233d, the administration may shorten the length of or waive the suspension period if the pupil successfully completes an administration-specified program and meets any other conditions required by the administration. Such administration-specified program shall not require the pupil or the parent or guardian of the pupil to pay for participation in the program.

10-233d. Expulsion of pupils.

(c) (2) For any pupil expelled for the first time pursuant to this section and who has never been suspended pursuant to section 10-233c, the local or regional board of education may shorten the length of or waive the expulsion period if the pupil successfully completes a board-specified program and meets any other conditions required by the board. Such board-specified program shall not require the pupil or the parent or guardian of the pupil to pay for participation in the program.

(e) If a pupil is expelled pursuant to this section for the sale or distribution of such a controlled substance, the board of education shall refer the pupil to an appropriate state or local agency for rehabilitation, intervention or job training, or any combination thereof, and inform the agency of its action.

Professional development

STATUTES

10-222d. Safe school climate plans. Definitions. School climate assessments.

(b) Each local and regional board of education shall develop and implement a safe school climate plan to address the existence of bullying in its schools. Such plan shall:

(17) require that all school employees annually complete the training described in section 10-220a or section 10-222j. The notification required pursuant to subdivision (8) of this subsection and the invitation required pursuant to subdivision (9) of this subsection shall include a description of the response of school employees to such acts and any consequences that may result from the commission of further acts of bullying.

10-222g. Prevention and intervention strategy re bullying.

For the purposes of section 10-222d, the term "prevention and intervention strategy" may include, but is not limited to,

(1) implementation of a positive behavioral interventions and supports process or another evidence-based model approach for safe school climate or for the prevention of bullying identified by the Department of Education,

(8) school-wide training related to safe school climate, and

(9) promotion of parent involvement in bullying prevention through individual or team participation in meetings, trainings and individual interventions.

10-222j. Training re prevention, identification and response to school bullying and youth suicide.

The Department of Education shall provide, within available appropriations, annual training to school employees, as defined in section 10-222d, except those school employees who hold the initial educator, provisional educator or professional educator certificate, on the prevention, identification and response to school bullying, as defined in section 10-222d, and the prevention of and response to youth suicide. Such training may include, but not be limited to,

(1) developmentally appropriate strategies to prevent bullying among students in school and outside of the school setting,

(2) developmentally appropriate strategies for immediate and effective interventions to stop bullying,

(3) information regarding the interaction and relationship between students committing acts of bullying, students against whom such acts of bullying are directed and witnesses of such acts of bullying,

(4) research findings on bullying, such as information about the types of students who have been shown to be at-risk for bullying in the school setting,

(5) information on the incidence and nature of cyberbullying, as defined in section 10-222d,

(6) Internet safety issues as they relate to cyberbullying, or

(7) information on the incidence of youth suicide, methods of identifying youths at risk of suicide and developmentally appropriate strategies for effective interventions to prevent youth suicide. Such training may be presented in person by mentors, offered in state-wide workshops or through on-line courses.

Monitoring and Accountability

Formal incident reporting of conduct violations

STATUTES

10-222d. Safe school climate plans. Definitions. School climate assessments.

(b) Each local and regional board of education shall develop and implement a safe school climate plan to address the existence of bullying in its schools. Such plan shall:

(1) Enable students to anonymously report acts of bullying to school employees and require students and the parents or guardians of students to be notified annually of the process by which students may make such reports,

(2) enable the parents or guardians of students to file written reports of suspected bullying,

(3) require school employees who witness acts of bullying or receive reports of bullying to orally notify the safe school climate specialist, described in section 10-222k, or another school administrator if the safe school climate specialist is unavailable, not later than one school day after such school employee witnesses or receives a report of bullying, and to file a written report not later than two school days after making such oral report,

(10) establish a procedure for each school to document and maintain records relating to reports and investigations of bullying in such school and to maintain a list of the number of verified acts of bullying in such school and make such list available for public inspection, and annually report such number to the Department of Education, and in such manner as prescribed by the Commissioner of Education,

(12) prohibit discrimination and retaliation against an individual who reports or assists in the investigation of an act of bullying,

10-222k. District safe school climate coordinator. Safe school climate specialist. Safe school climate committee.

(a) For the school year commencing July 1, 2012, and each school year thereafter, the superintendent of each local or regional board of education shall appoint, from among existing school district staff, a district safe school climate coordinator. The district safe school climate coordinator shall:

(1) Be responsible for implementing the district's safe school climate plan, developed pursuant to section 10-222d,

(2) collaborate with the safe school climate specialists, described in subsection (b) of this section, the board of education for the district and the superintendent of schools of the school district to prevent, identify and respond to bullying in the schools of the district,

(3) provide data and information, in collaboration with the superintendent of schools of the district, to the Department of Education regarding bullying, in accordance with the provisions of subsection (b) of section 10-222d and subsection (a) of section 10-222h, and

(4) meet with the safe school climate specialists at least twice during the school year to discuss issues relating to bullying in the school district and to make recommendations concerning amendments to the district's safe school climate plan.

(b) For the school year commencing July 1, 2012, and each school year thereafter, the principal of each school, or the principal's designee, shall serve as the safe school climate specialist and shall

(1) investigate or supervise the investigation of reported acts of bullying in the school in accordance with the district's safe school climate plan,

(2) collect and maintain records of reports and investigations of bullying in the school, and

(3) act as the primary school official responsible for preventing, identifying and responding to reports of bullying in the school.

(c) (1) For the school year commencing July 1, 2012, and each school year thereafter, the principal of each school shall establish a committee or designate at least one existing committee in the school to be responsible for developing and fostering a safe school climate and addressing issues relating to bullying in the school. Such committee shall include at least one parent or guardian of a student enrolled in the school appointed by the school principal.

(2) Any such committee shall:

(A) receive copies of completed reports following investigations of bullying,

(B) identify and address patterns of bullying among students in the school,

(C) review and amend school policies relating to bullying,

(D) review and make recommendations to the district safe school climate coordinator regarding the district's safe school climate plan based on issues and experiences specific to the school,

(E) educate students, school employees and parents and guardians of students on issues relating to bullying,

(F) collaborate with the district safe school climate coordinator in the collection of data regarding bullying, in accordance with the provisions of subsection (b) of section 10-222d and subsection (a) of section 10-222h, and

(G) perform any other duties as determined by the school principal that are related to the prevention, identification and response to school bullying for the school.

(3) Any parent or guardian serving as a member of any such committee shall not participate in the activities described in subparagraphs (A) and (B) of subdivision (2) of this subsection or any other activity that may compromise the confidentiality of a student.

10-233b. Removal of pupils from class.

(b) Whenever any teacher removes a pupil from the classroom, such teacher shall send such pupil to a designated area and shall immediately inform the building principal or such principal's designee as to the name of the pupil against whom such disciplinary action was taken and the reason therefor.

10-233c. Suspension of pupils.

(c) Whenever any administration suspends a pupil, such administration shall not later than twenty-four hours after the suspension notify the superintendent or such superintendent's designee as to the name of the pupil against whom such disciplinary action was taken and the reason therefor.

(f) Whenever a pupil is suspended pursuant to the provisions of this section, notice of the suspension and the conduct for which the pupil was suspended shall be included on the pupil's cumulative educational record. Such notice shall be expunged from the cumulative educational record by the local or regional board of education if a pupil graduates from high school, or in the case of a suspension of a pupil for which the length of the suspension period is shortened or the suspension period is waived pursuant to subsection (e) of this section, such notice shall be expunged from the cumulative educational record by the local or regional board of education (1) if the pupil graduates from high school, or (2) if the administration so chooses, at the time the pupil completes the administration-specified program and meets any other conditions required by the administration pursuant to said subsection (e), whichever is earlier.

10-233d. Expulsion of pupils.

(f) (1) Whenever a pupil is expelled pursuant to the provisions of this section, notice of the expulsion and the conduct for which the pupil was expelled shall be included on the pupil's cumulative educational record. Such notice, except for notice of an expulsion based on possession of a firearm or deadly weapon as described in subsection (a) of this section, shall be expunged from the cumulative educational record by the local or regional board of education if a pupil graduates from high school, except as provided for in subdivision (2) of this subsection.

(2) In the case of a pupil for which the length of the expulsion period is shortened or the expulsion period is waived pursuant to subdivision (2) of subsection (c) of this section, such notice shall be expunged from the cumulative educational record by the local or regional board of education (A) if the pupil graduates from high school, or (B) if the board so chooses, at the time the pupil completes the board-specified program and meets any other conditions required by the board pursuant to subdivision (2) of subsection (c) of this section, whichever is earlier.

(k) Local and regional boards of education shall submit to the Commissioner of Education such information on expulsions for the possession of weapons as required for purposes of the Gun-Free Schools Act of 1994, 20 USC 8921 et seq., as amended from time to time.

Parental notification

STATUTES

10-222d. Safe school climate plans. Definitions. School climate assessments.

(b) Each local and regional board of education shall develop and implement a safe school climate plan to address the existence of bullying in its schools. Such plan shall:

(1) Enable students to anonymously report acts of bullying to school employees and require students and the parents or guardians of students to be notified annually of the process by which students may make such reports,

(8) require each school to notify the parents or guardians of students who commit any verified acts of bullying and the parents or guardians of students against whom such acts were directed not later than forty-eight hours after the completion of the investigation described in subdivision (4) of this subsection,

(9) require each school to invite the parents or guardians of a student who commits any verified act of bullying and the parents or guardians of the student against whom such act was directed to a meeting to communicate to such parents or guardians the measures being taken by the school to ensure the safety of the student against whom such act was directed and to prevent further acts of bullying,

(17) require that all school employees annually complete the training described in section 10-220a or section 10-222j. The notification required pursuant to subdivision (8) of this subsection and the invitation required pursuant to subdivision (9) of this subsection shall include a description of the response of school employees to such acts and any consequences that may result from the commission of further acts of bullying.

10-222g. Prevention and intervention strategy re bullying.

For the purposes of section 10-222d, the term "prevention and intervention strategy" may include, but is not limited to,

(7) individual interventions with the bully, parents and school staff, and interventions with the bullied child, parents and school staff,

(9) promotion of parent involvement in bullying prevention through individual or team participation in meetings, trainings and individual interventions.

10-233d. Expulsion of pupils.

(3) Unless an emergency exists, no pupil shall be expelled without a formal hearing held pursuant to sections 4-176e to 4-180a, inclusive, and section 4-181a, provided whenever such pupil is a minor, the notice required by section 4-177 and section 4-180 shall also be given to the parents or guardian of the pupil. If an emergency exists, such hearing shall be held as soon after the expulsion as possible. The notice shall include information concerning legal services provided free of charge or at a reduced rate that are available locally and how to access such services.

(e) Notwithstanding the provisions of subsection (d) of this section concerning the provision of an alternative educational opportunity for pupils between the ages of sixteen and eighteen, local and regional boards of education shall not be required to offer such alternative to any pupil between the ages of sixteen and eighteen who is expelled because of conduct which endangers persons if it is determined at the expulsion hearing that the conduct for which the pupil is expelled involved

(1) possession of a firearm, as defined in 18 USC 921, as amended from time to time, or deadly weapon, dangerous instrument or martial arts weapon, as defined in section 53a-3, on school property or at a school-sponsored activity, or

(2) offering for sale or distribution on school property or at a school-sponsored activity a controlled substance, as defined in subdivision (9) of section 21a-240, whose manufacture, distribution, sale, prescription, dispensing, transporting or possessing with the intent to sell or dispense, offering, or administration is subject to criminal penalties under sections 21a-277 and 21a-278. If a pupil is expelled pursuant to this section for possession of a firearm or deadly weapon the board of education shall report the violation to the local police department or in the case of a student enrolled in a technical high school to the state police. If a pupil is expelled pursuant to this section for the sale or distribution of such a controlled substance, the board of education shall refer the pupil to an appropriate state or local agency for rehabilitation, intervention or job training, or any combination thereof, and inform the agency of its action. Whenever a local or regional board of education notifies a pupil between the ages of sixteen and eighteen or the parents or guardian of such pupil that an expulsion hearing will be held, the notification shall include a statement that the board of education is not required to offer an alternative educational opportunity to any pupil who is found to have engaged in the conduct described in this subsection.

10-233e. Notice as to disciplinary policies and action.

Each local or regional board of education shall inform all pupils within its jurisdiction and their parents, guardians and surrogate parents, if appointed pursuant to section 10-94g, at least annually, of the board policies governing student conduct and school discipline. Each board shall further provide an effective means of notifying the parents, guardian or surrogate parent, if appointed, of any minor pupil against whom the disciplinary action authorized by the provisions of this section and sections 10-233a to 10-233d, inclusive, has been taken. Such notice shall be given within twenty-four hours of the time such pupil has been excluded.

Reporting and referrals between schools and law enforcement

STATUTES

10-222d. Safe school climate plans. Definitions. School climate assessments.

(b) Each local and regional board of education shall develop and implement a safe school climate plan to address the existence of bullying in its schools. Such plan shall:

(14) require the principal of a school, or the principal's designee, to notify the appropriate local law enforcement agency when such principal, or the principal's designee, believes that any acts of bullying constitute criminal conduct,

10-233d. Expulsion of pupils.

(e) Notwithstanding the provisions of subsection (d) of this section concerning the provision of an alternative educational opportunity for pupils between the ages of sixteen and eighteen, local and regional boards of education shall not be required to offer such alternative to any pupil between the ages of sixteen and eighteen who is expelled because of conduct which endangers persons if it is determined at the expulsion hearing that the conduct for which the pupil is expelled involved

(1) possession of a firearm, as defined in 18 USC 921, as amended from time to time, or deadly weapon, dangerous instrument or martial arts weapon, as defined in section 53a-3, on school property or at a school-sponsored activity,

If a pupil is expelled pursuant to this section for possession of a firearm or deadly weapon the board of education shall report the violation to the local police department or in the case of a student enrolled in a technical high school to the state police.

10-233g. Reports of principals to police authority concerning physical assaults upon school employees by students.

(a) Where there is a physical assault made by a student upon a teacher or other school employee on school property or in performance of school duties and such teacher or employee files a written report with the school principal based upon such assault, the school building principal shall report such physical assault to the local police authority.

(b) No school administrator shall interfere with the right of a teacher or other employee of a board of education to file a complaint with the local police authority in cases of threats of physical violence and in cases of physical assaults by a student against such teacher or employee.

10-233i. Students placed on probation by a court.

A student placed on probation by a court may return to school on a conditional basis, within the limits prescribed by the court, provided the court has requested, from the superintendent of schools of the school district in which the student resides, and considered

(1) information on the student’s school attendance, adjustment and behavior and

(2) any recommendations for conditions for disposition or sentencing. Superintendents of schools shall provide such information to the court in a timely manner.

10-233k. Notification of school officials of potentially dangerous students. Provision of educational records of children returning to school from detention centers.

(a) If the Department of Children and Families believes, in good faith, that there is a risk of imminent personal injury to the person or other individuals from a child in its custody who has been adjudicated a serious juvenile offender, the department shall notify the superintendent of schools for the school district in which such child may be returning to attend school or was attending prior to the adjudication of such determination, prior to the child’s return. The superintendent of schools shall notify the principal at the school the child will be attending that the child is potentially dangerous. The principal may disclose such information only to special services staff or a consultant, such as a psychiatrist, psychologist or social worker, for the purpose of assessing the risk of danger posed by such child to himself, other students, school employees or school property and effectuating an appropriate modification of such child’s educational plan or placement and for disciplinary reasons.

(b) The Department of Children and Families and the Judicial Department or the local or regional board of education shall provide to the superintendent of schools any educational records within their custody of a child seeking to enter or return to a school district from a juvenile detention center, the Connecticut Juvenile Training School, or any other residential placement, prior to the child's entry or return. The agencies shall also require any contracting entity that holds custody of such records to provide them to the superintendent of schools prior to the child's entry or return. Receipt of the educational records shall not delay a child from enrolling in school. The superintendent of schools shall provide such information to the principal at the school the child will be attending. The principal shall disclose such information to appropriate staff as is necessary to the education or care of the child.

Disclosure of school records

STATUTES

10-233h. Arrested students. Reports by police, disclosure, confidentiality. Police testimony at expulsion hearings.

If any person who is at least seven years of age but less than twenty-one years of age and an enrolled student is arrested for a violation of section 53-206c, a class A misdemeanor or a felony, the municipal police department or Division of State Police within the Department of Emergency Services and Public Protection that made such arrest shall, not later than the end of the weekday following such arrest, orally notify the superintendent of schools of the school district in which such person resides or attends school of the identity of such person and the offense or offenses for which he was arrested and shall, within seventy-two hours of such arrest, provide written notification of such arrest, containing a brief description of the incident, to such superintendent. The superintendent shall maintain such written report in a secure location and the information in such report shall be maintained as confidential in accordance with section 46b-124. The superintendent may disclose such information only to the principal of the school in which such person is a student or to the principal or supervisory agent of any other school in which the superintendent knows such person is a student. The principal or supervisory agent may disclose such information only to special services staff or a consultant, such as a psychiatrist, psychologist or social worker, for the purposes of assessing the risk of danger posed by such person to himself, other students, school employees or school property and effectuating an appropriate modification of such person's educational plan or placement, and for disciplinary purposes. If the arrest occurred during the school year, such assessment shall be completed not later than the end of the next school day. If an expulsion hearing is held pursuant to section 10-233d, a representative of the municipal police department or the Division of State Police, as appropriate, may testify and provide reports and information on the arrest at such hearing, provided such police participation is requested by any of the following: The local or regional board of education, the impartial hearing board, the principal of the school or the student or his parent or guardian. Such information with respect to a child under eighteen years of age shall be confidential in accordance with sections 46b-124 and 54-76l, and shall only be disclosed as provided in this section and shall not be further disclosed.

10-233k. Notification of school officials of potentially dangerous students. Provision of educational records of children returning to school from detention centers.

(a) If the Department of Children and Families believes, in good faith, that there is a risk of imminent personal injury to the person or other individuals from a child in its custody who has been adjudicated a serious juvenile offender, the department shall notify the superintendent of schools for the school district in which such child may be returning to attend school or was attending prior to the adjudication of such determination, prior to the child's return. The superintendent of schools shall notify the principal at the school the child will be attending that the child is potentially dangerous. The principal may disclose such

information only to special services staff or a consultant, such as a psychiatrist, psychologist or social worker, for the purpose of assessing the risk of danger posed by such child to himself, other students, school employees or school property and effectuating an appropriate modification of such child's educational plan or placement and for disciplinary reasons.

(b) The Department of Children and Families and the Judicial Department or the local or regional board of education shall provide to the superintendent of schools any educational records within their custody of a child seeking to enter or return to a school district from a juvenile detention center, the Connecticut Juvenile Training School, or any other residential placement, prior to the child's entry or return. The agencies shall also require any contracting entity that holds custody of such records to provide them to the superintendent of schools prior to the child's entry or return. Receipt of the educational records shall not delay a child from enrolling in school. The superintendent of schools shall provide such information to the principal at the school the child will be attending. The principal shall disclose such information to appropriate staff as is necessary to the education or care of the child.

Data collection, review, and reporting of disciplinary policies and actions

STATUTES

10-222d. Safe school climate plans. Definitions. School climate assessments.

(b) Each local and regional board of education shall develop and implement a safe school climate plan to address the existence of bullying in its schools. Such plan shall:

(10) establish a procedure for each school to document and maintain records relating to reports and investigations of bullying in such school and to maintain a list of the number of verified acts of bullying in such school and make such list available for public inspection, and annually report such number to the Department of Education, and in such manner as prescribed by the Commissioner of Education,

(d) On and after July 1, 2012, and biennially thereafter, each local and regional board of education shall require each school in the district to complete an assessment using the school climate assessment instruments, including surveys, approved and disseminated by the Department of Education pursuant to section 10-222h. Each local and regional board of education shall collect the school climate assessments for each school in the district and submit such school climate assessments to the department.

10-222g. Prevention and intervention strategy re bullying.

For the purposes of section 10-222d, the term "prevention and intervention strategy" may include, but is not limited to,

(2) a school survey to determine the prevalence of bullying,

(3) establishment of a bullying prevention coordinating committee with broad representation to review the survey results and implement the strategy,

10-222h. Analysis of school districts' efforts re prevention of and response to bullying in schools.

(a) The Department of Education shall, within available appropriations,

(1) document school districts' articulated needs for technical assistance and training related to safe learning and bullying,

(2) collect information on the prevention and intervention strategies used by schools to reduce the incidence of bullying, improve school climate and improve reporting outcomes,

(3) develop or recommend a model safe school climate plan for grades kindergarten to twelve, inclusive, and

(4) in collaboration with the Connecticut Association of Schools, disseminate to all public schools grade-level appropriate school climate assessment instruments approved by the department, including surveys, to be used by local and regional boards of education for the purposes of collecting information described in subdivision (2) of this subsection so that the department can monitor bullying prevention efforts over time and compare each district's progress to state trends. On or before February 1, 2010, and biennially thereafter, the department shall, in accordance with the provisions of section 11-4a, submit a report on the status of its efforts pursuant to this section including, but not limited to, the number of verified acts of bullying in the state, an analysis of the responsive action taken by school districts and any recommendations it may have regarding additional activities or funding to prevent bullying in schools and improve school climate to the joint standing committee of the General Assembly having cognizance of matters relating to education and to the select committee of the General Assembly having cognizance of matters relating to children.

(b) The department may accept private donations for the purposes of this section.

10-222k. District safe school climate coordinator. Safe school climate specialist. Safe school climate committee.

(a) For the school year commencing July 1, 2012, and each school year thereafter, the superintendent of each local or regional board of education shall appoint, from among existing school district staff, a district safe school climate coordinator. The district safe school climate coordinator shall:

(1) Be responsible for implementing the district's safe school climate plan, developed pursuant to section 10-222d,

(2) collaborate with the safe school climate specialists, described in subsection (b) of this section, the board of education for the district and the superintendent of schools of the school district to prevent, identify and respond to bullying in the schools of the district,

(3) provide data and information, in collaboration with the superintendent of schools of the district, to the Department of Education regarding bullying, in accordance with the provisions of subsection (b) of section 10-222d and subsection (a) of section 10-222h, and

(4) meet with the safe school climate specialists at least twice during the school year to discuss issues relating to bullying in the school district and to make recommendations concerning amendments to the district's safe school climate plan.

(b) For the school year commencing July 1, 2012, and each school year thereafter, the principal of each school, or the principal's designee, shall serve as the safe school climate specialist and shall (1) investigate or supervise the investigation of reported acts of bullying in the school in accordance with the district's safe school climate plan, (2) collect and maintain records of reports and investigations of bullying in the school, and (3) act as the primary school official responsible for preventing, identifying and responding to reports of bullying in the school.

(c) (1) For the school year commencing July 1, 2012, and each school year thereafter, the principal of each school shall establish a committee or designate at least one existing committee in the school to be responsible for developing and fostering a safe school climate and addressing issues relating to bullying in the school. Such committee shall include at least one parent or guardian of a student enrolled in the school appointed by the school principal.

(2) Any such committee shall: (A) receive copies of completed reports following investigations of bullying, (B) identify and address patterns of bullying among students in the school, (C) review and amend school policies relating to bullying, (D) review and make recommendations to the district safe school climate coordinator regarding the district's safe school climate plan based on issues and experiences specific to the school, (E) educate students, school employees and parents and guardians of students on issues relating to bullying, (F) collaborate with the district safe school climate coordinator

in the collection of data regarding bullying, in accordance with the provisions of subsection (b) of section 10-222d and subsection (a) of section 10-222h, and (G) perform any other duties as determined by the school principal that are related to the prevention, identification and response to school bullying for the school.

(3) Any parent or guardian serving as a member of any such committee shall not participate in the activities described in subparagraphs (A) and (B) of subdivision (2) of this subsection or any other activity that may compromise the confidentiality of a student.

10-233d. Expulsion of pupils.

(k) Local and regional boards of education shall submit to the Commissioner of Education such information on expulsions for the possession of weapons as required for purposes of the Gun-Free Schools Act of 1994, 20 USC 8921 et seq., as amended from time to time.

School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers

Authority and power to implement school arrest

STATUTES

10-222d. Safe school climate plans. Definitions. School climate assessments.

(b) Each local and regional board of education shall develop and implement a safe school climate plan to address the existence of bullying in its schools. Such plan shall:

(3) require school employees who witness acts of bullying or receive reports of bullying to orally notify the safe school climate specialist, described in section 10-222k, or another school administrator if the safe school climate specialist is unavailable, not later than one school day after such school employee witnesses or receives a report of bullying, and to file a written report not later than two school days after making such oral report,

(4) require the safe school climate specialist to investigate or supervise the investigation of all reports of bullying and ensure that such investigation is completed promptly after receipt of any written reports made under this section,

(5) require the safe school climate specialist to review any anonymous reports, except that no disciplinary action shall be taken solely on the basis of an anonymous report,

Certification or training

No relevant statutes found.

MOUs, authorization, and/or funding

No relevant statutes found.

State Education Agency Support

State model policies and implementation support

STATUTES

10-222h. Analysis of school districts' efforts re prevention of and response to bullying in schools.

(a) The Department of Education shall, within available appropriations,

(1) document school districts' articulated needs for technical assistance and training related to safe learning and bullying,

(2) collect information on the prevention and intervention strategies used by schools to reduce the incidence of bullying, improve school climate and improve reporting outcomes,

(3) develop or recommend a model safe school climate plan for grades kindergarten to twelve, inclusive, and

(4) in collaboration with the Connecticut Association of Schools, disseminate to all public schools grade-level appropriate school climate assessment instruments approved by the department, including surveys, to be used by local and regional boards of education for the purposes of collecting information described in subdivision (2) of this subsection so that the department can monitor bullying prevention efforts over time and compare each district's progress to state trends. On or before February 1, 2010, and biennially thereafter, the department shall, in accordance with the provisions of section 11-4a, submit a report on the status of its efforts pursuant to this section including, but not limited to, the number of verified acts of bullying in the state, an analysis of the responsive action taken by school districts and any recommendations it may have regarding additional activities or funding to prevent bullying in schools and improve school climate to the joint standing committee of the General Assembly having cognizance of matters relating to education and to the select committee of the General Assembly having cognizance of matters relating to children.

(b) The department may accept private donations for the purposes of this section.

10-222i. State-wide safe school climate resource network.

(a) The Department of Education, in consultation with the State Education Resource Center, the Governor's Prevention Partnership and the Commission on Children, shall establish, within available appropriations, a state-wide safe school climate resource network for the identification, prevention and education of school bullying in the state. Such state-wide safe school climate resource network shall make available to all schools information, training opportunities and resource materials to improve the school climate to diminish bullying.

(b) The department may seek federal, state and municipal funding and may accept private donations for the administration of the state-wide safe school climate resource network.

Funding appropriations

STATUTES

10-222h. Analysis of school districts' efforts re prevention of and response to bullying in schools.

(a) The Department of Education shall, within available appropriations,

(1) document school districts' articulated needs for technical assistance and training related to safe learning and bullying,

(2) collect information on the prevention and intervention strategies used by schools to reduce the incidence of bullying, improve school climate and improve reporting outcomes,

(3) develop or recommend a model safe school climate plan for grades kindergarten to twelve, inclusive, and

(4) in collaboration with the Connecticut Association of Schools, disseminate to all public schools grade-level appropriate school climate assessment instruments approved by the department, including surveys, to be used by local and regional boards of education for the purposes of collecting information described in subdivision (2) of this subsection so that the department can monitor bullying prevention efforts over time and compare each district's progress to state trends. On or before February 1, 2010, and biennially thereafter, the department shall, in accordance with the provisions of section 11-4a, submit a report on the status of its efforts pursuant to this section including, but not limited to, the number of verified acts of bullying in the state, an analysis of the responsive action taken by school districts and any recommendations it may have regarding additional activities or funding to prevent bullying in schools and improve school climate to the joint standing committee of the General Assembly having cognizance of matters relating to education and to the select committee of the General Assembly having cognizance of matters relating to children.

(b) The department may accept private donations for the purposes of this section.

Other/Uncategorized

Professional immunity or liability

STATUTES

10-222l. Immunity of school employees, students, parents or guardians, individuals and boards of education from liability for certain actions relating to reporting, investigating and responding to school bullying.

(a) No claim for damages shall be made against a school employee, as defined in section 10-222d, who reports, investigates and responds to bullying, as defined in said section 10-222d, in accordance with the provisions of the safe school climate plan, described in said section 10-222d, if such school employee was acting in good faith in the discharge of his or her duties or within the scope of his or her employment. The immunity provided in this subsection does not apply to acts or omissions constituting gross, reckless, wilful or wanton misconduct.

(b) No claim for damages shall be made against a student, parent or guardian of a student or any other individual who reports an act of bullying to a school employee, in accordance with the provisions of the safe school climate plan described in said section 10-222d, if such individual was acting in good faith. The immunity provided in this subsection does not apply to acts or omissions constituting gross, reckless, wilful or wanton misconduct.

(c) No claim for damages shall be made against a local or regional board of education that implements the safe school climate plan, described in section 10-222d, and reports, investigates and responds to bullying, as defined in said section 10-222d, if such local or regional board of education was acting in good faith in the discharge of its duties. The immunity provided in this subsection does not apply to acts or omissions constituting gross, reckless, wilful or wanton misconduct.

Community input or involvement

No relevant statutes found.

Other/Uncategorized

No relevant statutes found.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by Connecticut provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
Website		
No relevant resources found		
Documents		
Connecticut Department of Education, Guidelines for In-school and Out-of-School suspension, Revised 2010	This guidance document is designed to help schools make determinations about whether suspensions should be in-school or out-of-school.	http://www.sde.ct.gov/sde/lib/sde/pdf/pressroom/In_School_Suspension_Guidance.pdf
Other Resources		
Connecticut Judicial Branch Law Libraries, Connecticut Law, About School Law	This website provides links to Connecticut General Statutes and other resources related to students' rights and school law.	http://www.jud.ct.gov/lawlib/law/school.htm

Delaware Compilation of School Discipline Laws and Regulations

Prepared: August 12, 2013

Introduction

This compilation presents school discipline-related state statutes, school discipline-related regulations, and, where available, links to state-sponsored websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSLE). For example, one major category encompasses all state laws or regulations mandating specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of state legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in each state.

Discipline categories were not mutually exclusive. Statutes and regulations often appeared across multiple categories. For states with more extensive statutes covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. State laws, ordered by chapter and section number, appear first within each category followed by state regulations. All statutes and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists statutes by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to state-sponsored websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of May 2013, with the exception of the state laws related to seclusion and restraint, which are complete and current as of December 2012. Readers should also note that the information in this document was compiled from individual state sources that are created by each state and which are maintained and updated with varying frequencies. Readers should consult the source information provided for each state directly in order to check for updates to this state's laws and regulations or conduct further research.

For further information, including definitions of the different policy categories, please refer to the Discipline Laws and Regulations Compendium posted on the Center's website.

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Safe Supportive Learning
Engagement | Safety | Environment

Table of Contents

Delaware State Codes Cited **1**
Delaware Revised Statutes 1
Delaware Administrative Code 3

General Provisions **4**
Authority to develop and establish rules of conduct 4
Scope 8
Communication of policy 10

In-School Discipline **13**
Use of multi-tiered discipline approaches 13
Teacher authority to remove students from classrooms 13
Alternatives to suspension 14
Use of corporal punishment 14
Use of student and locker searches 15
Other in-school disciplinary approaches 16

Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements **17**
Grounds for possible suspension or expulsion 17
Grounds for mandatory suspension or expulsion 17
Limitations, conditions or exclusions for use of suspension and expulsion 18
Administrative procedures related to suspension and expulsion 19
In-school suspension 21
Return to school following removal 21
Use of restraint and seclusion 22
Alternative placements 25

Disciplinary Approaches Addressing Specific Infractions and Conditions **30**
Firearms (as required by the Guns-Free Schools Act) 30
Other weapons 32
Students with chronic disciplinary issues 34
Attendance and truancy 35
Substance use 42
Bullying, harassment, or hazing 50
Other special infractions or conditions 54

Prevention and Behavioral Interventions (Non-Punitive) **58**
Prevention 58
Behavioral interventions and student support services 59
Professional development 61

Monitoring and Accountability **63**
Formal incident reporting of conduct violations 63
Parental notification 64
Reporting and referrals between schools and law enforcement 67

Disclosure of school records 71
Data collection, review, and reporting of disciplinary policies and actions 72

School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers 75

Authority and power to implement school arrest 75
Certification or training 75
MOUs, authorization, and/or funding 75

State Education Agency Support 76

State model policies and implementation support 76
Funding appropriations 77

Other/Uncategorized 80

Professional immunity or liability 80
Community input or involvement 80
Other/Uncategorized 86

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline 87

Delaware State Codes Cited

Delaware Revised Statutes

TITLE 11. Crimes and Criminal Procedure. Delaware Criminal Code

Chapter 5. Specific Offenses

Subchapter VII. Offenses Against Public Health, Order and Decency

1457. Possession of a weapon in a safe school and recreation zone; class D, E, or F: class A or B misdemeanor

Title 14. Education. Free Public Schools

Chapter 1. Department of Education

Subchapter II. Powers and Duties

122. Rules and regulations

Chapter 7. Lawful Authority of Teachers Over Pupils

701. Authority of teachers and administrators to control the disruptive behavior of students.
702. Corporal punishment

Chapter 10. Reorganization of School Districts

Subchapter III. School Boards of Reorganized School Districts

1049. Policy making

Chapter 16. Comprehensive School Discipline Improvement Program

1601. Purpose
1602. Appropriation
1603. Rules and regulations
1604. Treatment of severe discipline problems component
1604A. Site selection for alternative educational facilities
1605. School and district level component
1605A. Prevention component

Chapter 27. School Attendance

Subchapter I. School Attendance Requirements

2702. Compulsory attendance requirements; evaluation of readiness
2705. Exemption of children from compulsory attendance requirements

Subchapter II. Truancy

2721. Definitions
2722. Absences and truancy
2723. Responsibility of police officers
2724. Notification to parents and students
2725. Absences without excuse; truancy conferences

2726. Procedure for truancy conferences
2727. Notice of violation and compliance
2728. Procedure for court adjudication
2729. Failure to send; affirmative defense; penalties
2730. Failure to attend; penalties
2731. Enforcement of court order
2732. Appeals
2733. Jurisdiction; venue

Chapter 38. Controlled Substances

3801. Declaration of purpose
3802. Definitions
3803. Division of substance abuse and mental health
3804. State drug-free school advisory committee
3805. Local drug-free school advisory committees
3806. Utilization of funds
3807. State board of education; Department of public safety

Chapter 41. General Regulatory Provisions

4111. Disclosure of pupils' school records
4112. Reporting school crimes
4112D. School bullying prevention
4112E. School teen dating violence and sexual assault act
4112F. Limitations on use of seclusion and restraint
4116. Drug/alcohol educational programs
4117. Substance abuse
4119. Metal detectors
4120. School dress codes and uniforms
4121. Video cameras on public school property
4122. Parent's failure to attend school conference with superintendent; subpoena to compel attendance
4123A. School bullying prevention and criminal youth gang detection training
4130. Expulsion of students; re-enrollment; loss of driver's license
4131. Notification of provisions pertaining to school crimes

Chapter 81. Education Privacy Act

8104. Academic institution; wrongful dismissal or refusal to admit

Chapter 93. Anti-Hazing Law

9301. Short title
9302. Definitions
9303. Hazing prohibited
9304. Enforcement by institution

Delaware Administrative Code

Title 14. Education

Section 600. School Climate and Discipline

601. Schools and law enforcement agencies
603. Compliance with the gun free schools act
605. Student rights and responsibilities
609. District and school based intervention services
611. Consortium discipline alternative programs for treatment of severe discipline problems
612. Possession, use or distribution of drugs and alcohol
615. School attendance
624. School district/charter school policy prohibiting cyberbullying

Section 800. Health and Safety

851. K to 12 comprehensive health education program
877. Tobacco policy

Section 1100. Transportation

1105. School transportation

General Provisions

Authority to develop and establish rules of conduct

STATUTES

1049. Policy making.

(a) The school board of each reorganized school district, subject to this title and in accordance with the policies, rules and regulations of the State, shall, in addition to other duties:

(2) Determine the educational policies of the reorganized school district and prescribe rules and regulations for the conduct and management of the schools;

1105. School Transportation.

8.0 Pupil Conduct on School Buses

8.1 Districts shall have a policy concerning the behavior of pupils on school buses that shall, at a minimum, contain the following rules which if not followed may result in the suspension or denial of bus riding privileges:

8.1.14 Observe classroom conduct when on the bus.

1603. Rules and regulations.

The Department of Education shall, from time to time, adopt and promulgate such rules and regulations as will be necessary for the implementation of the program authorized by this chapter.

4112D. School bullying prevention.

(b) Prohibition of bullying.

(2) Each school district and charter school shall establish a policy which, at a minimum, includes the following components:

a. A statement prohibiting bullying of any person on school property or at school functions or by use of data or computer software that is accessed through a computer, computer system, computer network or other electronic technology of a school district or charter school from kindergarten through grade 12. For purposes of this section, "school property" and "school functions" have the same definition as in § 4112 of this title.

(c) Dissemination of policy and accountability.

(1) Each school district and charter school shall adopt the policy consistent with subsection (b) of this section and submit a copy to the Delaware Department of Education by January 1, 2008, or by January 1 of a newly approved charter school's first year of operation.

(2) The policy shall appear in the student and staff handbook and if no handbook is available, or it is not practical to reprint new handbooks, a copy of the policy will be distributed annually to all students, parents, faculty and staff. The telephone number of the Department of Justice School Ombudsman shall be provided in writing to parents, students, faculty and staff; and shall be on the website of each school and school district. The contact information shall also be prominently displayed in each school.

(3) The policy shall be submitted to the Delaware Department of Education by January 1 of each subsequent year. Access to the policy via the district or charter school's website will meet the criteria as being submitted. Revision or revisions to an existing district or charter school policy shall be submitted to the Department within 30 days of a district's school board or charter school's board of directors

approval of the revision or revisions. The Department shall review such policy or revision or revisions to policy for compliance with state and federal law and regulations promulgated by the Department of Education.

(4) The Delaware Department of Education shall prepare an annual report, which shall include a summary of all reported and all substantiated incidences of bullying, and shall include a summary of the information gathered pursuant to paragraph (b)(2)f. of this section and the results of audits conducted pursuant to paragraph (d)(4) of this section. This report shall be posted on the Delaware Department of Education's website.

(h) Rules and regulations. Notwithstanding any provision to the contrary, the Delaware Department of Education may promulgate rules and regulations necessary to implement this section.

4112E. School teen dating violence and sexual assault act.

(b) Teen dating violence and sexual assault policies. Each school district and charter school serving any grades 7 through 12 shall establish a policy for responding to teen dating violence and sexual assault, which at a minimum, shall include the following components:

(1) Definitions of teen dating violence and sexual assault, the behaviors which constitute each and the consequences for committing offenses;

(2) Guidelines on mandatory reporting and confidentiality as required by statute, district policy, and charter school policy;

(3) A protocol for responding to incidents of teen dating violence and sexual assault which shall include, but is not limited to:

a. Procedures regarding initial response;

b. Procedures for reporting incidents of teen dating violence and sexual assault when a report is required;

c. Procedures for the documentation of incidents;

d. Procedures for working with victims;

e. Procedures for working with perpetrators.

(e) Dissemination of policy and accountability.

(1) Each school district and charter school shall adopt a policy consistent with subsection (b) of this section. Following review by the Domestic Violence Coordinating Council, each school district and charter school shall submit a copy to the Delaware Department of Education by January 5, 2015.

(2) The policy shall appear in the student and staff handbook and if no handbook is available, or it is not practical to reprint new handbooks, a copy of the policy shall be distributed annually to all students, parents, faculty and staff.

(3) The Delaware Department of Education shall prepare an annual report, which shall include a summary of reported incidences of teen dating violence and sexual assault. The report shall be submitted to the Domestic Violence Coordinating Council by August 1 each year.

(i) Rules and regulations. Notwithstanding any provisions to the contrary, the Delaware Department of Education may promulgate rules and regulations necessary to implement this section.

4120. School dress codes and uniforms.

(a) The school board of each public school district shall have authority to establish and enforce a dress code program, which may include school uniforms, for students within the district to promote an orderly, disciplined school environment and to encourage uniformity of student dress. Any school board exercising

its authority under this section shall promulgate rules and regulations governing the establishment and enforcement of its dress code program.

9304. Enforcement by institution.

(a) Anti-hazing policy. Each institution shall adopt a written anti-hazing policy and, pursuant to that policy, shall adopt rules prohibiting students or other persons associated with any organization operating under the sanction of or recognized as an organization by the institution from engaging in any activity which can be described as hazing.

(b) Enforcement and penalties.

(1) Each institution shall provide a program for the enforcement of such rules and shall adopt appropriate penalties for violations of such rules to be administered by the person or agency at the institution responsible for the sanctioning or recognition of such organizations.

ADMINISTRATIVE CODE

603. Compliance with the gun free schools act.

1.0 Written Policy Required

Each school district and charter school requesting assistance under the Elementary and Secondary Education Act (ESEA) shall have a written policy implementing the Gun Free Schools Act [(20 USC 4141) (20 USC 7151)] and 11 Del.C. §1457(j) or its successor statute. At a minimum, the policy must contain the following elements:

1.1 A student who is determined to have brought a firearm to school, or to have possessed a firearm at school, shall be expelled for not less than one year.

1.2 Modification to the expulsion requirement may be made on a case by case basis by the chief school officer. Any modification to the expulsion requirement must be made in writing to the Department.

1.3 The definition of "Firearm" shall be the same as the meaning given to the term in the federal Gun-Free Schools Act.

2.0 Submission of the Policy to the State Department of Education

Each school district and charter school requesting assistance under the ESEA shall submit the following to the Delaware Department of Education by June 1 each year, in such form as the Department requires:

2.1 An assurance that its policies comply with this regulation and with 11 Del.C. §1457(j) or its successor statute.

2.2 Descriptions of the expulsions imposed under 11 Del.C. §1457(j) or its successor statute and under the policy implemented in accord with this regulation.

3.0 Individuals with Disabilities Act

Nothing in this regulation shall alter a district or charter school's duties pursuant to the Individuals with Disabilities Education Act.

4.0 Reporting Requirements and Timelines

4.1 Each public school district and charter school shall have an electronic copy of its policy implementing the Gun-Free Schools Act [(20 USC 4141) (20 USC 7151)] and 11 Del.C. §1457(j) or its successor statute on file with the Department of Education.

4.2 Each public school district and charter school shall provide an electronic copy of any policy implementing the Gun-Free Schools Act [(20 USC 4141) (20 USC 7151)] and 11 Del.C. §1457(j) or its successor statute within ninety (90) days of such revision(s) regardless of whether said revisions were made as a result of changes to Federal, state or local law, regulations, guidance or policies.

605. Student rights and responsibilities.

1.0 Required Policy

1.1 All local school districts and charter schools shall have their own policies on student rights and responsibilities. These policies shall be based on the most current version or reauthorization of Delaware Code, Delaware Administrative Code, federal legislation such as, but not limited to, Individuals with Disabilities Education Act (IDEA), Civil Rights Act, Elementary and Secondary Education Act (ESEA), Section 504 of the Rehabilitation Act, Americans with Disabilities Act (ADA), and the Patsy T. Mink Equal Opportunity in Education Act (Title IX).

2.0 Distribution of Student Rights and Responsibilities Policy

2.1 Each local school district and charter school shall distribute and explain these policies to every student at the beginning of each school year.

2.2 Each district and charter school shall distribute and explain these policies to each student enrolling or re enrolling during the school year.

2.3 Each district and charter school shall post the policies on student rights and responsibilities on its website and notify a parent, guardian or Relative Caregiver of each student in writing where this policy(s) can be accessed. A hard copy shall be provided to a parent, guardian or Relative Caregiver upon request.

3.0 Reporting Requirements and Timelines

3.1 Each local school district and charter school shall have an electronic copy of its current student rights and responsibilities policy(s) on file with the Department of Education.

3.2 Each local school district and charter school shall provide an electronic copy of any student rights and responsibilities policy(s) to the Department within ninety (90) days of such revision(s) regardless of whether said revisions were made as a result of changes to Federal, state or local law, regulations, guidance or policies.

612. Possession, use or distribution of drugs and alcohol.

3.0 Requirement of Each School District and Charter School to have a Policy.

Each school district and charter school shall have a policy on file and update it periodically…

4.0 Reporting Requirements and Timelines

4.1 Each local school district and charter school shall have an electronic copy of its current possession, use and distribution of drugs and alcohol policy on file with the Department of Education.

4.2 When a local school district or charter school revises its possession, use, and distribution of drugs and alcohol policy, it shall provide an electronic copy of the revised policy to the Department within thirty (30] days of the revision, even if the revision was made because of changes in Federal, state or local law, regulations, guidance or policies.

615. School attendance.

1.0 Required Attendance Policy

1.1 Each school district shall have an attendance policy that is in accordance with the requirements of the Delaware Code and which defines and describes the district's rules concerning attendance for students K to 12.

3.0 Reporting Requirements and Timelines

3.1 Each public school district shall have an electronic copy of its current attendance policy on file with the Department of Education.

3.2 Each public school district shall provide an electronic copy of any attendance policy within ninety (90) days of such revision(s) regardless of whether said revisions were made as a result of changes to Federal, state or local law, regulations, guidance or policies.

9304. Enforcement by institution.

(a) Anti-hazing policy. Each institution shall adopt a written anti-hazing policy and, pursuant to that policy, shall adopt rules prohibiting students or other persons associated with any organization operating under the sanction of or recognized as an organization by the institution from engaging in any activity which can be described as hazing.

Scope

STATUTES

1105. School Transportation.

8.0 Pupil Conduct on School Buses

8.1 Districts shall have a policy concerning the behavior of pupils on school buses that shall, at a minimum, contain the following rules which if not followed may result in the suspension or denial of bus riding privileges:

8.1.14 Observe classroom conduct when on the bus.

1457. Possession of a weapon in a safe school and recreation zone; class D, E, or F: class A or B misdemeanor.

(c) For the purpose of this section, "Safe School and Recreation Zone" shall mean:

(1) Any building, structure, athletic field, sports stadium or real property owned, operated, leased or rented by any public or private school including, but not limited to, any kindergarten, elementary, secondary or vocational-technical school or any college or university, within 1,000 feet thereof; or

(2) Any motor vehicle owned, operated, leased or rented by any public or private school including, but not limited to, any kindergarten, elementary, secondary, or vocational-technical school or any college or university; or

(3) Any building or structure owned, operated, leased or rented by any county or municipality, or by the State, or by any board, agency, commission, department, corporation or other entity thereof, or by any private organization, which is utilized as a recreation center, athletic field or sports stadium.

4112. Reporting school crimes.

(b) Criminal violation; mandatory reports.

(1) Whenever a school employee has reliable information that would lead a reasonable person to believe that:

a. A student, school volunteer, or a school employee, has been the victim of:

1. A violent felony,
2. An assault III, or
3. An unlawful sexual contact III,

which occurred on school property or at a school function;

4112D. School bullying prevention.

(b) Prohibition of bullying.

(2) Each school district and charter school shall establish a policy which, at a minimum, includes the following components:

a. A statement prohibiting bullying of any person on school property or at school functions or by use of data or computer software that is accessed through a computer, computer system, computer network or other electronic technology of a school district or charter school from kindergarten through grade 12. For purposes of this section, "school property" and "school functions" have the same definition as in § 4112 of this title.

g. A requirement that, to the extent that funding is available, each school develop a plan for a system of supervision in nonclassroom areas. The plan shall provide for the review and exchange of information regarding nonclassroom areas.

(f) Other defenses.

(1) The physical location or time of access of a technology-related incident is not a valid defense in any disciplinary action by the school district or charter school initiated under this section provided there is sufficient school nexus.

(2) This section does not apply to any person who uses data or computer software that is accessed through a computer, computer system, computer network or other electronic technology when acting within the scope of that person's lawful employment or investigation of a violation of this section in accordance with school district or charter school policy.

9304. Enforcement by institution.

(b) Enforcement and penalties.

(5) Rules adopted pursuant hereto shall apply to acts conducted on or off campus whenever such acts are deemed to constitute hazing.

ADMINISTRATIVE CODE

612. Possession, use or distribution of drugs and alcohol.

1.0 The Following Policy on the Possession, Use, or Distribution of Drugs and Alcohol Shall Apply to All Public School Districts and Charter Schools

1.1 The possession, use and/or distribution of alcohol, a drug, a drug like substance, a look alike substance and drug paraphernalia are wrong and harmful to students and are prohibited within the school environment.

1.2 Student lockers are the property of the school and may be subjected to search at any time with or without reasonable suspicion.

1.3 Student motor vehicle use to and in the school environment is a privilege which may be extended by school districts or charter schools to students in exchange for their cooperation in the maintenance of a safe school atmosphere. Reasonable suspicion of a student's use, possession or distribution of alcohol, a drug, a drug like substance, a look alike substance or drug paraphernalia in the school environment, may result in the student being asked to open an automobile in the school environment to permit school authorities to look for such items. Failure to open any part of the motor vehicle on the request of school authorities may result in the police being called to conduct a search, and will result in loss of the privilege to bring the vehicle on campus.

2.0 The Following Definitions Shall Apply to This Policy and Will be Used in All District and Charter School Policies

"School Environment" shall mean within or on school property, and at school sanctioned or supervised activities, including, for example, on school grounds, on school buses, at functions held on school

grounds, at extra curricular activities held on and off school grounds, on field trips and at functions held at the school in the evening.

877. Tobacco policy.

1.0 Required Policy

In order to improve the health of students and school personnel, each school district and charter school in Delaware shall have a policy which at a minimum:

1.1 Prohibits the use of or distribution of tobacco products in school buildings, on school grounds, in school leased or owned vehicles, even when they are not used for student purposes, and at all school affiliated functions.

2.0 The Tobacco Policy Shall Apply to

2.1 Any building, property or vehicle leased, owned or operated by a school district, charter school or assigned contractor.

2.1.1 School bus operators under contract shall be considered staff for the purpose of this policy.

2.2 Any private building or other property including automobiles or other vehicles used for school activities when students and staff are present.

2.3 Any non educational groups utilizing school buildings or other educational assets.

2.4 Any individual or a volunteer who supervises students off school grounds.

Communication of policy

STATUTES

701. Authority of teachers and administrators to control the disruptive behavior of students.

(g) Each local board of education shall establish, adopt, publish and distribute to students in the district and their parents or guardians policy or standards that:

(1) Specify the general circumstances under which a student may be removed from a classroom or school-sponsored activity, consistent with a teacher's ultimate authority to determine disruptive behavior and to remove a student from a classroom or school-sponsored activity; and

(2) Further define and/or provide examples of "disruptive behavior" set forth in subsection (a) of this section.

2724. Notification to parents and students.

At the beginning of a school year each school district or public school shall notify each student and the parent of each student of the school attendance requirements of this Code, including the procedures and penalties applicable to truancy. The school district or school may determine the form of the notification.

4112D. School bullying prevention.

(c) Dissemination of policy and accountability.

(1) Each school district and charter school shall adopt the policy consistent with subsection (b) of this section and submit a copy to the Delaware Department of Education by January 1, 2008, or by January 1 of a newly approved charter school's first year of operation.

(2) The policy shall appear in the student and staff handbook and if no handbook is available, or it is not practical to reprint new handbooks, a copy of the policy will be distributed annually to all students, parents, faculty and staff. The telephone number of the Department of Justice School Ombudsman

shall be provided in writing to parents, students, faculty and staff; and shall be on the website of each school and school district. The contact information shall also be prominently displayed in each school.

4112E. School teen dating violence and sexual assault act.

(e) Dissemination of policy and accountability.

(2) The policy shall appear in the student and staff handbook and if no handbook is available, or it is not practical to reprint new handbooks, a copy of the policy shall be distributed annually to all students, parents, faculty and staff.

4131. Notification of provisions pertaining to school crimes.

At the commencement of each school year, the school board of each school district shall ensure that each student enrolled in the district and the parent of each student shall receive notice of the following:

(1) The provisions of § 621 of title 11 which prohibit making a false statement which causes evacuation of a school or other place of assembly and the penalties for such an offense;

(2) The provisions of § 4110 of this title, which prohibit disturbing schools or destroying school property and the penalties for such offenses;

(3) The provisions of § 4112 of this title, which require the reporting of school crimes.

ADMINISTRATIVE CODE

605. Student rights and responsibilities.

2.0 Distribution of Student Rights and Responsibilities Policy

2.1 Each local school district and charter school shall distribute and explain these policies to every student at the beginning of each school year.

2.2 Each district and charter school shall distribute and explain these policies to each student enrolling or re enrolling during the school year.

2.3 Each district and charter school shall post the policies on student rights and responsibilities on its website and notify a parent, guardian or Relative Caregiver of each student in writing where this policy(s) can be accessed. A hard copy shall be provided to a parent, guardian or Relative Caregiver upon request.

612. Possession, use or distribution of drugs and alcohol.

3.0 Requirement of Each School District and Charter School to have a Policy.

Each school district and charter school shall have a policy on file and update it periodically. The policy shall Include, as a minimum the following:

3.1 A system of notification of each student and of his/her parent, guardian or Relative Caregiver at the beginning of the school year, of the state and district policies and regulations. In addition a system for the notification of each student and his/her parent, guardian or Relative Caregiver whenever a student enrolls or re enrolls during the school year of the state and district policies and regulations.

615. School attendance.

2.0 Distribution of Attendance Policy

2.1 Each district shall distribute and explain these policies to every student at the beginning of each school year.

2.2 Each district shall distribute and explain these policies to each student enrolling or re enrolling during the school year.

2.3 Each district shall post the attendance policy on its website and notify a parent, guardian or Relative Caregiver of each student in writing where this policy can be accessed. A hard copy shall be provided to a parent, guardian or Relative Caregiver upon request.

624. School district/charter school policy prohibiting cyberbullying.

1.0 Cyberbullying Forbidden

In addition to the policy prohibiting bullying put in place by school districts and charter schools pursuant to 14 Del.C. §4112D(b)(2), each school district and charter school shall also prohibit cyberbullying (as defined herein) by students directed at other students. Incidents of cyberbullying shall be treated by each school district and charter school in the same manner as incidents of bullying, and notice of each school district's and charter school's policy against cyberbullying shall be provided to students, staff, and faculty in the same manner as notice of the school district's and charter school's policy against bullying.

2.0 Definition of Cyberbullying

2.4 Upon implementation of this policy, and again at the beginning of each academic year, each school district and charter school shall inform students in writing of mediums where posting of speech will be presumed to be available to a broad audience within the school community, regardless of privacy settings or other limitations on those postings. From implementation of this policy through the end of the 2013-2014 school year, postings on Facebook, Twitter, MySpace, YouTube, and Pinterest shall be included in each district's and charter school's list of mediums where posting of speech will be presumed to be available to a broad audience within the school community, regardless of privacy settings or other limitations on those postings.

877. Tobacco policy.

1.0 Required Policy

In order to improve the health of students and school personnel, each school district and charter school in Delaware shall have a policy which at a minimum:

1.2 Includes procedures for communicating the policy to students, school staff, parents, guardians or Relative Caregivers, families, visitors and the community at large.

In-School Discipline

Use of multi-tiered discipline approaches

STATUTES

4112D. School bullying prevention.

(b) Prohibition of bullying.

(2) Each school district and charter school shall establish a policy which, at a minimum, includes the following components:

h. An identification of an appropriate range of consequences for bullying.

Teacher authority to remove students from classrooms

STATUTES

701. Authority of teachers and administrators to control the disruptive behavior of students.

(a) "Disruptive behavior" includes conduct that is so unruly, disruptive or abusive that it seriously interferes with a school teacher's or school administrator's ability to communicate with the students in a classroom, with a student's ability to learn, or with the operation of a school or a school-sponsored activity.

(b) While a student is entrusted in their care or supervision, public school teachers and administrators have the same authority to control the behavior of the student and to discipline or punish the student as a parent, custodian, guardian or other person similarly responsible for the care and supervision of the student except as provided in § 702 of this title. The authority includes removing a student from a classroom or school-sponsored activity.

(c) When a teacher removes a student from a classroom or school-sponsored activity in an effort to control the student's disruptive behavior, an on-site school administrator may, upon a written showing of good cause, override the teacher's decision to remove the student from the classroom or school-sponsored activity. Before overriding a teacher's decision, the administrator shall strongly presume that the teacher's decision to remove the student was reasonable and necessary under the circumstances.

(d) When a student is removed from a classroom or school-sponsored activity or is disciplined or punished pursuant to this section, the principal or the principal's designee shall afford the student appropriate due process as required by the federal and State constitutions.

(e) When a student is removed from a classroom or school-sponsored activity, the principal or the principal's designee and the removing teacher shall determine if and when a student may be readmitted to the classroom or school-sponsored activity. If the teacher and principal or principal's designee cannot agree, the superintendent or the superintendent's designee shall make the determination.

(f) When a teacher or school administrator removes a student from a classroom or school-sponsored activity or disciplines or punishes a student, a rebuttable presumption exists that the teacher or administrator acted reasonably, in good faith, and in accordance with State or local board of education policy. The burden of overcoming the presumption shall be upon the student.

(g) Each local board of education shall establish, adopt, publish and distribute to students in the district and their parents or guardians policy or standards that:

(1) Specify the general circumstances under which a student may be removed from a classroom or school-sponsored activity, consistent with a teacher's ultimate authority to determine disruptive behavior and to remove a student from a classroom or school-sponsored activity; and

(2) Further define and/or provide examples of "disruptive behavior" set forth in subsection (a) of this section.

(h) A district shall not establish or adopt a policy or standards that prohibit the removal of a student from a classroom or school-sponsored activity.

(i) No teacher who purports to have acted pursuant to the teacher's rights established by this chapter shall be found liable for civil damages arising from that action unless that teacher's conduct shocks the conscience.

Alternatives to suspension

No relevant statutes found.

Use of corporal punishment

STATUTES

702. Corporal punishment.

(a) "Corporal punishment" means the intentional infliction of physical pain which is used as a means of discipline. "Corporal punishment" includes, but is not limited to, paddling and slapping, when used as a means of discipline.

(b) No public school teacher, administrator, official employee or agent of the School Board may subject a student enrolled in the school district to corporal punishment.

(c) Subsection (b) of this section does not prohibit a public school teacher, administrator, official employee or agent of a school board from:

(1) Using reasonable and necessary force to quell a disturbance or prevent an act that threatens physical injury to any person;

(2) Using reasonable and necessary force to obtain possession of a weapon, or other dangerous object within a pupil's control;

(3) Using reasonable and necessary force for the purpose of self-defense or the defense of others under §§ 464 and 465 of Title 11;

(4) Using reasonable and necessary force for the protection of property under § 466 of Title 11;

(5) Using reasonable and necessary force to prevent a pupil from inflicting harm on that pupil's own self;

(6) Using reasonable and necessary force to protect the safety of others; or

(7) Using incidental, minor or reasonable physical contact designed to maintain order and control.

(d) In determining whether or not a person was acting within the exceptions in subsection (c) of this section, deference shall be given to reasonable, good faith judgments made by the teacher, administrator, official employee or agent.

(e) Nothing in this section shall prohibit, permit or otherwise affect any action taken by the teacher, administrator, official employee or agent of the School Board with regard to a person who is not a pupil enrolled in the school district.

Use of student and locker searches

STATUTES

4119. Metal detectors.

The school board of each school district shall have authority to employ the use of metal detectors, or any other similar security devices, to prevent pupils from bringing dangerous instruments, deadly weapons or any other contraband into the schools. Any school board exercising its authority under this section shall promulgate rules and regulations governing the implementation and use of such security devices.

4121. Video cameras on public school property.

The school board of each school district shall have authority to establish and implement programs to use video cameras for surveillance on public school property, including, but not limited to, classrooms, halls, auditoriums, cafeterias, gymnasiums and parking areas, for the purpose of monitoring student behavior to help ensure the safety of students and teachers. However, no video camera shall be used for classroom surveillance, pursuant to this section, unless the principal of the school and the teacher of the classroom consent to the surveillance.

Before exercising its authority under this section, a school board shall promulgate rules and regulations governing the implementation and use of video cameras in classrooms. However, in no event shall video cameras be used at any time or at any location which would violate a student's reasonable expectation of privacy including, but not limited to, locker rooms, areas where students may disrobe and lavatories.

ADMINISTRATIVE CODE

612. Possession, use or distribution of drugs and alcohol.

1.0 The Following Policy on the Possession, Use, or Distribution of Drugs and Alcohol Shall Apply to All Public School Districts and Charter Schools

1.2 Student lockers are the property of the school and may be subjected to search at any time with or without reasonable suspicion.

1.3 Student motor vehicle use to and in the school environment is a privilege which may be extended by school districts or charter schools to students in exchange for their cooperation in the maintenance of a safe school atmosphere. Reasonable suspicion of a student's use, possession or distribution of alcohol, a drug, a drug like substance, a look alike substance or drug paraphernalia in the school environment, may result in the student being asked to open an automobile in the school environment to permit school authorities to look for such items. Failure to open any part of the motor vehicle on the request of school authorities may result in the police being called to conduct a search, and will result in loss of the privilege to bring the vehicle on campus.

1.4 All alcohol, drugs, drug like substances, look alike substances and drug paraphernalia found in a student's possession shall be turned over to the principal or designee, and be made available, in the case of a medical emergency, for identification. All substances shall be sealed and documented, and, in the case of substances covered by 16 Del.C. Ch. 47, turned over to police as potential evidence.

2.0 The Following Definitions Shall Apply to This Policy and Will be Used in All District and Charter School Policies

"Possess" "Possessing" or "Possession" shall mean that a student has on the student's person, in the student's belongings, or under the student's reasonable control by placement of and knowledge of the whereabouts of, alcohol, a drug, a look alike substance, a drug like substance or drug paraphernalia.

3.0 Requirement of Each School District and Charter School to have a Policy.

Each school district and charter school shall have a policy on file and update it periodically. The policy shall Include, as a minimum the following:

3.5 A written policy on search and seizure.

Other in-school disciplinary approaches

STATUTES

9304. Enforcement by institution.

(b) Enforcement and penalties.

(2) Such penalties may include the imposition of fines, the withholding of diplomas or transcripts pending compliance with the rules or pending payment of fines and the imposition of probation, suspension or dismissal.

Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements

Grounds for possible suspension or expulsion

ADMINISTRATIVE CODE

612. Possession, use or distribution of drugs and alcohol.

3.0 Requirement of Each School District and Charter School to have a Policy.

Each school district and charter school shall have a policy on file and update it periodically. The policy shall Include, as a minimum the following:

3.7 A discipline policy which contains, at a minimum, the following penalties for infractions of state, district, and charter school drug policies.

3.7.1 Use/Impairment: For a first offense, if a student is found to be only impaired and not in violation of any other policies, he/she shall be suspended for up to 10 days, or placed in an alternative setting for up to 10 days, depending upon the degree of impairment, the nature of the substance used, and other aggravating or mitigating factors. For a second or subsequent offense, a student may be expelled or placed in an alternative setting for the rest of the school year.

3.7.2 Possession of alcohol, a drug, a drug like substance, and/or a look alike substance, in an amount typical for personal use, and drug paraphernalia: For a first offense, the student shall be suspended for 5 to 10 days. For a second or subsequent offense, a student may be expelled for the rest of the school year or placed in an alternative setting for the rest of the school year.

3.7.3 Possession of a quantity of alcohol, a drug, a drug like substance, a look alike substance and drug paraphernalia in an amount which exceeds an amount typical for personal use, or distribution of the above named substances or paraphernalia: the student shall be suspended for 10 days, or placed in an alternative setting for 10 days. Depending on the nature of the substance, the quantity of the substance and/or other aggravating or mitigating factors, the student also may be expelled.

Grounds for mandatory suspension or expulsion

STATUTES

1457. Possession of a weapon in a safe school and recreation zone; class D, E, or F: class A or B misdemeanor.

(j) The penalty for possession of a weapon in a Safe School and Recreation Zone shall be:

(5) In the event that an elementary or secondary school student possesses a firearm or other deadly weapon in a Safe School and Recreation Zone in addition to any other penalties contained in this section, the student shall be expelled by the local school board or charter school board of directors for a period of not less than 180 days unless otherwise provided for in federal or state law. The local school board or charter school board of directors may, on a case by case basis, modify the terms of the expulsion.

ADMINISTRATIVE CODE

603. Compliance with the gun free schools act.

1.0 Written Policy Required

Each school district and charter school requesting assistance under the Elementary and Secondary Education Act (ESEA) shall have a written policy implementing the Gun Free Schools Act [(20 USC 4141) (20 USC 7151)] and 11 Del.C. §1457(j) or its successor statute. At a minimum, the policy must contain the following elements:

1.1 A student who is determined to have brought a firearm to school, or to have possessed a firearm at school, shall be expelled for not less than one year.

612. Possession, use or distribution of drugs and alcohol.

3.0 Requirement of Each School District and Charter School to have a Policy.

Each school district and charter school shall have a policy on file and update it periodically. The policy shall Include, as a minimum the following:

3.7 A discipline policy which contains, at a minimum, the following penalties for infractions of state, district, and charter school drug policies.

3.7.1 Use/Impairment: For a first offense, if a student is found to be only impaired and not in violation of any other policies, he/she shall be suspended for up to 10 days, or placed in an alternative setting for up to 10 days, depending upon the degree of impairment, the nature of the substance used, and other aggravating or mitigating factors. For a second or subsequent offense, a student may be expelled or placed in an alternative setting for the rest of the school year.

3.7.2 Possession of alcohol, a drug, a drug like substance, and/or a look alike substance, in an amount typical for personal use, and drug paraphernalia: For a first offense, the student shall be suspended for 5 to 10 days. For a second or subsequent offense, a student may be expelled for the rest of the school year or placed in an alternative setting for the rest of the school year.

3.7.3 Possession of a quantity of alcohol, a drug, a drug like substance, a look alike substance and drug paraphernalia in an amount which exceeds an amount typical for personal use, or distribution of the above named substances or paraphernalia: the student shall be suspended for 10 days, or placed in an alternative setting for 10 days. Depending on the nature of the substance, the quantity of the substance and/or other aggravating or mitigating factors, the student also may be expelled.

Limitations, conditions or exclusions for use of suspension and expulsion

STATUTES

8104. Academic institution; wrongful dismissal or refusal to admit.

An academic institution may not discipline, dismiss or otherwise penalize or threaten to discipline, dismiss or otherwise penalize a student for refusing to disclose any information specified in § 8103(a) or (b) of this title. It shall also be unlawful for a public or nonpublic academic institution to fail or refuse to admit any applicant as a result of the applicant's refusal to disclose any information specified in § 8103(a) or (b) of this title.

ADMINISTRATIVE CODE

612. Possession, use or distribution of drugs and alcohol.

2.0 The Following Definitions Shall Apply to This Policy and Will be Used in All District and Charter School Policies

"Expulsion" shall mean exclusion from school for a period determined by the local district or charter school not to exceed the total number of student days. The process for readmission shall be determined by the local district or charter school.

Administrative procedures related to suspension and expulsion

STATUTES

122. Rules and regulations.

(b) The Department shall prescribe rules and regulations:

(26) Establishing, for purposes of student discipline, uniform definitions for student conduct which may result in alternative placement or expulsion, uniform due process procedures for alternative placement meetings and expulsion hearings, and uniform procedures for processing Attorney General's reports. Such regulations shall apply to all districts and charter schools. This paragraph shall not be interpreted to restrict the ability of district and charter schools to determine which student conduct shall result in expulsion or an alternative placement.

701. Authority of teachers and administrators to control the disruptive behavior of students.

(b) While a student is entrusted in their care or supervision, public school teachers and administrators have the same authority to control the behavior of the student and to discipline or punish the student as a parent, custodian, guardian or other person similarly responsible for the care and supervision of the student except as provided in § 702 of this title. The authority includes removing a student from a classroom or school-sponsored activity.

(c) When a teacher removes a student from a classroom or school-sponsored activity in an effort to control the student's disruptive behavior, an on-site school administrator may, upon a written showing of good cause, override the teacher's decision to remove the student from the classroom or school-sponsored activity. Before overriding a teacher's decision, the administrator shall strongly presume that the teacher's decision to remove the student was reasonable and necessary under the circumstances.

(d) When a student is removed from a classroom or school-sponsored activity or is disciplined or punished pursuant to this section, the principal or the principal's designee shall afford the student appropriate due process as required by the federal and State constitutions.

(e) When a student is removed from a classroom or school-sponsored activity, the principal or the principal's designee and the removing teacher shall determine if and when a student may be readmitted to the classroom or school-sponsored activity. If the teacher and principal or principal's designee cannot agree, the superintendent or the superintendent's designee shall make the determination.

(f) When a teacher or school administrator removes a student from a classroom or school-sponsored activity or disciplines or punishes a student, a rebuttable presumption exists that the teacher or administrator acted reasonably, in good faith, and in accordance with State or local board of education policy. The burden of overcoming the presumption shall be upon the student.

(g) Each local board of education shall establish, adopt, publish and distribute to students in the district and their parents or guardians policy or standards that:

(1) Specify the general circumstances under which a student may be removed from a classroom or school-sponsored activity, consistent with a teacher's ultimate authority to determine disruptive behavior and to remove a student from a classroom or school-sponsored activity; and

(2) Further define and/or provide examples of "disruptive behavior" set forth in subsection (a) of this section.

(h) A district shall not establish or adopt a policy or standards that prohibit the removal of a student from a classroom or school-sponsored activity.

(i) No teacher who purports to have acted pursuant to the teacher's rights established by this chapter shall be found liable for civil damages arising from that action unless that teacher's conduct shocks the conscience.

4122. Parent's failure to attend school conference with superintendent; subpoena to compel attendance.

(a) "Parent" as used in this section means natural parent, adoptive parent, any person legally charged with the care or custody of a student under 18 years of age, or any person who has assumed responsibility for the care of a student under 18 years of age including any person acting as a caregiver pursuant to the provisions of § 202(f) of this title.

(b) When a parent fails to attend, participate or respond to a public school or charter school superintendent's request for a conference to discuss matters involving alleged violations of school rules or regulations by the parent's child, the public school or charter school superintendent or the superintendent's designee may request that the Justice of the Peace Court issue a subpoena to compel the presence of the parent at a conference with the superintendent.

(c) Prior to the issuance of a subpoena to compel the presence of a parent, the superintendent or a designee must provide evidence that the superintendent or a designee has:

(1) Made a reasonable attempt to schedule the conference at a time that does not conflict with the employment hours of the parent; and

(2) Sent written notice of the conference by regular United States mail to the address of record of the parent, which notice shall include the reason for the conference and a statement that failure to schedule or attend the conference may result in the issuance of a subpoena.

(d) After verifying that the superintendent or a designee has sent the required notice, the Justice of the Peace Court may, in its discretion, issue a subpoena pursuant to Justice of the Peace Civil Rule 18 which shall compel the presence of the parent at a conference with the superintendent.

(e) If a parent fails to obey a subpoena properly served under this section, the superintendent may file a motion for an order holding the parent in contempt of court. The Justice of the Peace Court shall have jurisdiction over this matter. A parent found guilty of contempt for failure to appear at a conference after receiving a subpoena may be ordered by the Court to attend school with the student, attend family counseling, and/or comply with such other conditions as the Court may order.

(f) Proceedings against a parent of a suspended or expelled child may also be filed pursuant to subchapter II of Chapter 27 of this title for each day that the child is absent beyond the period of suspension or expulsion without a valid excuse as a result of the parent's failure to attend or schedule a conference after having received notification of the suspension or expulsion.

ADMINISTRATIVE CODE

603. Compliance with the gun free schools act.

1.0 Written Policy Required

Each school district and charter school requesting assistance under the Elementary and Secondary Education Act (ESEA) shall have a written policy implementing the Gun Free Schools Act [(20 USC 4141) (20 USC 7151)] and 11 Del.C. §1457(j) or its successor statute. At a minimum, the policy must contain the following elements:

1.1 A student who is determined to have brought a firearm to school, or to have possessed a firearm at school, shall be expelled for not less than one year.

1.2 Modification to the expulsion requirement may be made on a case by case basis by the chief school officer. Any modification to the expulsion requirement must be made in writing to the Department.

3.0 Individuals with Disabilities Act

Nothing in this regulation shall alter a district or charter school's duties pursuant to the Individuals with Disabilities Education Act.

In-school suspension

No relevant statutes found.

Return to school following removal

STATUTES

701. Authority of teachers and administrators to control the disruptive behavior of students.

(e) When a student is removed from a classroom or school-sponsored activity, the principal or the principal's designee and the removing teacher shall determine if and when a student may be readmitted to the classroom or school-sponsored activity. If the teacher and principal or principal's designee cannot agree, the superintendent or the superintendent's designee shall make the determination.

4130. Expulsion of students; re-enrollment; loss of driver's license.

(a) In any case where a public school student is expelled from a school district or a charter school, the expelled student shall not be permitted to reenroll in any other school district or charter school in this State until after the full period of expulsion from the school district or charter school where the student was expelled shall have expired.

(b) Prior to enrolling any student who attempts to transfer to a school district or charter school in this State, the superintendent of that school district, or the superintendent's designee, the head of a charter school or such head's designee shall first contact the last school district or charter school where the student was last enrolled, if in this State, to determine if that student is under a current expulsion order in that district or charter school. If it is determined that the student is under a current expulsion order, that student shall not be permitted to enroll until the expulsion order has expired as set forth in subsection (a) of this section.

(c) Any student who has been expelled from a public school in this State or in any other state shall, prior to enrollment in any public school in this State, completely fulfill the terms of that expulsion.

ADMINISTRATIVE CODE

612. Possession, use or distribution of drugs and alcohol.

3.0 Requirement of Each School District and Charter School to have a Policy.

Each school district and charter school shall have a policy on file and update it periodically. The policy shall Include, as a minimum the following:

3.10 A policy which sets out the conditions for return after expulsion for alcohol or drug infractions.

Use of restraint and seclusion

STATUTES

701. Authority of teachers and administrators to control the disruptive behavior of students.

(a) "Disruptive behavior" includes conduct that is so unruly, disruptive or abusive that it seriously interferes with a school teacher's or school administrator's ability to communicate with the students in a classroom, with a student's ability to learn, or with the operation of a school or a school-sponsored activity.

(b) While a student is entrusted in their care or supervision, public school teachers and administrators have the same authority to control the behavior of the student and to discipline or punish the student as a parent, custodian, guardian or other person similarly responsible for the care and supervision of the student except as provided in §§ 702 and 4112F of this title. The authority includes removing a student from a classroom or school-sponsored activity.

(c) When a teacher removes a student from a classroom or school-sponsored activity in an effort to control the student's disruptive behavior, an on-site school administrator may, upon a written showing of good cause, override the teacher's decision to remove the student from the classroom or school-sponsored activity. Before overriding a teacher's decision, the administrator shall strongly presume that the teacher's decision to remove the student was reasonable and necessary under the circumstances.

(d) When a student is removed from a classroom or school-sponsored activity or is disciplined or punished pursuant to this section, the principal or the principal's designee shall afford the student appropriate due process as required by the federal and State constitutions.

(e) When a student is removed from a classroom or school-sponsored activity, the principal or the principal's designee and the removing teacher shall determine if and when a student may be readmitted to the classroom or school-sponsored activity. If the teacher and principal or principal's designee cannot agree, the superintendent or the superintendent's designee shall make the determination.

(f) When a teacher or school administrator removes a student from a classroom or school-sponsored activity or disciplines or punishes a student, a rebuttable presumption exists that the teacher or administrator acted reasonably, in good faith, and in accordance with State or local board of education policy. The burden of overcoming the presumption shall be upon the student.

(g) Each local board of education shall establish, adopt, publish and distribute to students in the district and their parents or guardians policy or standards that:

(1) Specify the general circumstances under which a student may be removed from a classroom or school-sponsored activity, consistent with a teacher's ultimate authority to determine disruptive behavior and to remove a student from a classroom or school-sponsored activity; and

(2) Further define and/or provide examples of "disruptive behavior" set forth in subsection (a) of this section.

(h) A district shall not establish or adopt a policy or standards that prohibit the removal of a student from a classroom or school-sponsored activity.

(i) No teacher who purports to have acted pursuant to the teacher's rights established by this chapter shall be found liable for civil damages arising from that action unless that teacher's conduct shocks the conscience.

4112F. Limitations on use of seclusion and restraint.

(a) Definitions. The following words, terms, and phrases when used in this section, shall have the meaning ascribed to them except where the context clearly indicates a different meaning:

(1) "Chemical restraint" means a drug or medication used on a student to control behavior or restrict freedom of movement that is either not medically prescribed for the standard treatment of a student's medical or psychiatric condition or not administered as prescribed.

(2) "Mechanical restraint" means the application of any device or object that restricts a student's freedom of movement or normal access to a portion of the body that the student cannot easily remove. "Mechanical restraint" does not include devices or objects used by trained school personnel, or used by a student, for the specific and approved therapeutic or safety purposes for which they were designed and, if applicable, prescribed, including the following:

a. Restraints for medical immobilization;

b. Adaptive devices or mechanical supports used to allow greater freedom of movement stability than would be possible without use of such devices or mechanical supports;

c. Vehicle safety restraints when used as intended during the transport of a student in a moving vehicle;

d. Instruction and use of restraints as part of a criminal justice or other course; or

e. Notwithstanding their design for other purposes, adaptive use of benign devices or objects, including mittens and caps, to deter self-injury.

(3) "Physical restraint" means a restriction imposed by a person that immobilizes or reduces the ability of a student to freely move arms, legs, body, or head. "Physical restraint" does not include physical contact that:

a. Helps a student respond or complete a task;

b. Is needed to administer an authorized health-related service or procedure; or

c. Is needed to physically escort a student when the student does not resist or the student's resistance is minimal.

(4) "Public school personnel" means an employee or contractor of a public school district or charter school. "Public school personnel" does not include the following:

a. A law-enforcement officer as defined in § 9200(b) of Title 11; or

b. An employee or contractor providing educational services within a Department of Correction or Division of Youth Rehabilitative Services facility.

(5) "Seclusion" means the involuntary confinement of a student alone in a room, enclosure, or space that is either locked or, while unlocked, physically disallows egress. The use of a "timeout" procedure during which a staff member remains accessible to the student shall not be considered "seclusion".

(6) "Timeout" means a behavior management technique in which, to provide a student with the opportunity to reflect or regain self-control, a student is separated from others for a limited period in a setting that is not locked and the exit is not physically blocked by furniture, closed door held shut from outside, or other inanimate object.

(b) Prohibition and restriction on use.

(1) Public school personnel are prohibited from imposing on any student the following:

a. Chemical restraint; and

b. Subject to waiver authorized pursuant to paragraph (c)(4) of this section, mechanical restraint and seclusion.

(2) Public school personnel may impose physical restraint only in conformity with all of the following standards:

a. The student's behavior presents a significant and imminent risk of bodily harm to self or others;

b. The physical restraint does not interfere with the student's ability to communicate in the student's primary language or mode of communication;

c. The physical restraint does not interfere with the student's ability to breathe or place weight or pressure on the student's head, throat, or neck;

d. The physical restraint does not recklessly exacerbate a medical or physical condition of the student;

e. Less restrictive interventions have been ineffective in stopping the imminent risk of bodily harm to the student or others, except in case of a rare and clearly unavoidable emergency circumstance posing imminent risk of bodily harm, including, without limitation, intervening in a student initiated physical assault or altercation;

f. For a student with a disability as defined in Chapter 31 of this title or 34 C.F.R. Part 104, the physical restraint does not contravene provisions in an individualized education program (IEP), behavior intervention plan, accommodation plan, or any other planning document for the individual student;

g. Personnel use only the amount of force necessary to protect the student or others from the threatened harm;

h. The physical restraint ends when a medical condition occurs putting the student at risk of harm or the student's behavior no longer presents an imminent risk of bodily harm to the student or others;

i. The physical restraint is within the scope of force authorized by § 468 of Title 11; and

j. The physical restraint conforms to applicable regulations promulgated by the Department of Education.

(c) Department of Education role; regulations. --

(1) The Department of Education shall promulgate regulations implementing this section. Such regulations shall include, but not be limited to, the following:

a. Requirement of uniform public school data collection on each use of physical restraint, by school, which includes demographic information on affected students such as age, gender, race, ethnicity, and disability category, if any;

b. Requirement of timely parental notice in event of use of physical restraint;

c. Special procedures and safeguards applicable to use of physical restraint for students with disabilities as defined in Chapter 31 of this title or 34 C.F.R. Part 104; and

d. Recommended or required training of public school personnel in implementing this section.

(2) To facilitate data collection and analysis, the Department of Education may adopt a uniform reporting document and may require reporting of data in a standardized electronic or nonelectronic format.

(3) The Department of Education shall issue an annual report on use of physical restraint which includes rates of usage by school and by subcategories identified in paragraph (c)(1)a. of this section, identifies trends, and analyzes significant results.

(4) Unless proscribed by federal law, the Secretary of Education may issue a waiver of the prohibition on mechanical restraint and seclusion for an individual student based on compelling justification and subject to specific conditions and safeguards which must include a requirement of continuous visual staff monitoring and parental notice of each use of mechanical restraint or seclusion.

(d) Effect on other laws. The limitations and prohibitions described in this section are in addition to, and not in derogation of, any other constitutional, statutory, or regulatory rights otherwise conferred by federal or state law or regulation.

Alternative placements

STATUTES

1604. Treatment of severe discipline problems component.

The Department of Education shall establish a program component which will provide alternative educational and related services for the more severe discipline problems in the public schools. This component will serve primarily secondary school students, including but not limited to: youngsters who have been expelled from regular schools, students who may be subject to expulsion, and others who have serious violations of the local school district discipline code. The Department of Education shall provide rules and regulations for the conduct of programs authorized under this section subject to the following limitations:

(1) School districts shall make application to the Department of Education for funding to implement programs authorized under this section. Preference shall be given to applications from consortia of school districts. To the extent feasible, programs offered under this component should serve eligible pupils within a county, however, multiple sites may be operated by a single consortia of school districts within a county.

(2) Any application submitted under this section shall specify the types and level of services to be provided and an estimate of the number of youngsters to be served. The application shall also include a budget of proposed expenditures during a fiscal year. That budget shall indicate, at a minimum, the funds being requested from appropriations authorized under this section and funds to be obtained from all other sources.

(3) All applications submitted to the Department of Education under this section shall indicate an agreement to fund at least 30 percent of the total cost of services provided from sources of funding other than those authorized under this section.

(4) All projects funded under this section shall submit an annual evaluation report on the effectiveness of the program to the Department of Education. Such report shall incorporate the data and information specified by the Department.

(5) School districts shall be permitted to use funds collected in accordance with the provisions of Chapter 6 of this title to make tuition payments for youngsters assigned to programs authorized under this section.

(6) Nothing in this section shall prohibit a consortia of school districts from contracting for educational or related services with public or private agencies when operating programs authorized under this section.

(7) The provisions of § 4130 of this title shall not apply to youngsters enrolled in programs authorized under this section.

(8) A student 16 years of age or less who is expelled or suspended pending expulsion by a local school district or charter school shall be presumed appropriate for placement in a Consortium Discipline Alternative Program site, provided the student is not otherwise ineligible by statute or regulation for placement in such a program. The burden of establishing that a student is not appropriate for placement in a Consortium Discipline Alternative Program shall be on the local school district or charter school. Any student not shown by preponderance of evidence to be inappropriate for placement in a Consortium Discipline Alternative Program shall be placed in such a program.

ADMINISTRATIVE CODE

611. Consortium discipline alternative programs for treatment of severe discipline problems.

1.0 Eligible Students

1.1 Except as otherwise provided in this regulation, any student who is expelled by a local school district, who is subject to expulsion or who otherwise seriously violates the district discipline code shall be eligible for placement at a Consortium Discipline Alternative Program site.

1.2 Subject to Section 11.0, local school districts shall place a student at a Consortium Discipline Alternative Program site if the district board:

1.2.1 Has expelled the student for a violation of the district's discipline code or, determined that the student has been suspended for engaging in conduct that could result in expulsion and has not required the student to participate in other options such as behavioural contracts or counseling or, determined that the student has exhibited such severe discipline problems that expulsion is imminent; and

1.2.2 Determined the student is not ineligible for placement at a Consortium Discipline Alternative Placement pursuant to the conditions in 2.0.

1.3 School districts may place a student in a Consortium Discipline Alternative Program for classroom or school environment disruptions only if:

1.3.1 Such disruptions are chronic and repetitive; and

1.3.2 The student has participated in all available School Based Intervention Programs pursuant to 14 DE Admin. Code 609 and continues to routinely and seriously disrupt the classroom and impede the learning of other students.

2.0 Ineligible Students

2.1 Any student expelled or suspended pending expulsion for behavior equivalent to a violation of the following is not eligible for, and may not be placed at a Consortium Discipline Alternative Program site.

2.1.1 11 Del.C. §613 Assault in the First Degree; class C felony; or

2.1.2 11 Del.C. §1457 Possession of a Weapon in a Safe School and Recreation Zone;class D, E, or F: class A or B misdemeanor; or

2.1.3 11 Del.C. §802 Arson in the Second Degree affirmative defense; class D felony; or

2.1.4 11 Del.C. §803 Arson in the first degree; class C felony; or

2.1.5 11 Del.C. §770 Rape in the fourth degree; class C felony; or

2.1.6 11 Del.C. §771 Rape in the third degree; class B felony; or

2.1.7 11 Del.C. §772 Rape in the second degree class B felony; or

2.1.8 11 Del.C. §773 Rape in the first degree class A felony; or

2.1.9 16 Del.C. §4753A Trafficking in marijuana, cocaine, illegal drugs, methamphetamine, LSD, or designed drugs or

2.1.10 Any behavior equivalent to or greater than the offenses in 2.1 through 2.9.

2.2 Provided further, any student expelled or suspended pending expulsion may not be placed at a Consortium Discipline Alternative Program if the school district determines, by a preponderance of the evidence, the student is inappropriate for such placement. When determining whether a student is inappropriate for placement in a Consortium Discipline Alternative Program, the school district shall consider the availability of space in the program to serve the student, and the student's age.

3.0 Written Decision Required

When a school board expels a student but determines the student shall not be placed at a Consortium Discipline Alternative Program, the school district's decision shall be in writing and address with specificity the reason for non placement and the evidence in support thereof. Such decisions shall be submitted to the Delaware Department of Education's Office of School Climate and Discipline within five working days of such decision with a copy to the student's parent, guardian, or Relative Caregiver.

4.0 Informing the Parents, Guardians, Relative Caregiver or Students (If the Student is Age 18 or Older)

Districts shall inform the parents, guardians, Relative Caregiver or students (if the student is age 18 or older) of the alternative education options that are then currently available to them if the students have been expelled or expulsion is being considered. These options may include, but are not be limited to, the Consortium Discipline Alternative Program, a GED Program, James H. Groves High School and continued special education and related services for children with disabilities as determined by the student's individual eligibility for participation in such programs. A student's eligibility for such alternative education options is determined by the requirements of such programs.

5.0 Grade Level to be Served

Eligible students in the Consortium Discipline Alternative Program shall be primarily those who are enrolled in grades 6 through 12, however students in the lower grades may also be served through Alternative Program funds.

6.0 Placement at Consortium Discipline Alternative Program Sites

6.1 Each district shall establish an Alternative Placement Team to review each case and prescribe the appropriate placement for students. The Placement Team, in concert with the Consortium Discipline Alternative Program staff, shall design an Individual Service Plan (ISP) for each student that will include educational goals, behavioral goals, and services needed by both students and their families. The ISP shall include a tentative transition plan.

6.1.1 The Alternative Placement Team shall be composed of a representative of the Consortium Discipline Alternative Program staff; a district level coordinator who will be designated by the superintendent; the building level principal, assistant principal or other person as appropriate; the student's custodial adult; guidance counselor or school social worker; and a representative from the Department of Services for Children Youth and Their Families (DSCYF) with knowledge of the student's and family's needs as appropriate. Other individuals may be invited as determined by the placement team.

6.1.1.1 Students who are being placed at a Consortium Discipline Alternative Program site as a transition from DSCYF facilities shall have an ISP developed in concert with the DSCYF facility team, the Alternative Placement Team, and the student's custodial adult.

6.1.2 If students from either a school district or DSCYF facility are children with disabilities, appropriate special education staff shall be included in placement considerations. The Alternative Placement Team and the Individual Education Program (IEP) Team may be the same so long as the membership of the IEP Team meets the requirements of 14 DE Admin. Code 925.

7.0 September 30 Enrollment Count

7.1 Students enrolled at a Consortium Discipline Alternative Programs site shall be counted in the enrollment of the sending school.

7.2 Students shall be reported for the level of special education service as defined by the current IEP.

7.3 If a student was enrolled the previous year in a Career and Technical Program in the reporting school, the students shall be reported as enrolled in the next Career and Technical course in the program series.

8.0 Consortium Discipline Alternative Program Setting

8.1 The Consortium Discipline Alternative Program setting shall be apart from the regular school setting, however, a part of a school building may be used for these programs if the students do not interact with the regular school population or use any school facility at the same time as the regular school population.

8.1.1 Use of other agency facilities (Boys and Girls Club, YMCA, YWCA, etc.) is encouraged. Consortium Discipline Alternative Program settings shall meet all applicable health and safety laws and regulations for student occupancy.

9.0 Consortium Discipline Alternative Program Design

9.1 The Consortium Discipline Alternative Program shall include an educational program designed to maintain and improve skills aligned to the Delaware State Content Standards that will allow students to reenter the regular school program with a reasonable chance and expectation for success. Opportunities for academic acceleration shall also be provided.

9.1.1 The academic program shall include applied learning activities that encourage students' active participation in the learning process as opposed to work sheets and other "seat oriented" drill exercises. Study skills, test taking strategies for academic confidence building, and Character Education shall be integrated with the Delaware State Content Standards.

9.1.1.1 Credit for work accomplished in the Consortium Discipline Alternative Program setting shall be automatically transferred to the sending school.

9.1.2 All students enrolled in Consortium Discipline Alternative Programs shall participate in the Delaware Student Testing Program (DSTP) or successor statewide student assessment program, and Student Success Plans (SSP) as required by 14 DE Admin. Code 505.

10.0 Staffing

Instructional staff shall include educators who are licensed and certified in the content areas of English language arts, mathematics, science and social studies.

11.0 Children With Disabilities

11.1 Nothing in this regulation shall alter a district's or charter school's duties under the Individual with Disabilities Act (IDEA) or 14 DE Admin. Code 922 through 929. Nor shall this regulation prevent a district or charter school from providing supportive instruction to children with disabilities in a manner consistent with the Individuals with Disabilities Education Act (IDEA) and Department regulations.

11.2 Nothing in this regulation shall alter a district's or charter schools's duties under Section 504 of the Rehabilitation Act of 1973 or the Americans with Disabilities Act to students who are qualified individuals with disabilities. Nothing in this regulation shall prevent a district or charter school from providing supportive instruction to such students.

12.0 Charter School Students

12.1 A charter school, subject to the limitations of 14 Del.C. 504A(8), shall pursue referral of any student meeting the requirements of Section 1.2 into a Consortium Discipline Alternative Program pursuant to the provisions of Chapter 16 of Title 14 of the Delaware Code.

12.2 To the extent applicable, a charter school placing a student in a Consortium Discipline Alternative Program shall be subject to the provisions of this regulation.

13.0 Evaluation

The Department of Education shall annually evaluate the effectiveness of the Consortium Discipline Alternative Programs using criteria that includes student demographic data, types of interventions employed, and prior versus subsequent behavioral and academic patterns, parent involvement, agency involvement and recidivism. In addition, the Department of Education shall annually review the decisions acquired pursuant to Section 3.0 to assess the reasons for non-placement of students in the alternative

programs, including lack of space and number, age, race and special education status of excluded students by district and charter school. Grantees shall compile and submit data based on uniform standards and format established by the Department.

612. Possession, use or distribution of drugs and alcohol.

3.0 Requirement of Each School District and Charter School to have a Policy.

Each school district and charter school shall have a policy on file and update it periodically. The policy shall Include, as a minimum the following:

3.7 A discipline policy which contains, at a minimum, the following penalties for infractions of state, district, and charter school drug policies.

3.7.1 Use/Impairment: For a first offense, if a student is found to be only impaired and not in violation of any other policies, he/she shall be suspended for up to 10 days, or placed in an alternative setting for up to 10 days, depending upon the degree of impairment, the nature of the substance used, and other aggravating or mitigating factors. For a second or subsequent offense, a student may be expelled or placed in an alternative setting for the rest of the school year.

3.7.2 Possession of alcohol, a drug, a drug like substance, and/or a look alike substance, in an amount typical for personal use, and drug paraphernalia: For a first offense, the student shall be suspended for 5 to 10 days. For a second or subsequent offense, a student may be expelled for the rest of the school year or placed in an alternative setting for the rest of the school year.

3.7.3 Possession of a quantity of alcohol, a drug, a drug like substance, a look alike substance and drug paraphernalia in an amount which exceeds an amount typical for personal use, or distribution of the above named substances or paraphernalia: the student shall be suspended for 10 days, or placed in an alternative setting for 10 days. Depending on the nature of the substance, the quantity of the substance and/or other aggravating or mitigating factors, the student also may be expelled.

Disciplinary Approaches Addressing Specific Infractions and Conditions

Firearms (as required by the Guns-Free Schools Act)

STATUTES

1457. Possession of a weapon in a safe school and recreation zone; class D, E, or F: class A or B misdemeanor.

(a) Any person who commits any of the offenses described in subsection (b) of this section, or any juvenile who possesses a firearm or other deadly weapon, and does so while in or on a "Safe School and Recreation Zone" shall be guilty of the crime of possession of a weapon in a Safe School and Recreation Zone.

(b) The underlying offenses in Title 11 shall be:

(1) Section 1442. -- Carrying a concealed deadly weapon; class G felony; class D felony.

(2) Section 1444. -- Possessing a destructive weapon; class E felony.

(3) Section 1446. -- Unlawfully dealing with a switchblade knife; unclassified misdemeanor.

(4) Section 1448. -- Possession and purchase of deadly weapons by persons prohibited; class F felony.

(5) Section 1452. -- Unlawfully dealing with knuckles-combination knife; class B misdemeanor.

(6) Section 1453. -- Unlawfully dealing with martial arts throwing star; class B misdemeanor.

(c) For the purpose of this section, "Safe School and Recreation Zone" shall mean:

(1) Any building, structure, athletic field, sports stadium or real property owned, operated, leased or rented by any public or private school including, but not limited to, any kindergarten, elementary, secondary or vocational-technical school or any college or university, within 1,000 feet thereof; or

(2) Any motor vehicle owned, operated, leased or rented by any public or private school including, but not limited to, any kindergarten, elementary, secondary, or vocational-technical school or any college or university; or

(3) Any building or structure owned, operated, leased or rented by any county or municipality, or by the State, or by any board, agency, commission, department, corporation or other entity thereof, or by any private organization, which is utilized as a recreation center, athletic field or sports stadium.

(d) Nothing in this section shall be construed to preclude or otherwise limit a prosecution of or conviction for a violation of this chapter or any other provision of law. A person may be convicted both of the crime of possession of a weapon in a Safe School and Recreation Zone and of the underlying offense as defined elsewhere by the laws of the State.

(e) It shall not be a defense to a prosecution for a violation of this section that the person was unaware that the prohibited conduct took place on or in a Safe School and Recreation Zone.

(f) It shall be an affirmative defense to a prosecution for a violation of this section that the weapon was possessed pursuant to an authorized course of school instruction, or for the purpose of engaging in any school-authorized sporting or recreational activity. The affirmative defense established in this section shall be proved by a preponderance of the evidence. Nothing herein shall be construed to establish an affirmative defense with respect to a prosecution for any offense defined in any other section of this chapter.

(g) It is an affirmative defense to prosecution for a violation of this section that the prohibited conduct took place entirely within a private residence, and that no person under the age of 18 was present in such private residence at any time during the commission of the offense. The affirmative defense established in this section shall be proved by the defendant by a preponderance of the evidence. Nothing herein shall be construed to establish an affirmative defense with respect to a prosecution for an offense defined in any other section of this chapter.

(h) This section shall not apply to any law enforcement or police officer, or to any security officer as defined in Chapter 13 of Title 24.

(i) For purposes of this section only, "deadly weapon" shall include any object described in § 222(5) or (12) of this title or BB guns.

(j) The penalty for possession of a weapon in a Safe School and Recreation Zone shall be:

(1) If the underlying offense is a class B misdemeanor, the crime shall be a class A misdemeanor;

(2) If the underlying offense is an unclassified misdemeanor, the crime shall be a class B misdemeanor;

(3) If the underlying offense is a class E, F, or G felony, the crime shall be one grade higher than the underlying offense.

(4) If the underlying offense is a class D felony, the crime shall also be a class D felony.

(5) In the event that an elementary or secondary school student possesses a firearm or other deadly weapon in a Safe School and Recreation Zone in addition to any other penalties contained in this section, the student shall be expelled by the local school board or charter school board of directors for a period of not less than 180 days unless otherwise provided for in federal or state law. The local school board or charter school board of directors may, on a case by case basis, modify the terms of the expulsion.

4112. Reporting school crimes.

(c) Student possession of weapons and unlawful drugs. Whenever a school employee has reliable information that would lead a reasonable person to believe that a person on school property or at a school function has on his or her person, concealed in that person's possessions, or placed elsewhere on school property:

(2) Any deadly weapon, destructive weapon, dangerous instrument or incendiary or explosive device as prohibited by Title 11,

The school employee shall immediately report the incident to the principal, who shall conduct a thorough investigation. If the investigation verifies that good reason exists to believe that a crime has been committed, the principal shall immediately notify the appropriate police agency of the incident. If the police agency determines that probable cause exists to believe that a crime has been committed, then the principal shall file a written report of the incident with the Department of Education within 5 working days.

ADMINISTRATIVE CODE

603. Compliance with the gun free schools act.

1.0 Written Policy Required

Each school district and charter school requesting assistance under the Elementary and Secondary Education Act (ESEA) shall have a written policy implementing the Gun Free Schools Act [(20 USC 4141) (20 USC 7151)] and 11 Del.C. §1457(j) or its successor statute. At a minimum, the policy must contain the following elements:

1.1 A student who is determined to have brought a firearm to school, or to have possessed a firearm at school, shall be expelled for not less than one year.

1.2 Modification to the expulsion requirement may be made on a case by case basis by the chief school officer. Any modification to the expulsion requirement must be made in writing to the Department.

1.3 The definition of "Firearm" shall be the same as the meaning given to the term in the federal Gun-Free Schools Act.

2.0 Submission of the Policy to the State Department of Education

Each school district and charter school requesting assistance under the ESEA shall submit the following to the Delaware Department of Education by June 1 each year, in such form as the Department requires:

2.1 An assurance that its policies comply with this regulation and with 11 Del.C. §1457(j) or its successor statute.

2.2 Descriptions of the expulsions imposed under 11 Del.C. §1457(j) or its successor statute and under the policy implemented in accord with this regulation.

3.0 Individuals with Disabilities Act

Nothing in this regulation shall alter a district or charter school's duties pursuant to the Individuals with Disabilities Education Act. 1 DE Reg. 1976 (6/1/98) 7 DE Reg. 333 (9/1/03)

4.0 Reporting Requirements and Timelines

4.1 Each public school district and charter school shall have an electronic copy of its policy implementing the Gun-Free Schools Act [(20 USC 4141) (20 USC 7151)] and 11 Del.C. §1457(j) or its successor statute on file with the Department of Education.

4.2 Each public school district and charter school shall provide an electronic copy of any policy implementing the Gun-Free Schools Act [(20 USC 4141) (20 USC 7151)] and 11 Del.C. §1457(j) or its successor statute within ninety (90) days of such revision(s) regardless of whether said revisions were made as a result of changes to Federal, state or local law, regulations, guidance or policies.

Other weapons

STATUTES

4112. Reporting school crimes.

(c) Student possession of weapons and unlawful drugs. Whenever a school employee has reliable information that would lead a reasonable person to believe that a person on school property or at a school function has on his or her person, concealed in that person's possessions, or placed elsewhere on school property:

(2) Any deadly weapon, destructive weapon, dangerous instrument or incendiary or explosive device as prohibited by Title 11,

the school employee shall immediately report the incident to the principal, who shall conduct a thorough investigation. If the investigation verifies that good reason exists to believe that a crime has been committed, the principal shall immediately notify the appropriate police agency of the incident. If the police agency determines that probable cause exists to believe that a crime has been committed, then the principal shall file a written report of the incident with the Department of Education within 5 working days.

1457. Possession of a weapon in a safe school and recreation zone; class D, E, or F: class A or B misdemeanor.

(a) Any person who commits any of the offenses described in subsection (b) of this section, or any juvenile who possesses a firearm or other deadly weapon, and does so while in or on a "Safe School and Recreation Zone" shall be guilty of the crime of possession of a weapon in a Safe School and Recreation Zone.

(b) The underlying offenses in Title 11 shall be:

(1) Section 1442. -- Carrying a concealed deadly weapon; class G felony; class D felony.

(2) Section 1444. -- Possessing a destructive weapon; class E felony.

(3) Section 1446. -- Unlawfully dealing with a switchblade knife; unclassified misdemeanor.

(4) Section 1448. -- Possession and purchase of deadly weapons by persons prohibited; class F felony.

(5) Section 1452. -- Unlawfully dealing with knuckles-combination knife; class B misdemeanor.

(6) Section 1453. -- Unlawfully dealing with martial arts throwing star; class B misdemeanor.

(c) For the purpose of this section, "Safe School and Recreation Zone" shall mean:

(1) Any building, structure, athletic field, sports stadium or real property owned, operated, leased or rented by any public or private school including, but not limited to, any kindergarten, elementary, secondary or vocational-technical school or any college or university, within 1,000 feet thereof; or

(2) Any motor vehicle owned, operated, leased or rented by any public or private school including, but not limited to, any kindergarten, elementary, secondary, or vocational-technical school or any college or university; or

(3) Any building or structure owned, operated, leased or rented by any county or municipality, or by the State, or by any board, agency, commission, department, corporation or other entity thereof, or by any private organization, which is utilized as a recreation center, athletic field or sports stadium.

(d) Nothing in this section shall be construed to preclude or otherwise limit a prosecution of or conviction for a violation of this chapter or any other provision of law. A person may be convicted both of the crime of possession of a weapon in a Safe School and Recreation Zone and of the underlying offense as defined elsewhere by the laws of the State.

(e) It shall not be a defense to a prosecution for a violation of this section that the person was unaware that the prohibited conduct took place on or in a Safe School and Recreation Zone.

(f) It shall be an affirmative defense to a prosecution for a violation of this section that the weapon was possessed pursuant to an authorized course of school instruction, or for the purpose of engaging in any school-authorized sporting or recreational activity. The affirmative defense established in this section shall be proved by a preponderance of the evidence. Nothing herein shall be construed to establish an affirmative defense with respect to a prosecution for any offense defined in any other section of this chapter.

(g) It is an affirmative defense to prosecution for a violation of this section that the prohibited conduct took place entirely within a private residence, and that no person under the age of 18 was present in such private residence at any time during the commission of the offense. The affirmative defense established in this section shall be proved by the defendant by a preponderance of the evidence. Nothing herein shall be construed to establish an affirmative defense with respect to a prosecution for an offense defined in any other section of this chapter.

(h) This section shall not apply to any law enforcement or police officer, or to any security officer as defined in Chapter 13 of Title 24.

(i) For purposes of this section only, "deadly weapon" shall include any object described in § 222(5) or (12) of this title or BB guns.

(j) The penalty for possession of a weapon in a Safe School and Recreation Zone shall be:

(1) If the underlying offense is a class B misdemeanor, the crime shall be a class A misdemeanor;

(2) If the underlying offense is an unclassified misdemeanor, the crime shall be a class B misdemeanor;

(3) If the underlying offense is a class E, F, or G felony, the crime shall be one grade higher than the underlying offense.

(4) If the underlying offense is a class D felony, the crime shall also be a class D felony.

(5) In the event that an elementary or secondary school student possesses a firearm or other deadly weapon in a Safe School and Recreation Zone in addition to any other penalties contained in this section, the student shall be expelled by the local school board or charter school board of directors for a period of not less than 180 days unless otherwise provided for in federal or state law. The local school board or charter school board of directors may, on a case by case basis, modify the terms of the expulsion.

Students with chronic disciplinary issues

STATUTES

1604. Treatment of severe discipline problems component.

The Department of Education shall establish a program component which will provide alternative educational and related services for the more severe discipline problems in the public schools. This component will serve primarily secondary school students, including but not limited to: youngsters who have been expelled from regular schools, students who may be subject to expulsion, and others who have serious violations of the local school district discipline code. The Department of Education shall provide rules and regulations for the conduct of programs authorized under this section subject to the following limitations:

(1) School districts shall make application to the Department of Education for funding to implement programs authorized under this section. Preference shall be given to applications from consortia of school districts. To the extent feasible, programs offered under this component should serve eligible pupils within a county, however, multiple sites may be operated by a single consortia of school districts within a county.

(2) Any application submitted under this section shall specify the types and level of services to be provided and an estimate of the number of youngsters to be served. The application shall also include a budget of proposed expenditures during a fiscal year. That budget shall indicate, at a minimum, the funds being requested from appropriations authorized under this section and funds to be obtained from all other sources.

(3) All applications submitted to the Department of Education under this section shall indicate an agreement to fund at least 30 percent of the total cost of services provided from sources of funding other than those authorized under this section.

(4) All projects funded under this section shall submit an annual evaluation report on the effectiveness of the program to the Department of Education. Such report shall incorporate the data and information specified by the Department.

(5) School districts shall be permitted to use funds collected in accordance with the provisions of Chapter 6 of this title to make tuition payments for youngsters assigned to programs authorized under this section.

(6) Nothing in this section shall prohibit a consortia of school districts from contracting for educational or related services with public or private agencies when operating programs authorized under this section.

(7) The provisions of § 4130 of this title shall not apply to youngsters enrolled in programs authorized under this section.

(8) A student 16 years of age or less who is expelled or suspended pending expulsion by a local school district or charter school shall be presumed appropriate for placement in a Consortium Discipline Alternative Program site, provided the student is not otherwise ineligible by statute or regulation for placement in such a program. The burden of establishing that a student is not appropriate for

placement in a Consortium Discipline Alternative Program shall be on the local school district or charter school. Any student not shown by preponderance of evidence to be inappropriate for placement in a Consortium Discipline Alternative Program shall be placed in such a program.

ADMINISTRATIVE CODE

611. Consortium discipline alternative programs for treatment of severe discipline problems.

1.0 Eligible Students

1.3 School districts may place a student in a Consortium Discipline Alternative Program for classroom or school environment disruptions only if:

1.3.1 Such disruptions are chronic and repetitive;

Attendance and truancy

STATUTES

2702. Compulsory attendance requirements; evaluation of readiness.

(a) Except as otherwise provided, the following provisions are applicable to school attendance in this State:

(1) Every person in this State who has legal custody, guardianship of the person, or legal control of a child between 5 and 16 years of age, including any person acting as a caregiver pursuant to the provisions of § 202(f) of this title, shall enroll the child in a public school in the school district of the person's residence.

(2) Every person who has legal custody, guardianship of the person, or legal control of a student, including any person acting as a caregiver pursuant to the provisions of § 202(f) of this title, who is enrolled in a public school of this State shall send the student to the school each day of the minimum school term and to any academic improvement activities required by § 153 of this title.

(3) Every student who is enrolled in a public school of this State shall attend the school each day of the minimum school term and any academic improvement activities required by § 153 of this title. A student who has been absent from school without a valid excuse for more than 3 school days in a school year is a truant. A truant and the parent of a truant are subject to the administrative procedures and court proceedings set out in subchapter II of this Chapter.

(b) For the purposes of this section, a child shall be considered 5 years of age if that child celebrates the child's fifth birthday according to the following schedule:

1993-94 school year Fifth birthday on or before November 30, 1993.

1994-95 school year Fifth birthday on or before October 31, 1994.

1995-96 school year Fifth birthday on or before September 30, 1995.

1996-97 school year Fifth birthday on or before August 31, 1996.

Subsequent school years Fifth birthday on or before August 31 of the respective year.

Local school authorities may grant exceptions to the above schedule for entry into school if they determine that such exception is in the best interest of the child.

(c) The following provisions shall be applicable to the administration of subsection (a) of this section in regard to compulsory attendance in the kindergarten for a child age 5 years:

(1) If a child is a resident of the State at the time of that child's eligibility for admission to the kindergarten at age 5, the parents, guardian or legal custodian of that child may request that school authorities evaluate the child's readiness for attendance and may request a delay of 1 year in that

attendance. However, admission to first grade will be authorized only after school authorities evaluate the child's readiness for attendance.

(2) If a child was not a resident of the State at the time of that child's eligibility for admission to the kindergarten at age 5, the parents, guardian or legal custodian of that child may request that school authorities evaluate the child's readiness for attendance and on the basis of that evaluation authorize admission to grade 1.

(3) The parent, guardian, legal custodian or relative care giver, as defined in § 202(f)(2) of this title, of a child who is eligible for admission to kindergarten at age 5 may opt for the child to attend kindergarten for a half-day per day, totaling 440 hours in a school year.

(d) The following provisions shall be applicable in regard to statewide minimum mandatory attendance requirements in each school year for children in grades K through 5.

(1) Following the 10th day of unexcused absence by a student, the school shall immediately notify the parent or parents or guardian and a visiting teacher for the district shall visit the student's home;

(2) Following the 15th day of unexcused absence by a student, the student's parent or parents or guardian shall be notified by certified mail to appear at the school within 10 days of notification for a conference and counseling;

(3) Following the 30th day of unexcused absence by a student, the school shall refer the case for prosecution;

(4) Following the completion of prosecution of the case and the subsequent failure of the student to return to school within 5 school days thereof, the school shall immediately notify the Department of Services for Children, Youth and Their Families requesting intervention services by the Department. The Department shall contact the family within 10 business days.

(e) Following the tenth unexcused day of attendance by a student in grades 6 through 12 inclusive, the building principal shall notify a visiting teacher of such unexcused days.

(f) If contacted by the school pursuant to paragraph (d)(2) of this section, each parent or guardian of a student shall sign a contract with the district agreeing they will make every reasonable effort to:

(1) Have their child or children abide by the school code of conduct;

(2) Make certain their child attends school regularly; and

(3) Provide written documentation for the reasons for any absence.

(g) Any day of summer school, any session of after school or Saturday extra instruction, or any session of mentoring which a child is required to attend as an academic improvement activity in conformity with § 153 of this title shall be considered a school day for purposes of this chapter, and for purposes of § 901 of Title 10, § 1103 of Title 11, and § 301 of Title 31 of this Code, or wherever the term school day or its equivalent is used in a provision of this Code designed to minimize or punish truancy.

2705. Exemption of children from compulsory attendance requirements.

(a) Other provisions of this title notwithstanding, a child may be exempted from § 2702 of this title upon request of the parent, guardian or other person legally having control of that child when the request is supported by written documentation of a physician, psychiatrist, psychologist or neurologist, as the case may require. The request and documentation shall be addressed to the superintendent of schools of the district in which the child resides and, in the case of a child with a disability or disabilities, the child's Individual Education Program (IEP) team, for the development of an educational program and determination of whether a change of placement is necessary to ensure that the child receives a free and appropriate public education.

(b) Any disputed decision under this section shall be presented first to the board of education of the school district of which the child is a resident and may thereafter be appealed to the State Board of Education. The decision of the State Board of Education shall be final. In the case of a child with a disability or disabilities, all of the federal regulatory due process procedures of Part B of the Individuals with Disabilities Education Act [20 U.S.C. §§ 1411 et seq.] shall apply.

2706. Contagious diseases.

Any child affected with diphtheria, measles, scarlet fever or smallpox shall be excluded from the schools until permission of the proper school officer for the child to return is granted; and intercourse between pupils of the schools and the family or house, when there is any case of 1 of these contagious diseases, must be forbidden until the official permission is given to return to the school.

2721. Definitions.

In this chapter:

(1) "Court" means a Justice of the Peace Court.

(2) "Parent" means a biological or natural parent, an adoptive parent, a person legally charged with the care or custody of a person under 18 years of age, a person who has assumed responsibility for the care of a person under 18 years of age, or a person acting as a caregiver pursuant to the provisions of § 202(f) of this title who has enrolled the pupil in grades kindergarten through 12 of a public school in this State.

(3) "Principal" means the highest administrative official of a public school and includes a person or group of persons designated by the principal to deal with school attendance.

(4) "Record" means written materials and exhibits forwarded to a court by the school with a referral under this subchapter or admitted into evidence at a court hearing.

(5) "School year" means the period of attendance determined by a pupil's local school board pursuant to § 1049 of this title, or in the case of a charter school as determined by the board of directors of the charter school consistent with the school's charter, and any additional academic improvement activities identified in § 2702(g) of this title that a pupil may be required to attend during or following such period of attendance.

(6) "Student" means a person who is enrolled in kindergarten through grade 12 of a public school of this State.

(7) "Truant" means a student who has been absent from school without valid excuse for more than 3 school days during a school year.

(8) "Valid excuse" means an excuse which is approved in the regulations of the district board of education of the school district in which the pupil is or should be enrolled pursuant to the provisions of this title, or in the case of a pupil enrolled in a charter school, by the board of directors of the charter school.

2722. Absences and truancy.

(a) Subject to the rules and regulations of the local school board, pupils enrolled in the free public schools may be excused by the superintendent of schools or persons authorized by the superintendent. Pupils enrolled in charter schools may be excused by the principal of the school or persons authorized by the principal, subject to rules and regulations promulgated by the board of directors of the charter school.

(b) No pupil who could otherwise legally fail to attend school pursuant to § 2702(a) of this title may do so without the written consent of such person or persons having legal control of that pupil.

2723. Responsibility of police officers.

(a) Any pupil under the age of 16 identified by a police officer as being off school property without official authorization may be returned to that pupil's home school.

(b) Any pupil under the age of 16 identified by a police officer as being off school property without official authorization may be detained by the police for a period not to exceed 2 hours for the purpose of notification of parent or guardian. This detention may be within the police station but not in a criminally confined area.

2724. Notification to parents and students.

At the beginning of a school year each school district or public school shall notify each student and the parent of each student of the school attendance requirements of this Code, including the procedures and penalties applicable to truancy. The school district or school may determine the form of the notification.

2725. Absences without excuse; truancy conferences.

(a) If a student has been absent from school without a valid excuse 1 or more days, the principal of the school may take such action as the principal considers appropriate.

(b) If a student is truant, the principal may schedule a truancy conference with the student, the student's parent and the principal pursuant to § 2726 of this title. The conference may be attended by other persons as the principal may include.

(c) Following a truancy conference the school shall decide whether or not to file a charge against the parent for a violation of § 2702 of this title; provided, however, that the principal shall refer the case for prosecution following the 30th day of unexcused absence by a student during the school year, in compliance with § 2702(d) of this title, and may refer the case before the 30th day of unexcused absence if the principal determines it is appropriate to do so.

(d) The fact that a student or student's parent may attend or has attended a truancy conference does not bar the principal filing a complaint with a court. The principal's failure to hold a truancy conference does not bar the filing of a complaint with a court and adjudication by a court.

2726. Procedure for truancy conferences.

The provisions of § 4122 of this title shall apply to truancy conferences. The principal shall determine the date, time and place of the conference and shall give all participants notice at least 1 week prior to the conference. In conducting a truancy conference, the principal may exclude any person, including a parent or a student, from the conference or part of a conference.

2727. Notice of violation and compliance.

No person shall be prosecuted for violation of § 2702 of this title if that person, within 3 days from the time that the person is notified by the superintendent of schools or persons authorized by the superintendent, presents an excuse in writing satisfactory to such superintendent of schools, and complies with the requirements of such § 2702 of this title. The mailing of a notice to the usual address of the offending party shall be sufficient notification.

2728. Procedure for court adjudication.

(a) When the school charges a parent or a student with a violation of § 2702 of this title, the school shall file a written complaint in the court. The complaint shall be on such form(s) as the court may require. The school shall be the complainant and the parent or the student shall be the defendant. The court must determine whether probable cause exists to issue a warrant or summons against the person charged. When there is probable cause to find that a student is truant, probable cause to issue a warrant or

summons for a parent shall exist when the parent is named as the parent or guardian on the student's school records and the parent resides in Delaware.

(b) The school shall attach to the complaint any record relevant to the allegations of the complaint.

(c) When a complaint is filed, all sanctions imposed by the principal shall remain in effect unless suspended or terminated by the principal or stayed by the court.

(d) The school may request that the court postpone adjudication. The court in its discretion may postpone the proceedings and may impose conditions on the student or parent.

2729. Failure to send; affirmative defense; penalties.

(a) If a charge is filed against a parent for a violation of § 2702 of this title, the court shall determine whether the evidence establishes beyond a reasonable doubt that the parent has violated the section.

(b) In the prosecution of a parent for a violation of § 2702 of this title, it shall be an affirmative defense that the parent has made substantial and reasonable efforts to comply with the compulsory attendance requirements of § 2702 but is unable to cause the child to attend school. It shall also be an affirmative defense that the parent does not have legal custody of the student. Other affirmative defenses may be permitted as required in the interests of justice. If the court determines the affirmative defense is valid it shall dismiss the complaint against the parent and the school may file a complaint against the student pursuant to § 2730 of this title.

(c) This section shall not apply to a parent whose child is receiving instruction pursuant to § 2703 of this title, to children exempted from compulsory attendance requirements pursuant to § 2705 of this title, or whose children are in compliance with school attendance requirements.

(d) A parent who is determined to have violated § 2702 of this title is guilty of an unclassified misdemeanor and shall be sentenced as follows:

(1) For a first offense, a fine of not less than $25 nor more than $300, or imprisonment for not more than 10 days or both;

(2) For a second offense, a fine of not less than $50 nor more than $500, or imprisonment for not more than 20 days or both;

(3) For a third or subsequent offense, a fine of not less than $230 nor more than $1,150, or imprisonment for not more than 30 days or both.

(e) To the extent possible the fine shall be commensurate with the number of days the student was absent from school without valid excuse.

(f) The court may order the parent to perform unpaid community service in lieu of a fine. The court may require that all or part of the service may be performed for a public school district.

(g) The court may also order as conditions of release prior to judgment or as conditions of sentence upon conviction such conditions as the court considers necessary to obtain compliance with school attendance requirements. These conditions include but are not limited to the following:

(1) Verifying the child's attendance with the school;

(2) Meeting with school officials;

(3) Taking the child to school;

(4) Taking the child to the bus stop;

(5) Attending school with the child;

(6) Undergoing medical, psychological or psychiatric evaluations and following the evaluator's recommendations;

(7) Undergoing an evaluation for drug, alcohol, or other substance abuse and following the evaluator's recommendations; and

(8) Taking the child for medical, psychological or psychiatric evaluation or for drug, alcohol or other substance abuse evaluation and following the evaluator's recommendations.

(h) Upon conviction, the name and address of the parent and a summary of the disposition of any offenses for which the parent was convicted shall be reported by the Court to the Division of Family Services of the Department of Services for Children, Youth and Their Families and to the Division of Social Services of the Department of Health and Social Services.

(i) The provisions of § 4218 of Title 11 (probation before judgment) shall apply to a parent charged with violation of § 2702 of this title.

2730. Failure to attend; penalties.

(a) The school may file a civil charge of truancy against the student in the Justice of the Peace Court if:

(1) The student is age 12 or older; and/or

(2) The Court determines that a parent who is charged with violating § 2702 of this title has a valid affirmative defense under § 2729(b) of this title.

(b) The court shall determine whether a preponderance of the evidence establishes that the student has violated § 2702 of this title.

(c) If the Court determines the student has violated § 2702 of this title, it shall adjudicate the student a truant and may order the following remedial dispositions:

(1) Community service;

(2) Counseling;

(3) Substance abuse evaluation and treatment;

(4) Mental health evaluation and treatment;

(5) A curfew with hours set by the court;

(6) Suspension or revocation of any permit held by the student, including a work permit or a driver's permit;

(7) Suspension or revocation of any license held by the student, including a driver's license or a hunting license;

(8) Prohibition of the student's participation in or attendance at any extra-curricular activity or social event which is an official school event or is sponsored by the school or held on school property;

(9) A recommendation that the student enroll in the school in alternative educational and related services in accordance with Chapter 16 of this title; and

(10) Such other action as is permitted by statute or by court rule.

The court shall not suspend or revoke a student's permit or license if the student demonstrates to the court that suspension or revocation would impose an economic hardship on the parent or on the student's family.

(d) Where the court has ordered the suspension or revocation of a student's permit or license, the student is prohibited from applying for a new permit or license without permission of the court as long as the student is under the jurisdiction of the court.

2731. Enforcement of court order.

(a) The court shall retain jurisdiction of the matter until all terms of the court's order have been complied with regardless of any change in the student's age, marital status or choice of educational source or location.

(b) Notwithstanding any provision of this Code to the contrary, if the court determines a student has not complied with the terms of the court's order, it may charge the noncompliant student with criminal contempt pursuant to § 1271 of Title 11, and fully adjudicate the matter in the Justice of the Peace Court.

2732. Appeals.

(a) A parent convicted of a violation of § 2702 of this title may appeal to the Court of Common Pleas in the county in which the judgment was given. The appeal shall be filed within 15 days from the date of conviction. On appeal the Court shall make a de novo determination.

(b) No stay shall be granted pending an appeal pursuant to subsection (a) of this section unless the person appealing shall, at the time the appeal is taken, gives bond in any amount with surety to be fixed by the Court.

(c) A student who has been adjudicated truant pursuant to § 2730 of this title, or has been adjudicated in contempt pursuant to § 2731 of this title, may appeal to the Family Court in the county in which the adjudication occurred. The appeal shall be filed within 15 days of the date of the adjudication. On appeal the Court shall make a de novo determination based on the record below.

(d) No appeal of the adjudication of truancy or truancy-related contempt pursuant to subsection (c) of this section shall stay execution of the remedial disposition unless a judge of the Family Court orders a stay.

2733. Jurisdiction; venue.

(a) The Justice of the Peace Court shall have exclusive original jurisdiction of complaints filed pursuant to this title.

(b) All complaints under this title shall be filed in a Justice of the Peace Court in the county where the school the child is required to attend is located or in the county in which the office of the school district which contains the child's school is located.

(c) In the event that a student withdraws from school for any reason other than age and does not re-enroll in another public school, the court, in its discretion, may retain jurisdiction for the purpose of ensuring that the student's alternative educational environment was not an attempt to avoid the compulsory attendance requirements of § 2702 of this title.

ADMINISTRATIVE CODE

615. School attendance.

1.0 Required Attendance Policy

1.1 Each school district shall have an attendance policy that is in accordance with the requirements of the Delaware Code and which defines and describes the district's rules concerning attendance for students K to 12.

2.0 Distribution of Attendance Policy

2.1 Each district shall distribute and explain these policies to every student at the beginning of each school year.

2.2 Each district shall distribute and explain these policies to each student enrolling or re enrolling during the school year.

2.3 Each district shall post the attendance policy on its website and notify a parent, guardian or Relative Caregiver of each student in writing where this policy can be accessed. A hard copy shall be provided to a parent, guardian or Relative Caregiver upon request.

3.0 Reporting Requirements and Timelines

3.1 Each public school district shall have an electronic copy of its current attendance policy on file with the Department of Education.

3.2 Each public school district shall provide an electronic copy of any attendance policy within ninety (90) days of such revision(s) regardless of whether said revisions were made as a result of changes to Federal, state or local law, regulations, guidance or policies.

Substance use

STATUTES

3801. Declaration of purpose.

The General Assembly finds and declares that a substantial drug and alcohol trafficking and abuse problem exists in this State among school age children, in schools and on school campuses, parks and playgrounds. It is the purpose of this chapter to support increased efforts by local law enforcement agencies, working in conjunction with school districts and with state and local drug and alcohol prevention agencies, to suppress trafficking, and to prevent drug and alcohol abuse among school-age children in schools and on school campuses, through the development of innovative and model programs jointly undertaken by local law enforcement agencies and school districts. Further, it is the intent of the General Assembly to establish a program of financial and technical assistance for local law enforcement and school districts, and to formulate a joint policy of pursuing both demand reduction (through education and prevention programs), and supply reduction (through law enforcement).

3802. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(1) "Division" shall mean the Division of Substance Abuse and Mental Health.

(2) "Enhanced apprehension, prevention and education efforts" shall mean projects and programs which do not compete with, but which supplement and improve currently existing substance abuse prevention and education programs.

(3) "Entity" shall mean any committee, agency or group approved by the Division; any law enforcement committee, agency or group approved by the Department of Safety and Homeland Security; or any committee, agency or group composed of public school teachers and/or administrators.

3803. Division of Substance Abuse and Mental Health.

(a) The Division of Substance Abuse and Mental Health shall allocate and award all funds appropriated for any purposes set forth in § 3801 and elsewhere in this chapter. Such funds shall be awarded only to programs or projects, undertaken jointly by a law enforcement entity and a local school district or other public school entity, to prevent and/or suppress substance abuse and the trafficking of prohibited or controlled substances in the public schools. All applications for such funds shall be applications made jointly by the school and law enforcement entities involved in the proposed project.

(b) In the allocation and awarding of funds to joint law enforcement and public school recipients, the Division shall obtain the comments and recommendations of the State Drug-free School Advisory Committee. All allocation and awarding of funds by the Division shall be in accordance with the

Administrative Procedures Act, and with those guidelines promulgated by the State Drug-free School Advisory Committee which do not conflict with existing state laws.

(c) Each application shall be accompanied by a fiscal note, prepared by the joint applicants, which sets forth all anticipated first-year costs and the anticipated total costs of the project or program. The Division may return any application to the applicant with a request that any or all expenses be more fully set out, together with the applicant's explanations or reasons for each projected cost or expense.

3804. State Drug-free School Advisory Committee.

(a) All criteria for the rating of applications for funds under this chapter shall be developed by the State Drug-free School Advisory Committee. The State Drug-free School Advisory Committee shall be composed of 16 members appointed by the Governor: 1 police chief; 1 sheriff; 1 prosecutor from the State Department of Justice who specializes in drug and/or alcohol cases; 1 attorney primarily engaged in criminal defense; 1 person from each county appointed by an active parent group or community-based group concerned primarily with drug and/or alcohol problems; 1 representative of the Division of Substance Abuse and Mental Health; 1 county drug and/or alcohol program administrator; and a permanent, full-time member of a drug treatment clinic or office, public or private. In addition, membership shall include the Attorney General or the Attorney General's designee; 4 members who are professional employees of the Department of Education, 1 of whom shall be the Secretary of Education; and a drug and/or alcohol prevention professional employed by the Department of Education. The Committee shall review applications made to the Division for those funds which are awarded pursuant to this chapter, and shall recommend approval for those applications which the Committee deems appropriate, and which it deems are consistent with the guidelines and procedures established pursuant to this chapter. The Division shall not approve nor release any funds until approval under § 3805(b) of this title is first obtained.

(b) The State Drug-free School Advisory Committee shall develop specific guidelines and procedures which shall set forth the terms and conditions upon which grants of funds are made. Funds disbursed under this chapter shall not be used for the acquisition of equipment.

(c) Funds disbursed under this chapter shall not be used to pay informants for information on drug and/or alcohol offenders. Not more than 10 percent of the total amount of funds disbursed under this chapter shall be used for administrative costs.

3805. Local drug-free school advisory committees.

(a) A local drug-free school advisory committee may be established and appointed by each local board of education. Such committee may be either a newly created committee, or an existing local drug and alcohol abuse committee formerly established by the county, municipality or school district. Although the committee may have additional members, its basic membership shall be composed of the following residents of the district or area affected:

(1) One local law enforcement officer;

(2) An administrator or teacher, employed by the local school district, who has expertise in drug and alcohol programs;

(3) One administrator and 1 teacher from the school or school district which has direct involvement in the program;

(4) One parent who has a son or daughter enrolled in the school;

(5) Three high school students;

(6) One person who is a permanent full-time employee of the state, county or municipality, and whose duties primarily involve drug education or treatment;

(7) Any other person who is involved, by employment or as a volunteer, in any drug and/or alcohol prevention program.

(b) No project or program, financed in whole or in part with funds under this chapter, shall begin in any school until such project or program has first received the approval of the local drug-free school advisory committee.

3806. Utilization of funds.

(a) Funds shall be awarded primarily for projects undertaken jointly by the school district or other public school entity, and a law enforcement entity. In participating in any joint application for the funds, the public school entity shall consult with the superintendent of each affected school. Any funds disbursed under this chapter are supplemental to and shall not supplant local funds which would, in the absence of this chapter, be otherwise available to suppress and prevent drug and alcohol abuse among school age children, or which otherwise would be used to curtail drug and alcohol trafficking in and around schools, parks and playgrounds.

(b) When applying for funds under this chapter, the local law enforcement entity and the public school entity may jointly enter into those agreements between themselves which would allow and facilitate the administrative, fiscal and operational responsibilities created by their joint project or program.

(c) Funds disbursed under the provisions of this chapter shall be utilized primarily for enhanced apprehension, prevention, and education efforts, and for obtaining material and information resources relating to drug and alcohol abuse and drug trafficking in and around schools, parks and playgrounds. Enhanced apprehension, prevention and education efforts shall include, but are not limited to:

(1) Drug and alcohol trafficking intervention programs;

(2) School and classroom oriented programs, each of which shall utilize a tested drug and alcohol education curriculum that provides in-depth and accurate information on drugs and alcohol. Such programs may include the participation of local law enforcement agencies and/or qualified drug and alcohol use prevention specialists. Each such program shall be designed to increase, in both teachers and students, an awareness of the dangers of drugs and alcohol;

(3) Family-oriented programs aimed at preventing drug and alcohol abuse, which programs may include the participation of any community-based organization which is experienced in the successful operation of a family-oriented program;

(4) Development and distribution of appropriate written and audio-visual aids for the training of persons not otherwise trained or experienced in the handling of drug and alcohol-related problems and offenses within the public schools;

(5) Development of prevention and intervention programs for elementary school teachers and students, including utilization of existing prevention and intervention programs, where appropriate;

(6) Development of a coordinated intervention system that identifies "at-risk" students, and students with chronic drug and alcohol abuse problems.

3807. State Board of Education; Department of Public Safety.

The Department of Safety and Homeland Security and the Department of Education shall both have the power to monitor and evaluate the projects and programs under this chapter, and to make comments and suggestions to the Division.

4112. Reporting school crimes.

(c) Student possession of weapons and unlawful drugs. Whenever a school employee has reliable information that would lead a reasonable person to believe that a person on school property or at a

school function has on his or her person, concealed in that person's possessions, or placed elsewhere on school property:

(1) Any controlled substance prohibited by Title 16

The school employee shall immediately report the incident to the principal, who shall conduct a thorough investigation. If the investigation verifies that good reason exists to believe that a crime has been committed, the principal shall immediately notify the appropriate police agency of the incident. If the police agency determines that probable cause exists to believe that a crime has been committed, then the principal shall file a written report of the incident with the Department of Education within 5 working days.

4116. Drug/alcohol educational programs.

(a) The Department of Education with approval of the State Board of Education shall establish and implement statewide alcohol/substance abuse educational programs to be provided in each grade, kindergarten through grade 12, in each public school in this State. The programs required by this section shall consist of no fewer than 10 hours per school year in grades kindergarten through 4 and 15 hours per school year in grades 5 through 12. Each program shall be taught by appropriately trained certified teachers and the instruction shall be comprehensive, age-appropriate and sequential in nature.

(b) Any in-service training required by this section shall be provided within the contracted school year as provided in § 1305 of this title.

4117. Substance abuse.

(a) Each school district shall designate an administrator in every school as the person responsible for reporting, to parents and/or law enforcement agencies, any violation and/or problems relating to the abuse of controlled substances. Such administrator shall not be liable under the laws of this State for any act or omission committed by the administrator in the performance of that administrator's duties and responsibilities under this section.

(b) No administrator having reporting responsibilities under this section shall be required to report any substance abuse violation and/or problem to a parent if such person, being the principal of the school, reasonably believes that a parent or parents are a cause of or are involved in the violation and/or problem; nor shall any other administrator, having reporting responsibilities under this section, be required to report any substance abuse violation and/or problem to a parent, if such administrator and the principal of the school both believe that a parent or parents are a cause of or are involved in the violation or problem.

ADMINISTRATIVE CODE

612. Possession, use or distribution of drugs and alcohol.

1.0 The Following Policy on the Possession, Use, or Distribution of Drugs and Alcohol Shall Apply to All Public School Districts and Charter Schools

1.1 The possession, use and/or distribution of alcohol, a drug, a drug like substance, a look alike substance and drug paraphernalia are wrong and harmful to students and are prohibited within the school environment.

1.2 Student lockers are the property of the school and may be subjected to search at any time with or without reasonable suspicion.

1.3 Student motor vehicle use to and in the school environment is a privilege which may be extended by school districts or charter schools to students in exchange for their cooperation in the maintenance of a safe school atmosphere. Reasonable suspicion of a student's use, possession or distribution of alcohol,

a drug, a drug like substance, a look alike substance or drug paraphernalia in the school environment, may result in the student being asked to open an automobile in the school environment to permit school authorities to look for such items. Failure to open any part of the motor vehicle on the request of school authorities may result in the police being called to conduct a search, and will result in loss of the privilege to bring the vehicle on campus.

1.4 All alcohol, drugs, drug like substances, look alike substances and drug paraphernalia found in a student's possession shall be turned over to the principal or designee, and be made available, in the case of a medical emergency, for identification. All substances shall be sealed and documented, and, in the case of substances covered by 16 Del.C. Ch. 47, turned over to police as potential evidence.

2.0 The Following Definitions Shall Apply to This Policy and Will be Used in All District and Charter School Policies

"Alcohol" shall mean alcohol or any alcoholic liquor capable of being consumed by a human being, as defined in 4 Del.C. §101 including alcohol, spirits, wine and beer.

"Distribute" "Distributing" or "Distribution" shall mean the transfer or attempted transfer of alcohol, a drug, a look alike substance, a drug like substance, or drug paraphernalia to any other person with or without the exchange of money or other valuable consideration.

"Drug" shall mean any controlled substance or counterfeit substance as defined in 16 Del.C. §4701 including, for example, narcotic drugs such as heroin or cocaine, amphetamines, anabolic steroids, and marijuana, and shall include any prescription substance which has been given to or prescribed for a person other than the student in whose possession it is found.

"Drug Like Substance" shall mean any noncontrolled and nonprescription substance capable of producing a change in behavior or altering a state of mind or feeling, including, for example, some over the counter cough medicines, certain types of glue, caffeine pills and diet pills. The definition of drug like substance does not include tobacco or tobacco products which are governed by 14 DE Admin. Code 877 Tobacco Policy.

"Drug Paraphernalia" shall mean all equipment, products and materials as defined in 16 Del.C. §4701 including, for example, roach clips, miniature cocaine spoons and containers for packaging drugs.

"Expulsion" shall mean exclusion from school for a period determined by the local district or charter school not to exceed the total number of student days. The process for readmission shall be determined by the local district or charter school.

"Look Alike Substance" shall mean any noncontrolled substance which is packaged so as to appear to be, or about which a student makes an express or implied representation that the substance is, a drug or a noncontrolled substance capable of producing a change in behavior or altering a state of mind or feeling.

"Nonprescription Medication" shall mean any over the counter medication; some of these medications may be a "drug like substance."

"Possess" "Possessing" or "Possession" shall mean that a student has on the student's person, in the student's belongings, or under the student's reasonable control by placement of and knowledge of the whereabouts of, alcohol, a drug, a look alike substance, a drug like substance or drug paraphernalia.

"Prescription Drugs" shall mean any substance obtained directly from or pursuant to a valid prescription or order of a practitioner, as defined in 16 Del.C. §4701(24), while acting in the course of his or her professional practice, and which is specifically intended for the student in whose possession it is found.

"School Environment" shall mean within or on school property, and at school sanctioned or supervised activities, including, for example, on school grounds, on school buses, at functions held on school grounds, at extra curricular activities held on and off school grounds, on field trips and at functions held at the school in the evening.

"Use" shall mean that a student is reasonably known to have ingested, smoked or otherwise assimilated alcohol, a drug or a drug like substance, or is reasonably found to be under the influence of such a substance.

3.0 Requirement of Each School District and Charter School to have a Policy.

Each school district and charter school shall have a policy on file and update it periodically. The policy shall Include, as a minimum the following:

3.1 A system of notification of each student and of his/her parent, guardian or Relative Caregiver at the beginning of the school year, of the state and district policies and regulations. In addition a system for the notification of each student and his/her parent, guardian or Relative Caregiver whenever a student enrolls or re enrolls during the school year of the state and district policies and regulations.

3.2 A statement that state and district or charter school policies shall apply to all students, except that with respect to children with disabilities, applicable federal and state laws will be followed.

3.3 A written policy which sets out procedures for reporting incidents to police authorities, parents, guardians or Relative Caregivers and to the Department of Education, while maintaining confidentiality.

3.4 A written policy on how evidence is to be kept, stored and documented, so that the chain of custody is clearly established prior to giving such evidence over to the police.

3.5 A written policy on search and seizure.

3.6 A program of assistance for students with counseling and referral to services as needed.

3.7 A discipline policy which contains, at a minimum, the following penalties for infractions of state, district, and charter school drug policies.

3.7.1 Use/Impairment: For a first offense, if a student is found to be only impaired and not in violation of any other policies, he/she shall be suspended for up to 10 days, or placed in an alternative setting for up to 10 days, depending upon the degree of impairment, the nature of the substance used, and other aggravating or mitigating factors. For a second or subsequent offense, a student may be expelled or placed in an alternative setting for the rest of the school year.

3.7.2 Possession of alcohol, a drug, a drug like substance, and/or a look alike substance, in an amount typical for personal use, and drug paraphernalia: For a first offense, the student shall be suspended for 5 to 10 days. For a second or subsequent offense, a student may be expelled for the rest of the school year or placed in an alternative setting for the rest of the school year.

3.7.3 Possession of a quantity of alcohol, a drug, a drug like substance, a look alike substance and drug paraphernalia in an amount which exceeds an amount typical for personal use, or distribution of the above named substances or paraphernalia: the student shall be suspended for 10 days, or placed in an alternative setting for 10 days. Depending on the nature of the substance, the quantity of the substance and/or other aggravating or mitigating factors, the student also may be expelled.

3.8 A policy in cases involving a drug like substance or a look alike substance for establishing that the student intended to use, possess or distribute the substance as a drug.

3.9 A policy which establishes how prescription and nonprescription drugs shall be handled in the school environment and when they will be considered unauthorized and subject to these state and local policies.

3.10 A policy which sets out the conditions for return after expulsion for alcohol or drug infractions.

3.11 Notwithstanding any of the foregoing to the contrary, all policies adopted by public school districts or charter schools relating to the possession or use of drugs shall permit a student's discretionary use and possession of an asthmatic quick relief inhaler ("Inhaler") or autoinjectable epinephrine with individual prescription label; provided, nevertheless, that the student uses the inhaler or autoinjectable epinephrine pursuant to prescription or written direction from a state licensed health care practitioner; a

copy of which shall be provided to the school district or charter school; and further provided that the parent(s) or legal custodian(s) of such student provide the school district or charter school with written authorization for the student to possess and use the inhaler or autoinjectable epinephrine at such student's discretion, together with a form of release satisfactory to the school district or charter school releasing the school district or charter school and its employees from any and all liability resulting or arising from the student's discretionary use and possession of the inhaler or autoinjectable epinephrine and further provided that the school nurse may impose reasonable limitations or restrictions upon the student's use and possession of the inhaler or autoinjectable epinephrine based upon the student's age, level of maturity, behavior, or other relevant considerations.

3.11.1 Parents or legal custodians shall not be required to provide or sign a form of release where the student's use and possession of an asthmatic quick relief inhaler or autoinjectable epinephrine is determined by the student's IEP or Section 504 Team to be necessary for the student's educational placement.

3.11.2 Except as provided for in a student's Section 504 Plan or IEP, the school nurse may not unilaterally impose limitations or restrictions on a student's use and possession of an asthmatic quick relief inhaler or autoinjectable epinephrine if a Section 504 or IEP Team has determined the use of the medication is necessary for the student's educational placement.

(For students who use prescribed asthmatic quick relief inhalers or autoinjectable epinephrine, see 14 DE Admin. Code 817, Administration of Medications and Treatments)

4.0 Reporting Requirements and Timelines

4.1 Each local school district and charter school shall have an electronic copy of its current possession, use and distribution of drugs and alcohol policy on file with the Department of Education.

4.2 When a local school district or charter school revises its possession, use, and distribution of drugs and alcohol policy, it shall provide an electronic copy of the revised policy to the Department within thirty (30] days of the revision, even if the revision was made because of changes in Federal, state or local law, regulations, guidance or policies.

851. K to 12 comprehensive health education program.

1.1 Each school district and charter school shall have a sequential, skill-based K to 12 Comprehensive Health Education Program based on the Delaware Health Education Standards that establishes a foundation of understanding the relationship between personal behavior and health and shall include at a minimum the following:

1.1.3 The use of the state content standards for health education for grades K to 12 to address the core concepts: tobacco, alcohol and other drugs, injury prevention and safety, nutrition and, physical activity, family life and sexuality, personal health and wellness, mental health and community and environmental health with minimum hours of instruction as follows:

1.1.3.1 In grades K to 4, a minimum of thirty (30) hours in each grade of comprehensive health education and family life education of which ten (10) hours, in each grade, must address drug and alcohol education.

1.1.3.2 In grades 5 and 6, a minimum of thirty five (35) hours in each grade of comprehensive health education and family life education of which fifteen (15) hours, in each grade, must address drug and alcohol education.

1.1.3.3 In grades 7 and 8, separate from other subject areas, a minimum of sixty (60) hours of comprehensive health education and family life education of which fifteen (15) hours, in each grade, must address drug and alcohol education. If all of the 60 hours are provided in one year at grade 7 or 8, an additional fifteen hours of drug and alcohol education must be provided in the other grade.

1.1.3.4 In grades 9 to 12, one half (1/2) credit of comprehensive health education is required for graduation of which fifteen (15) hours of this 1/2 credit course must address drug and alcohol education. This 1/2 credit course may be provided in the 9th, 10th, 11th or 12th grade. In each of the remaining three grades, fifteen (15) hours of drug and alcohol education must be provided for all students.

1.1.7 Inclusion of an evidence-based tobacco, alcohol, drug and interpersonal violence prevention program.

877. Tobacco policy.

1.0 Required Policy

In order to improve the health of students and school personnel, each school district and charter school in Delaware shall have a policy which at a minimum:

1.1 Prohibits the use of or distribution of tobacco products in school buildings, on school grounds, in school leased or owned vehicles, even when they are not used for student purposes, and at all school affiliated functions.

1.2 Includes procedures for communicating the policy to students, school staff, parents, guardians or Relative Caregivers, families, visitors and the community at large.

1.3 Makes provisions for or refers individuals to voluntary cessation education and support programs that address the physical and social issues associated with nicotine addiction.

2.0 The Tobacco Policy Shall Apply to

2.1 Any building, property or vehicle leased, owned or operated by a school district, charter school or assigned contractor.

2.1.1 School bus operators under contract shall be considered staff for the purpose of this policy.

2.2 Any private building or other property including automobiles or other vehicles used for school activities when students and staff are present.

2.3 Any non educational groups utilizing school buildings or other educational assets.

2.4 Any individual or a volunteer who supervises students off school grounds.

3.0 No School or School District Property May Be Used for the Advertising of any Tobacco Product

4.0 Reporting Requirements and Timelines

4.1 Each public school district and charter school shall have an electronic copy of its current tobacco policy on file with the Department of Education.

4.2 Each public school district and charter school shall provide an electronic copy of any tobacco policy within ninety (90) days of such revision(s) regardless of whether said revisions were made as a result of changes to Federal, state or local law, regulations, guidance or policies.

1105. School Transportation.

8.0 Pupil Conduct on School Buses

8.1 Districts shall have a policy concerning the behavior of pupils on school buses that shall, at a minimum, contain the following rules which if not followed may result in the suspension or denial of bus riding privileges:

8.1.18 Do not smoke, use profanity, eat or drink on the bus.

Bullying, harassment, or hazing

STATUTES

4112D. School bullying prevention.

(a) Definition of bullying. As used in this section, "bullying" means any intentional written, electronic, verbal or physical act or actions against another student, school volunteer or school employee that a reasonable person under the circumstances should know will have the effect of:

(1) Placing a student, school volunteer or school employee in reasonable fear of substantial harm to his or her emotional or physical well-being or substantial damages to his or her property; or

(2) Creating a hostile, threatening, humiliating or abusive educational environment due to the pervasiveness or persistence of actions or due to a power differential between the bully and the target; or

(3) Interfering with a student having a safe school environment that is necessary to facilitate educational performance, opportunities or benefits; or

(4) Perpetuating bullying by inciting, soliciting or coercing an individual or group to demean, dehumanize, embarrass or cause emotional, psychological or physical harm to another student, school volunteer or school employee.

(b) Prohibition of bullying.

(1) Each school district and charter school shall prohibit bullying and reprisal, retaliation or false accusation against a target, witness or one with reliable information about an act of bullying.

(2) Each school district and charter school shall establish a policy which, at a minimum, includes the following components:

a. A statement prohibiting bullying of any person on school property or at school functions or by use of data or computer software that is accessed through a computer, computer system, computer network or other electronic technology of a school district or charter school from kindergarten through grade 12. For purposes of this section, "school property" and "school functions" have the same definition as in § 4112 of this title.

b. A definition of bullying no less inclusive than that in subsection (a) of this section.

c. Direction to develop a school-wide bullying prevention program.

d. A requirement that each school establish a site-based committee that is responsible for coordinating the school's bully prevention program including the design, approval and monitoring of the program. A majority of the members of the site-based committee shall be members of the school professional staff, of which a majority shall be instructional staff. The committee also shall contain representatives of the administrative staff, support staff, student body (for school enrolling students in grades 7 through 12), parents and staff from the before- or after-school program or programs. These representatives shall be chosen by members of each respective group except that representatives of the nonemployee groups shall be appointed by the school principal. The committee shall operate on a 1-person, 1-vote principle. In the event a site-based school discipline committee has been established pursuant to § 1605(7)a. and b. of this title, that committee shall vote whether or not to accept the aforementioned responsibilities.

e. A requirement that any school employee that has reliable information that would lead a reasonable person to suspect that a person is a target of bullying shall immediately report it to the administration.

f. A requirement that each school have a procedure for the administration to promptly investigate in a timely manner and determine whether bullying has occurred, and that such procedure include investigation of such instances, including a determination of whether the target of the bullying was

targeted or reports being targeted wholly or in part due to the target's race, age, marital status, creed, religion, color, sex, disability, sexual orientation, gender identity or expression, or national origin. This subsection does not preclude schools from identifying other reasons or criteria why a person is a target of bullying.

g. A requirement that, to the extent that funding is available, each school develop a plan for a system of supervision in nonclassroom areas. The plan shall provide for the review and exchange of information regarding nonclassroom areas.

h. An identification of an appropriate range of consequences for bullying.

i. A procedure for a student and parent, guardian or relative caregiver pursuant to § 202(f) of this title or legal guardian to provide information on bullying activity. However, this paragraph does not permit formal disciplinary action solely based on an anonymous report.

j. A requirement that a parent, guardian or relative caregiver pursuant to § 202(f) of this title or legal guardian of any target of bullying or person who bullies another as defined herein, be notified.

k. A requirement that all reported incidents of bullying, regardless of whether the school could substantiate the incident be reported to the Department of Education within 5 working days pursuant to Department of Education regulations.

l. A statement prohibiting retaliation following a report of bullying.

m. A procedure for communication between school staff members and medical professionals who are involved in treating students for bullying issues.

n. A requirement that the school bullying prevention program be implemented throughout the year, and integrated with the school's discipline policies and § 4112 of this title.

(c) Dissemination of policy and accountability.

(1) Each school district and charter school shall adopt the policy consistent with subsection (b) of this section and submit a copy to the Delaware Department of Education by January 1, 2008, or by January 1 of a newly approved charter school's first year of operation.

(2) The policy shall appear in the student and staff handbook and if no handbook is available, or it is not practical to reprint new handbooks, a copy of the policy will be distributed annually to all students, parents, faculty and staff. The telephone number of the Department of Justice School Ombudsman shall be provided in writing to parents, students, faculty and staff; and shall be on the website of each school and school district. The contact information shall also be prominently displayed in each school.

(3) The policy shall be submitted to the Delaware Department of Education by January 1 of each subsequent year. Access to the policy via the district or charter school's website will meet the criteria as being submitted. Revision or revisions to an existing district or charter school policy shall be submitted to the Department within 30 days of a district's school board or charter school's board of directors approval of the revision or revisions. The Department shall review such policy or revision or revisions to policy for compliance with state and federal law and regulations promulgated by the Department of Education.

(4) The Delaware Department of Education shall prepare an annual report, which shall include a summary of all reported and all substantiated incidences of bullying, and shall include a summary of the information gathered pursuant to paragraph (b)(2)f. of this section and the results of audits conducted pursuant to paragraph (d)(4) of this section. This report shall be posted on the Delaware Department of Education's website.

(d) Duties of the Department of Education.

(1) The Delaware Department of Education shall collaborate with the Delaware Department of Justice to develop a model policy, that may change from time to time, that is applicable to kindergarten through

grade 12, and post this policy, along with the contact information for the School Ombudsman, on their websites in order to assist the school districts and charter schools. In addition, the Department of Education shall promulgate a uniform cyberbullying policy, which shall be based upon a model prepared by the Department of Justice and public comment upon that model. This uniform cyberbullying policy shall be formally adopted as written by each charter school and school district within 90 days of becoming final.

(2) Distribution of the Comprehensive School Discipline Improvement Program funds to a school district and charter school provided in the General Appropriations Act starting in fiscal year 2009 and thereafter is contingent upon Department of Education approval of the school district's or charter school's bullying prevention policy.

(3) To the extent that funding is available the State Department of Education will provide for an award system for schools with exemplary programs based on criteria promulgated by the Delaware Department of Education.

(4) The Department of Education shall conduct random audits of schools to insure compliance with paragraphs (b)(2)i. and (b)(2)k. of this section. The Department shall report the results of these audits annually.

(e) Immunity. -- A school employee, school volunteer or student is individually immune from a cause of action for damages arising from reporting bullying in good faith and to the appropriate person or persons using the procedures specified in the school district and charter school's bullying prevention policy, but there shall be no such immunity if the act of reporting constituted gross negligence and/or reckless, wilful or intentional conduct.

(f) Other defenses.

(1) The physical location or time of access of a technology-related incident is not a valid defense in any disciplinary action by the school district or charter school initiated under this section provided there is sufficient school nexus.

(2) This section does not apply to any person who uses data or computer software that is accessed through a computer, computer system, computer network or other electronic technology when acting within the scope of that person's lawful employment or investigation of a violation of this section in accordance with school district or charter school policy.

(g) Relationship to school crime reporting law. An incident may meet the definition of bullying and also the definition of a particular crime under state or federal law. Nothing in this section or in the policies promulgated as a result thereof shall prevent school officials from fulfilling all of the reporting requirements of § 4112 of this title, or from reporting probable crimes that occur on school property or at a school function which are not required to be reported under that section. Nothing in this section shall abrogate the reporting requirements for child abuse or sexual abuse set forth in Chapter 9 of Title 16, or any other reporting requirement under state or federal law.

(h) Rules and regulations. Notwithstanding any provision to the contrary, the Delaware Department of Education may promulgate rules and regulations necessary to implement this section.

9301. Short title.

This chapter shall be known and may be cited as the "Anti-Hazing Law."

9302. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Hazing" means any action or situation which recklessly or intentionally endangers the mental or physical health or safety of a student or which wilfully destroys or removes public or private property for the purpose of initiation or admission into or affiliation with, or as a condition for continued membership in, any organization operating under the sanction of or recognized as an organization by an institution of higher learning. The term shall include, but not be limited to, any brutality of a physical nature, such as whipping, beating, branding, forced calisthenics, exposure to the elements, forced consumption of any food, liquor, drug or other substance, or any other forced physical activity which could adversely affect the physical health and safety of the individual, and shall include any activity which would subject the individual to extreme mental stress, such as sleep deprivation, forced exclusion from social contact, forced conduct which could result in embarrassment, or any other forced activity which could adversely affect the mental health or dignity of the individual, or any wilful destruction or removal of public or private property. For purposes of this definition, any activity as described in this definition upon which the admission or initiation into or affiliation with or continued membership in an organization is directly or indirectly conditioned shall be presumed to be "forced" activity, the willingness of an individual to participate in such activity notwithstanding.

9303. Hazing prohibited.

Any person who causes or participates in hazing commits a class B misdemeanor.

9304. Enforcement by institution.

(a) Anti-hazing policy. Each institution shall adopt a written anti-hazing policy and, pursuant to that policy, shall adopt rules prohibiting students or other persons associated with any organization operating under the sanction of or recognized as an organization by the institution from engaging in any activity which can be described as hazing.

(b) Enforcement and penalties.

(1) Each institution shall provide a program for the enforcement of such rules and shall adopt appropriate penalties for violations of such rules to be administered by the person or agency at the institution responsible for the sanctioning or recognition of such organizations.

(2) Such penalties may include the imposition of fines, the withholding of diplomas or transcripts pending compliance with the rules or pending payment of fines and the imposition of probation, suspension or dismissal.

(3) In the case of an organization which authorizes hazing in blatant disregard of such rules, penalties may also include decision of permission for that organization to operate on campus property or to otherwise operate under the sanction or recognition of the institution.

(4) All penalties imposed under the authority of this section shall be in addition to any penalty imposed for violation of paragraph (3) of this subsection or any of the criminal laws of this State or for violation of any other institutional rule to which the violator may be subject.

(5) Rules adopted pursuant hereto shall apply to acts conducted on or off campus whenever such acts are deemed to constitute hazing.

ADMINISTRATIVE CODE

624. School district/charter school policy prohibiting cyberbullying.

1.0 Cyberbullying Forbidden

In addition to the policy prohibiting bullying put in place by school districts and charter schools pursuant to 14 Del.C. §4112D(b)(2), each school district and charter school shall also prohibit cyberbullying (as defined herein) by students directed at other students. Incidents of cyberbullying shall be treated by each

school district and charter school in the same manner as incidents of bullying, and notice of each school district's and charter school's policy against cyberbullying shall be provided to students, staff, and faculty in the same manner as notice of the school district's and charter school's policy against bullying.

2.0 Definition of Cyberbullying

2.1 Cyberbullying means the use of uninvited and unwelcome electronic communication directed at an identifiable student or group of students, through means other than face-to-face interaction, which (1) interferes with a student's physical well-being; or (2) is threatening or intimidating; or (3) is so severe, persistent, or pervasive that it is reasonably likely to limit a student's ability to participate in or benefit from the educational programs of the school district or charter school. Communication shall be considered to be directed at an identifiable student or group of students if it is sent directly to that student or group, or posted in a medium that the speaker knows is likely to be available to a broad audience within the school community.

2.2 Whether speech constitutes cyberbullying will be determined from the standpoint of a reasonable student of the same grade and other circumstances as the victim.

2.3 The place of origin of speech otherwise constituting cyberbullying is not material to whether it is considered cyberbullying under this policy, nor is the use of school district or charter school materials.

2.4 Upon implementation of this policy, and again at the beginning of each academic year, each school district and charter school shall inform students in writing of mediums where posting of speech will be presumed to be available to a broad audience within the school community, regardless of privacy settings or other limitations on those postings. From implementation of this policy through the end of the 2013-2014 school year, postings on Facebook, Twitter, MySpace, YouTube, and Pinterest shall be included in each district's and charter school’s list of mediums where posting of speech will be presumed to be available to a broad audience within the school community, regardless of privacy settings or other limitations on those postings.

2.5 Nothing in this policy shall limit in any way a school district's or charter school's ability to regulate student conduct, including bullying, in any manner provided for by existing law, regulation, or policy.

1105. School transportation.

8.0 Pupil Conduct on School Buses

8.1 Districts shall have a policy concerning the behavior of pupils on school buses that shall, at a minimum, contain the following rules which if not followed may result in the suspension or denial of bus riding privileges:

8.1.20 Other forms of misconduct that shall not be tolerated on the bus and at bus stops are acts such as, but not limited to, bullying, indecent exposure, obscene gestures, spitting, and other actions that may be addressed in the district code of conduct.

Other special infractions or conditions

STATUTES

4112E. School teen dating violence and sexual assault act.

(a) Definitions. The following words, terms and phrases when used in this section shall have the meaning ascribed to them except where the context clearly indicates a different meaning;

(1) "Sexual assault". As used in this section, "sexual assault" means any unwanted sexual behavior committed by a perpetrator who is a stranger to the victim or by a perpetrator who is known by the victim or related to the victim by blood, marriage or civil union. Behaviors that fall under this definition include but are not limited to: sexual harassment as defined in § 763 of Title 11; sexual contact as

defined in § 761 Title 11; sexual intercourse as defined in § 761 of Title 11; sexual penetration as defined in § 761 of Title 11; and child sexual abuse as defined in § 901 of Title 10.

(2) "Teen dating violence". As used in this section, "teen dating violence" means assaultive, threatening or controlling behavior, including stalking as defined in § 1312 of Title 11, that 1 person uses against another person in order to gain or maintain power or control in a current or past relationship. The behavior can occur in both heterosexual and same sex relationships, and in serious or casual relationships.

(b) Teen dating violence and sexual assault policies. Each school district and charter school serving any grades 7 through 12 shall establish a policy for responding to teen dating violence and sexual assault, which at a minimum, shall include the following components:

(1) Definitions of teen dating violence and sexual assault, the behaviors which constitute each and the consequences for committing offenses;

(2) Guidelines on mandatory reporting and confidentiality as required by statute, district policy, and charter school policy;

(3) A protocol for responding to incidents of teen dating violence and sexual assault which shall include, but is not limited to:

a. Procedures regarding initial response;

b. Procedures for reporting incidents of teen dating violence and sexual assault when a report is required;

c. Procedures for the documentation of incidents;

d. Procedures for working with victims;

e. Procedures for working with perpetrators.

(c) Each school district and charter school shall ensure that its administrator(s), school nurses(s) and school counselor(s) in schools serving any grade 7 through 12 receive teen dating violence and sexual assault policies and protocol training during their first year of assignment as an administrator, school nurse or school counselor in 1 of those schools and at least once in every 3-year period thereafter. The training materials and trainings shall be developed and provided by the Delaware Domestic Violence Coordinating Council. Any in-service training required by this section shall be provided within the contracted school year as provided in § 1305(e) of this title.

(d) Each school district and charter school shall ensure existing health standard programming related to comprehensive healthy relationships, based on the Health Standards adopted by the Delaware Department of Education as approved by the State Board of Education, is provided in health education programs or related classes. The Domestic Violence Coordinating Council shall have the authority to review and advise on the implementation of school district policies and charter school policies related to teen dating violence and sexual assault.

(e) Dissemination of policy and accountability.

(1) Each school district and charter school shall adopt a policy consistent with subsection (b) of this section. Following review by the Domestic Violence Coordinating Council, each school district and charter school shall submit a copy to the Delaware Department of Education by January 5, 2015.

(2) The policy shall appear in the student and staff handbook and if no handbook is available, or it is not practical to reprint new handbooks, a copy of the policy shall be distributed annually to all students, parents, faculty and staff.

(3) The Delaware Department of Education shall prepare an annual report, which shall include a summary of reported incidences of teen dating violence and sexual assault. The report shall be submitted to the Domestic Violence Coordinating Council by August 1 each year.

(f) Immunity. A school employee, school volunteer or student is individually immune from a cause of action for damages arising from reporting teen dating violence and/or sexual assault in good faith and to the appropriate person or persons using the procedures specified in the school district or charter school's teen dating violence and sexual assault policy, but there shall be no such immunity if the act of reporting constituted gross negligence and/or reckless, wilful or intentional conduct.

(g) Relationship to school crime reporting. Nothing in this section or in the policies promulgated as a result thereof shall prevent school officials from fulfilling all of the reporting requirements of § 4112 of this title, or from reporting probable crimes that occur on school property or at a school function which are not required to be reported under that section.

(h) Nothing in this section shall abrogate the reporting requirements for child abuse or sexual abuse set forth in Chapter 9 of Title 16, or any other reporting requirement under state or federal law.

(i) Rules and regulations. Notwithstanding any provisions to the contrary, the Delaware Department of Education may promulgate rules and regulations necessary to implement this section.

(j) Short title. This section shall be known and may be cited as the "Liane Sorenson Act".

4120. School dress codes and uniforms.

(a) The school board of each public school district shall have authority to establish and enforce a dress code program, which may include school uniforms, for students within the district to promote an orderly, disciplined school environment and to encourage uniformity of student dress. Any school board exercising its authority under this section shall promulgate rules and regulations governing the establishment and enforcement of its dress code program.

ADMINISTRATIVE CODE

1105. School Transportation.

8.0 Pupil Conduct on School Buses

8.1 Districts shall have a policy concerning the behavior of pupils on school buses that shall, at a minimum, contain the following rules which if not followed may result in the suspension or denial of bus riding privileges:

8.1.1 Obey the driver promptly, and be courteous to the driver and to fellow pupils. Pupils are to conduct themselves while on the bus in such a way that they shall not distract the driver from driving tasks.

8.1.2 Be at their bus stop on time or as required by their District for pickup.

8.1.3 Wait in a safe manner for the bus on the sidewalk or shoulder, not the roadway.

8.1.4 Keep a safe distance from the bus while it is in motion.

8.1.5 Enter the bus when directed to by the bus driver or aide without crowding or disturbing others and occupy their seats immediately.

8.1.6 Get on or off the bus only when it is stopped.

8.1.7 Remain seated and facing forward.

8.1.8 No student shall occupy a position in the driver area in front of a barrier or white floor line that may distract the driver's attention or interfere with the driver's vision.

8.1.9 Stay out of the driver’s seat. Also, unnecessary conversation with the driver is prohibited while the bus is in motion.

8.1.10 Follow highway safety practices in accordance with the Motor Vehicle Laws of the State of Delaware by walking on the side of the road facing traffic when going to or from the bus or bus stop along the highway.

8.1.11 Before crossing the road to board the bus cross only upon an audible clearance signal from the driver/aide.

8.1.12 Do not cross the road until it is clear of all traffic or when all traffic has come to a complete stop and then walk in front of the bus beyond the crossing control arm and far enough to be seen by the driver at all times.

8.1.13 For unloading, walk at least 10 feet away from the side of the bus and remain in view of the driver. For those crossing the road, walk to a position at least 10 feet in front of the right corner of the bumper and away from the bus. After looking in all directions and being told to begin crossing by the driver or aide, walk to the left edge of the school bus, look for traffic again in all directions, and wait to be told to cross by the driver/aide.

8.1.14 Observe classroom conduct when on the bus.

8.1.15 Do not open the bus windows without permission from the driver, extend any body part out of the windows or call out to passers-by.

8.1.16 Do not leave the bus without the driver's consent, except on arrival at their regular bus stop or at school.

8.1.17 Keep the bus clean, sanitary, and orderly and do not damage or abuse the equipment.

8.1.18 Do not smoke, use profanity, eat or drink on the bus.

8.1.19 Do not throw articles of any kind inside, around the bus or out of the bus windows.

8.1.20 Other forms of misconduct that shall not be tolerated on the bus and at bus stops are acts such as, but not limited to, bullying, indecent exposure, obscene gestures, spitting, and other actions that may be addressed in the district code of conduct.

Prevention and Behavioral Interventions (Non-Punitive)

Prevention

STATUTES

1601. Purpose.

It is the purpose of this chapter to provide for the establishment of a statewide comprehensive program to improve student discipline in the public elementary and secondary schools of the State. The program shall provide for the treatment of pupils who are exhibiting discipline problems and for the establishment of services to school pupils which will reduce the rate and severity of discipline problems in the future. The program shall operate under the supervision and direction of the Department of Education.

1605A. Prevention component.

The Family Services Cabinet Council (Council), with the Department of Education and the Department of Services for Children, Youth and Their Families acting as lead agencies, shall administer a program to offer prevention-related student support services (prevention services) to students to prevent them from becoming discipline problems and from failing academically in our schools.

4112D. School bullying prevention.

(b) Prohibition of bullying.

(2) Each school district and charter school shall establish a policy which, at a minimum, includes the following components:

c. Direction to develop a school-wide bullying prevention program.

d. A requirement that each school establish a site-based committee that is responsible for coordinating the school's bully prevention program including the design, approval and monitoring of the program. A majority of the members of the site-based committee shall be members of the school professional staff, of which a majority shall be instructional staff. The committee also shall contain representatives of the administrative staff, support staff, student body (for school enrolling students in grades 7 through 12), parents and staff from the before- or after-school program or programs. These representatives shall be chosen by members of each respective group except that representatives of the nonemployee groups shall be appointed by the school principal. The committee shall operate on a 1-person, 1-vote principle. In the event a site-based school discipline committee has been established pursuant to § 1605(7)a. and b. of this title, that committee shall vote whether or not to accept the aforementioned responsibilities.

n. A requirement that the school bullying prevention program be implemented throughout the year, and integrated with the school's discipline policies and § 4112 of this title.

4116. Drug/alcohol educational programs.

(a) The Department of Education with approval of the State Board of Education shall establish and implement statewide alcohol/substance abuse educational programs to be provided in each grade, kindergarten through grade 12, in each public school in this State. The programs required by this section shall consist of no fewer than 10 hours per school year in grades kindergarten through 4 and 15 hours per school year in grades 5 through 12. Each program shall be taught by appropriately trained certified teachers and the instruction shall be comprehensive, age-appropriate and sequential in nature.

(b) Any in-service training required by this section shall be provided within the contracted school year as provided in § 1305 of this title.

ADMINISTRATIVE CODE

851. K to 12 comprehensive health education program.

1.1 Each school district and charter school shall have a sequential, skill-based K to 12 Comprehensive Health Education Program based on the Delaware Health Education Standards that establishes a foundation of understanding the relationship between personal behavior and health and shall include at a minimum the following:

1.1.3 The use of the state content standards for health education for grades K to 12 to address the core concepts: tobacco, alcohol and other drugs, injury prevention and safety, nutrition and, physical activity, family life and sexuality, personal health and wellness, mental health and community and environmental health with minimum hours of instruction as follows:

1.1.3.1 In grades K to 4, a minimum of thirty (30) hours in each grade of comprehensive health education and family life education of which ten (10) hours, in each grade, must address drug and alcohol education.

1.1.3.2 In grades 5 and 6, a minimum of thirty five (35) hours in each grade of comprehensive health education and family life education of which fifteen (15) hours, in each grade, must address drug and alcohol education.

1.1.3.3 In grades 7 and 8, separate from other subject areas, a minimum of sixty (60) hours of comprehensive health education and family life education of which fifteen (15) hours, in each grade, must address drug and alcohol education. If all of the 60 hours are provided in one year at grade 7 or 8, an additional fifteen hours of drug and alcohol education must be provided in the other grade.

1.1.3.4 In grades 9 to 12, one half (1/2) credit of comprehensive health education is required for graduation of which fifteen (15) hours of this 1/2 credit course must address drug and alcohol education. This 1/2 credit course may be provided in the 9th, 10th, 11th or 12th grade. In each of the remaining three grades, fifteen (15) hours of drug and alcohol education must be provided for all students.

1.1.7 Inclusion of an evidence-based tobacco, alcohol, drug and interpersonal violence prevention program.

Behavioral interventions and student support services

STATUTES

2729. Failure to send; affirmative defense; penalties.

(g) The court may also order as conditions of release prior to judgment or as conditions of sentence upon conviction such conditions as the court considers necessary to obtain compliance with school attendance requirements. These conditions include but are not limited to the following:

(1) Verifying the child's attendance with the school;

(2) Meeting with school officials;

(3) Taking the child to school;

(4) Taking the child to the bus stop;

(5) Attending school with the child;

(6) Undergoing medical, psychological or psychiatric evaluations and following the evaluator's recommendations;

(7) Undergoing an evaluation for drug, alcohol, or other substance abuse and following the evaluator's recommendations; and

(8) Taking the child for medical, psychological or psychiatric evaluation or for drug, alcohol or other substance abuse evaluation and following the evaluator's recommendations.

2730. Failure to attend; penalties.

(c) If the Court determines the student has violated § 2702 of this title, it shall adjudicate the student a truant and may order the following remedial dispositions:

(1) Community service;

(2) Counseling;

(3) Substance abuse evaluation and treatment;

(4) Mental health evaluation and treatment;

(5) A curfew with hours set by the court;

(6) Suspension or revocation of any permit held by the student, including a work permit or a driver's permit;

(7) Suspension or revocation of any license held by the student, including a driver's license or a hunting license;

(8) Prohibition of the student's participation in or attendance at any extra-curricular activity or social event which is an official school event or is sponsored by the school or held on school property;

(9) A recommendation that the student enroll in the school in alternative educational and related services in accordance with Chapter 16 of this title; and

(10) Such other action as is permitted by statute or by court rule.

The court shall not suspend or revoke a student's permit or license if the student demonstrates to the court that suspension or revocation would impose an economic hardship on the parent or on the student's family.

ADMINISTRATIVE CODE

609. District and school based intervention services.

1.0 Provision of Services

Each school district shall provide services for students whose behavior disrupts the classroom setting and creates distractions that impede the learning process, but who are not eligible for placement in an alternative program pursuant to 14 DE Admin. Code 611. School districts may offer such services based on the identified needs of the district and its individual schools, subject to the requirements of this regulation.

2.0 Application for Funding

2.1 Any school district requesting an incentive or supplemental grant to provide intervention services shall apply for such funds using the LEA Consolidated Application process provided by the Department of Education.

2.2 Any incentive or supplemental grant approved as part of the LEA Consolidated Application process shall be in the amount appropriated for that purpose by law.

3.0 Student Population to be Served

Services funded under this regulation may be provided to any student in grades K to 12, subject to the terms of the district's approved LEA Consolidated Application. Notwithstanding any of the provisions to the contrary, IDEA-identified students with disabilities shall be served pursuant to the provisions in 14 DE Admin. Code 925 and students with disabilities identified under Section 504 of the Rehabilitation Act shall be served in conformity with 34 C.F.R. Part 104.

4.0 School Based Intervention Programs

4.1 If a district, through its LEA Consolidated Application, provides a School Based Intervention Program as part of the services provided to disruptive students, such Program shall meet the following requirements:

4.2 A School Based Intervention Program shall include both short term and long term intervention strategies. Such strategies may include character education, short or long term counseling to improve behavior which impacts educational performance, and methods to identify the need to refer students for additional services either within the district or to other agencies. The Program shall also include support services to provide a smooth transition for students who are returning to their regular school from a Consortium Discipline Alternative Program or from a Department of Services to Children, Youth and their Families (DSCYF) setting.

4.3 The decision to place a student in the School Based Intervention Program shall be made by the student's Intervention Team. The Intervention Team shall include the building principal or assistant principal, school nurse, counselor, social worker (if the student receives social work services), and a teacher familiar with the student. Other individuals, including parents, guardians or Relative Caregivers, may be invited as appropriate.

4.4 When placing an IDEA-identified student with a disability in a School Based Intervention Program, the Intervention Team and a student's IEP team may be the same as long as the membership of the Intervention Team also meets the requirements of 14 DE Admin. Code 925. When placing a student with a disability identified under Section 504 of the Rehabilitation Act, the Intervention Team may be the same as a multidisciplinary team authorized to make placement decisions as long the Intervention Team also meets the requirements of 34 C.F.R. 104.35

5.0 Evaluation of Services

Any local school district receiving a grant pursuant to this regulation shall submit an annual evaluation report on the effectiveness of its District and School Based Intervention Services. Such report shall be submitted as part of the LEA Consolidated Application process and shall conform to content and format standards.

612. Possession, use or distribution of drugs and alcohol.

3.0 Requirement of Each School District and Charter School to have a Policy.

Each school district and charter school shall have a policy on file and update it periodically. The policy shall Include, as a minimum the following:

3.6 A program of assistance for students with counseling and referral to services as needed.

Professional development

STATUTES

4112E. School teen dating violence and sexual assault act.

(c) Each school district and charter school shall ensure that its administrator(s), school nurses(s) and school counselor(s) in schools serving any grade 7 through 12 receive teen dating violence and sexual assault policies and protocol training during their first year of assignment as an administrator, school

nurse or school counselor in 1 of those schools and at least once in every 3-year period thereafter. The training materials and trainings shall be developed and provided by the Delaware Domestic Violence Coordinating Council. Any in-service training required by this section shall be provided within the contracted school year as provided in § 1305(e) of this title.

4112F. Limitations on use of seclusion and restraint.

(c) Department of Education role; regulations.

(1) The Department of Education shall promulgate regulations implementing this section. Such regulations shall include, but not be limited to, the following:

d. Recommended or required training of public school personnel in implementing this section.

4116. Drug/alcohol educational programs.

(b) Any in-service training required by this section shall be provided within the contracted school year as provided in § 1305 of this title.

ADMINISTRATIVE CODE

601. Schools and law enforcement agencies.

4.0 Training Component

4.1 Any school administrator responsible for reporting school crimes or reporting school conduct incidents to law enforcement and to the Department of Education; or any school administrator responsible for reporting suspension and expulsion data to the Department; or any school administrator responsible for any disciplinary process involving staff or students shall complete Department of Education approved training and any such additional training the Department of Education may prescribe from time to time.

4.2 The approved training shall be primarily provided by staff at the Department of Education. The training may be provided by a school administrator at the district, charter school, or Alternative Program who is qualified to provide such training by having completed the Department of Education approved training within the last twenty-four (24) months. The district, charter school, or Alternative Program shall provide the name(s) of the trainer(s) conducting the training and the name(s) of those school administrator(s) attending the training if such training was provided by the district, charter school, or Alternative Program.

4.3 Each school district, charter school, and Alternative Program shall, at the time of hiring and at the beginning of each school year thereafter, advise each School Employee of his/her duty to report school crimes and the penalty for failure to so report as prescribed in 14 Del.C. §4112 (e).

Monitoring and Accountability

Formal incident reporting of conduct violations

STATUTES

4112. Reporting school crimes.

(b) Criminal violation; mandatory reports.

(1) Whenever a school employee has reliable information that would lead a reasonable person to believe that:

a. A student, school volunteer, or a school employee, has been the victim of:

1. A violent felony,
2. An assault III, or
3. An unlawful sexual contact III,

which occurred on school property or at a school function; or

b. A student has been the victim of:

1. A violent felony
2. An assault III, or
3. Any sexual offense, as defined in § 761(h) of Title 11,

and the offense was committed by another school employee regardless of whether the offense occurred on school property or at a school function; then the school employee who has reliable information that would lead a reasonable person to believe that a crime has been committed shall immediately report the incident to the principal.

(2) The principal must immediately make reasonable efforts to notify the parents of any juvenile victim and must send written notification of the incident to the parents within 3 business days. This paragraph does not apply if the parent is alleged to be the offender.

(3) The principal shall immediately report the incident to the appropriate police agency. The report shall be made by telephone or in person immediately and shall be followed by a written report of the school's investigation within 3 business days.

(4) If the police agency determines that probable cause exists to believe that a crime has been committed, or if the principal later learns that a suspect has been arrested for the offense, then the principal must file a written report of the incident to the Department of Education within 5 days.

(5) Nothing in this section shall preclude a school employee who has reliable information that would lead a reasonable person to believe a crime has been committed from reporting the incident to the principal within a reasonable amount of time. In such instances where a report is made, the school officials shall follow the procedure set forth in paragraphs (b)(2) through (6) of this section. Nothing in this section shall abrogate the reporting requirements for child abuse or sexual abuse set forth in § 903 et seq. of Title 16.

(6) Offenders under the age of 12. When a misdemeanor offense listed in this subsection has allegedly been committed by a child under the age of 12, the principal is not required to notify the appropriate police agency but must file a written report of the incident with the Department of Education within 5 working days. When the alleged offense is a violent felony, the appropriate police agency must be notified by the principal of the incident even when the suspect is under the age of 12.

(7) Sexual harassment. Whenever a school employee has reliable information that would lead a reasonable person to believe that a student has been the victim of sexual harassment, as defined in Title 11, which occurred on school property or at a school function, the harassment must be reported to the principal, who, immediately after conducting a preliminary investigation to determine if good reason exists to believe that harassment has occurred, must notify the victim's parent of that determination, if the parent is not alleged to be the offender. The principal is not required to notify the appropriate police agency, but must file a written report with the Department of Education.

(8) Under no circumstances shall any person who has supervisory authority over the principal or any school board member exercise any control of, hinder or delay the lodging of any oral or written report required to be made pursuant to this subsection or the forwarding of such report to the Department of Education or the police. A principal (or acting principal if the principal is absent) may not delegate to or rely upon any other person except an assistant principal to make the immediate report to the police. A person with supervisory authority over the principal or any school board member who has knowledge of an incident which is required to be reported under this section, and who has information that would lead a reasonable person to believe that it has not been reported to the police, has an affirmative duty to report the incident to the police immediately. This includes, but is not limited to, incidents in which a school employee is a possible suspect and when an administrative review is ongoing.

4112D. School bullying prevention.

(b) Prohibition of bullying.

(2) Each school district and charter school shall establish a policy which, at a minimum, includes the following components:

e. A requirement that any school employee that has reliable information that would lead a reasonable person to suspect that a person is a target of bullying shall immediately report it to the administration.

i. A procedure for a student and parent, guardian or relative caregiver pursuant to § 202(f) of this title or legal guardian to provide information on bullying activity. However, this paragraph does not permit formal disciplinary action solely based on an anonymous report.

k. A requirement that all reported incidents of bullying, regardless of whether the school could substantiate the incident be reported to the Department of Education within 5 working days pursuant to Department of Education regulations.

Parental notification

STATUTES

2702. Compulsory attendance requirements; evaluation of readiness.

(d) The following provisions shall be applicable in regard to statewide minimum mandatory attendance requirements in each school year for children in grades K through 5.

(1) Following the 10th day of unexcused absence by a student, the school shall immediately notify the parent or parents or guardian and a visiting teacher for the district shall visit the student's home;

(2) Following the 15th day of unexcused absence by a student, the student's parent or parents or guardian shall be notified by certified mail to appear at the school within 10 days of notification for a conference and counseling;

(3) Following the 30th day of unexcused absence by a student, the school shall refer the case for prosecution;

(4) Following the completion of prosecution of the case and the subsequent failure of the student to return to school within 5 school days thereof, the school shall immediately notify the Department of

Services for Children, Youth and Their Families requesting intervention services by the Department. The Department shall contact the family within 10 business days.

(e) Following the tenth unexcused day of attendance by a student in grades 6 through 12 inclusive, the building principal shall notify a visiting teacher of such unexcused days.

(f) If contacted by the school pursuant to paragraph (d)(2) of this section, each parent or guardian of a student shall sign a contract with the district agreeing they will make every reasonable effort to:

(1) Have their child or children abide by the school code of conduct;

(2) Make certain their child attends school regularly; and

(3) Provide written documentation for the reasons for any absence.

4112. Reporting school crimes.

(2) The principal must immediately make reasonable efforts to notify the parents of any juvenile victim and must send written notification of the incident to the parents within 3 business days. This paragraph does not apply if the parent is alleged to be the offender.

4112D. School bullying prevention.

(b) Prohibition of bullying.

(2) Each school district and charter school shall establish a policy which, at a minimum, includes the following components:

j. A requirement that a parent, guardian or relative caregiver pursuant to § 202(f) of this title or legal guardian of any target of bullying or person who bullies another as defined herein, be notified.

4112F. Limitations on use of seclusion and restraint.

(c) Department of Education role; regulations.

(1) The Department of Education shall promulgate regulations implementing this section. Such regulations shall include, but not be limited to, the following:

b. Requirement of timely parental notice in event of use of physical restraint;

(4) Unless proscribed by federal law, the Secretary of Education may issue a waiver of the prohibition on mechanical restraint and seclusion for an individual student based on compelling justification and subject to specific conditions and safeguards which must include a requirement of continuous visual staff monitoring and parental notice of each use of mechanical restraint or seclusion.

4117. Substance abuse.

(a) Each school district shall designate an administrator in every school as the person responsible for reporting, to parents and/or law enforcement agencies, any violation and/or problems relating to the abuse of controlled substances. Such administrator shall not be liable under the laws of this State for any act or omission committed by the administrator in the performance of that administrator's duties and responsibilities under this section.

(b) No administrator having reporting responsibilities under this section shall be required to report any substance abuse violation and/or problem to a parent if such person, being the principal of the school, reasonably believes that a parent or parents are a cause of or are involved in the violation and/or problem; nor shall any other administrator, having reporting responsibilities under this section, be required to report any substance abuse violation and/or problem to a parent, if such administrator and the principal of the school both believe that a parent or parents are a cause of or are involved in the violation or problem.

4122. Parent's failure to attend school conference with superintendent; subpoena to compel attendance.

(a) "Parent" as used in this section means natural parent, adoptive parent, any person legally charged with the care or custody of a student under 18 years of age, or any person who has assumed responsibility for the care of a student under 18 years of age including any person acting as a caregiver pursuant to the provisions of § 202(f) of this title.

(b) When a parent fails to attend, participate or respond to a public school or charter school superintendent's request for a conference to discuss matters involving alleged violations of school rules or regulations by the parent's child, the public school or charter school superintendent or the superintendent's designee may request that the Justice of the Peace Court issue a subpoena to compel the presence of the parent at a conference with the superintendent.

(c) Prior to the issuance of a subpoena to compel the presence of a parent, the superintendent or a designee must provide evidence that the superintendent or a designee has:

(1) Made a reasonable attempt to schedule the conference at a time that does not conflict with the employment hours of the parent; and

(2) Sent written notice of the conference by regular United States mail to the address of record of the parent, which notice shall include the reason for the conference and a statement that failure to schedule or attend the conference may result in the issuance of a subpoena.

(d) After verifying that the superintendent or a designee has sent the required notice, the Justice of the Peace Court may, in its discretion, issue a subpoena pursuant to Justice of the Peace Civil Rule 18 which shall compel the presence of the parent at a conference with the superintendent.

(e) If a parent fails to obey a subpoena properly served under this section, the superintendent may file a motion for an order holding the parent in contempt of court. The Justice of the Peace Court shall have jurisdiction over this matter. A parent found guilty of contempt for failure to appear at a conference after receiving a subpoena may be ordered by the Court to attend school with the student, attend family counseling, and/or comply with such other conditions as the Court may order.

(f) Proceedings against a parent of a suspended or expelled child may also be filed pursuant to subchapter II of Chapter 27 of this title for each day that the child is absent beyond the period of suspension or expulsion without a valid excuse as a result of the parent's failure to attend or schedule a conference after having received notification of the suspension or expulsion.

ADMINISTRATIVE CODE

611. Consortium discipline alternative programs for treatment of severe discipline problems.

3.0 Written Decision Required

When a school board expels a student but determines the student shall not be placed at a Consortium Discipline Alternative Program, the school district's decision shall be in writing and address with specificity the reason for non placement and the evidence in support thereof. Such decisions shall be submitted to the Delaware Department of Education's Office of School Climate and Discipline within five working days of such decision with a copy to the student's parent, guardian, or Relative Caregiver.

4.0 Informing the Parents, Guardians, Relative Caregiver or Students (If the Student is Age 18 or Older)

Districts shall inform the parents, guardians, Relative Caregiver or students (if the student is age 18 or older) of the alternative education options that are then currently available to them if the students have been expelled or expulsion is being considered. These options may include, but are not be limited to, the Consortium Discipline Alternative Program, a GED Program, James H. Groves High School and continued special education and related services for children with disabilities as determined by the

student's individual eligibility for participation in such programs. A student's eligibility for such alternative education options is determined by the requirements of such programs.

612. Possession, use or distribution of drugs and alcohol.

3.0 Requirement of Each School District and Charter School to have a Policy.

Each school district and charter school shall have a policy on file and update it periodically. The policy shall Include, as a minimum the following:

3.3 A written policy which sets out procedures for reporting incidents to police authorities, parents, guardians or Relative Caregivers and to the Department of Education, while maintaining confidentiality.

Reporting and referrals between schools and law enforcement

STATUTES

4112. Reporting school crimes.

(a) Definitions. The following words, terms and phrases, when used in this section, shall have the meaning ascribed to them except where the context clearly indicates a different meaning:

(1) "Crime" includes a felony, misdemeanor or violation defined in the Delaware Code, as well as behavior by a person under 18 years of age which would be considered a felony, misdemeanor or violation if it had been committed by an adult.

(2) "Non-instructional designee" means a school employee whose primary job duty does not include teaching students.

(3) "Notification" means direct contact by telephone, facsimile, electronic mail, Department of Education electronic filings, in person, or by certified mail, unless otherwise designated.

(4) "Parent" includes natural parent, adoptive parent, or any person, agency, or institution that has temporary or permanent custody or guardianship over a student.

(5) "Parent conference" includes a meeting by telephone or in person, unless otherwise designated.

(6) "Principal" means the building principal, or the equivalent of the building principal, of any public school or charter school, or the building principal's designee.

(7) "School employee" includes all persons by a school district, attendance zone or charter school; subcontractors such as bus drivers or security guards; substitute employees; and persons hired by or subcontracted by other state agencies to work on school property.

(8) "School function" includes any field trip or any officially sponsored public or charter school event.

(9) "School property" means any building, structure, athletic field, sports stadium or real property that is owned, operated, leased or rented by any public school district or charter school including, but not limited to, any kindergarten, elementary, secondary, or vocational-technical school or charter school, or any motor vehicle owned, operated, leased, rented or subcontracted by any public school or charter school.

(10) "School volunteer" means a person 18 years of age or older who, without compensation, renders service to a public or charter school. "School volunteer" includes parents who assist in school activities or chaperone school functions.

(11) "Superintendent" means the superintendent of any public school district or charter school, or the equivalent of a superintendent, or the superintendent's designee.

(12) "Suspension" means either an external or an internal removal of a student from the general school population.

(13) "Violent felony" means a crime designated in § 4201(c) of Title 11.

(14) "Written report" includes printed paper filings and electronic filings that can be printed.

(b) Criminal violation; mandatory reports.

(1) Whenever a school employee has reliable information that would lead a reasonable person to believe that:

a. A student, school volunteer, or a school employee, has been the victim of:

1. A violent felony,

2. An assault III, or

3. An unlawful sexual contact III,

which occurred on school property or at a school function; or

b. A student has been the victim of:

1. A violent felony

2. An assault III, or

3. Any sexual offense, as defined in § 761(h) of Title 11,

and the offense was committed by another school employee regardless of whether the offense occurred on school property or at a school function; then the school employee who has reliable information that would lead a reasonable person to believe that a crime has been committed shall immediately report the incident to the principal.

(2) The principal must immediately make reasonable efforts to notify the parents of any juvenile victim and must send written notification of the incident to the parents within 3 business days. This paragraph does not apply if the parent is alleged to be the offender.

(3) The principal shall immediately report the incident to the appropriate police agency. The report shall be made by telephone or in person immediately and shall be followed by a written report of the school's investigation within 3 business days.

(4) If the police agency determines that probable cause exists to believe that a crime has been committed, or if the principal later learns that a suspect has been arrested for the offense, then the principal must file a written report of the incident to the Department of Education within 5 days.

(5) Nothing in this section shall preclude a school employee who has reliable information that would lead a reasonable person to believe a crime has been committed from reporting the incident to the principal within a reasonable amount of time. In such instances where a report is made, the school officials shall follow the procedure set forth in paragraphs (b)(2) through (6) of this section. Nothing in this section shall abrogate the reporting requirements for child abuse or sexual abuse set forth in § 903 et seq. of Title 16.

(6) Offenders under the age of 12. When a misdemeanor offense listed in this subsection has allegedly been committed by a child under the age of 12, the principal is not required to notify the appropriate police agency but must file a written report of the incident with the Department of Education within 5 working days. When the alleged offense is a violent felony, the appropriate police agency must be notified by the principal of the incident even when the suspect is under the age of 12.

(7) Sexual harassment. Whenever a school employee has reliable information that would lead a reasonable person to believe that a student has been the victim of sexual harassment, as defined in Title 11, which occurred on school property or at a school function, the harassment must be reported to the principal, who, immediately after conducting a preliminary investigation to determine if good reason exists to believe that harassment has occurred, must notify the victim's parent of that determination, if the parent is not alleged to be the offender. The principal is not required to notify the appropriate police agency, but must file a written report with the Department of Education.

(8) Under no circumstances shall any person who has supervisory authority over the principal or any school board member exercise any control of, hinder or delay the lodging of any oral or written report required to be made pursuant to this subsection or the forwarding of such report to the Department of Education or the police. A principal (or acting principal if the principal is absent) may not delegate to or rely upon any other person except an assistant principal to make the immediate report to the police. A person with supervisory authority over the principal or any school board member who has knowledge of an incident which is required to be reported under this section, and who has information that would lead a reasonable person to believe that it has not been reported to the police, has an affirmative duty to report the incident to the police immediately. This includes, but is not limited to, incidents in which a school employee is a possible suspect and when an administrative review is ongoing.

(c) Student possession of weapons and unlawful drugs. Whenever a school employee has reliable information that would lead a reasonable person to believe that a person on school property or at a school function has on his or her person, concealed in that person's possessions, or placed elsewhere on school property:

(1) Any controlled substance prohibited by Title 16, or

(2) Any deadly weapon, destructive weapon, dangerous instrument or incendiary or explosive device as prohibited by Title 11,

the school employee shall immediately report the incident to the principal, who shall conduct a thorough investigation. If the investigation verifies that good reason exists to believe that a crime has been committed, the principal shall immediately notify the appropriate police agency of the incident. If the police agency determines that probable cause exists to believe that a crime has been committed, then the principal shall file a written report of the incident with the Department of Education within 5 working days.

(d) School officials who report a crime committed by a child with a disability, as defined by § 3101(2) of this title, shall comply with 20 U.S.C. § 1415(k)(6)(B) by ensuring that copies of the special education and disciplinary records of the child are transmitted for consideration by the appropriate authorities to whom the crime is reported. An agency reporting a crime under this section may transmit copies of the child's special education and disciplinary records only to the extent that the transmission is permitted by the Family Educational Rights and Privacy Act [20 U.S.C. § 1232g].

(e) Penalties. Any school employee who fails to report an incident as required by subsection (b) or subsection (c) of this section shall be guilty of a violation and shall be fined not more than $250 for a first offense and not more than $500 for a subsequent offense. Any person with supervisory authority over the principal or any school board member who exercises any control of, hinders or delays the lodging of any report required to be made pursuant to this subsection or the forwarding of such report to the Department of Education or the police shall be guilty of a class B misdemeanor.

(f) Immunity from civil liability; review of criminal complaint.

(1) Any school employee who in good faith provides information to a police agency, a principal, a superintendent, or to the Department of Education under subsection (b) or subsection (c) of this section shall not be held civilly liable for providing such information.

(2) Prior to lodging any criminal charge against a school employee for providing information pursuant to subsection (b) or subsection (c) of this section to a police agency, a principal, a superintendent, or to the Department of Education, the Attorney General's office shall be consulted to determine the appropriateness of the charge.

(3) Any report of an actual or suspected crime made by a school employee or principal pursuant to subsection (b) of this section shall be exempt from public disclosure pursuant to the Freedom of Information Act as set forth in Chapter 100 of Title 29.

(g) Confidential list of young student offenders. Following the start of each school year, the Department of Education shall, upon request, provide to the principal of any school a list of the students enrolled in that school for the coming year who committed offenses during the previous year which were reported to the Department of Education pursuant to this section. The list shall remain confidential and shall be used by the principal only for the purpose of identifying students who may be in need of beneficial programs such as mentoring.

(h) A copy of any report required by this section to go to a principal shall be immediately submitted to the superintendent by the principal.

(i) If any report required by this section alleges any wrongdoing involving the principal, the report shall be given to the superintendent and the duties required of the principal by this section shall be the duties of the superintendent.

4112D. School bullying prevention.

(g) Relationship to school crime reporting law. An incident may meet the definition of bullying and also the definition of a particular crime under state or federal law. Nothing in this section or in the policies promulgated as a result thereof shall prevent school officials from fulfilling all of the reporting requirements of § 4112 of this title, or from reporting probable crimes that occur on school property or at a school function which are not required to be reported under that section. Nothing in this section shall abrogate the reporting requirements for child abuse or sexual abuse set forth in Chapter 9 of Title 16, or any other reporting requirement under state or federal law.

4117. Substance abuse.

(a) Each school district shall designate an administrator in every school as the person responsible for reporting, to parents and/or law enforcement agencies, any violation and/or problems relating to the abuse of controlled substances. Such administrator shall not be liable under the laws of this State for any act or omission committed by the administrator in the performance of that administrator's duties and responsibilities under this section.

(b) No administrator having reporting responsibilities under this section shall be required to report any substance abuse violation and/or problem to a parent if such person, being the principal of the school, reasonably believes that a parent or parents are a cause of or are involved in the violation and/or problem; nor shall any other administrator, having reporting responsibilities under this section, be required to report any substance abuse violation and/or problem to a parent, if such administrator and the principal of the school both believe that a parent or parents are a cause of or are involved in the violation or problem.

ADMINISTRATIVE CODE

612. Possession, use or distribution of drugs and alcohol.

3.0 Requirement of Each School District and Charter School to have a Policy.

Each school district and charter school shall have a policy on file and update it periodically. The policy shall Include, as a minimum the following:

3.3 A written policy which sets out procedures for reporting incidents to police authorities, parents, guardians or Relative Caregivers and to the Department of Education, while maintaining confidentiality.

3.4 A written policy on how evidence is to be kept, stored and documented, so that the chain of custody is clearly established prior to giving such evidence over to the police.

Disclosure of school records

STATUTES

4111. Disclosure of pupils' school records.

(a) Educational records of students in all public and private schools in this State are deemed to be confidential. Educational records may be released, and personally identifiable information contained therein disclosed, only in accordance with rules and regulations of the Department of Education. Such rules and regulations shall authorize the release of educational records upon written consent and shall establish the other terms and conditions on which educational records may and must be released.

(b) The provisions of subsection (a) of this section notwithstanding, educational institutions and programs operating in this State, including postsecondary institutions and programs regulated by a state agency, shall disclose to the Department such education records, and personally identifiable information contained therein, necessary for the audit or evaluation of state and federal education programs in accordance with the terms and conditions of a written agreement negotiated between the Department and each educational institution or program from which education records are sought. Such agreements shall:

(1) State the term of the agreement;

(2) Comply with the requirements of the Family Educational Rights and Privacy Act Regulations set forth in 34 CFR Part 99 regarding the Department's use, compilation, maintenance, protection, distribution, re-disclosure and return/destruction of education records obtained hereunder;

(3) Specify the data elements to be disclosed by the educational institution or program;

(4) State the purpose for which the information will be used;

(5) Prohibit any disclosure of education records or personally identifiable information contained therein by an educational institution or program in violation of applicable state or federal privacy laws;

(6) Prohibit any modification or amendment except by written agreement duly executed by the parties; and

(7) Contain such additional provisions as agreed upon.

All disclosures required by this section shall be for the purpose of ensuring the effectiveness of publicly-funded programs by connecting pre-kindergarten through grade 12 and post-secondary data, and sharing information to improve early childhood and workforce programs as set forth in Delaware's State Fiscal Stabilization Plan and Delaware's Race to the Top Plan, or as otherwise approved by the P-20 Council.

(c) All public and private schools in this State shall allow parents and eligible students to inspect and review the education records of their children or themselves who are, or have been, in attendance at the school. The right to inspect and review educational records shall be in accordance with rules and regulations of the Department of Education.

(d) No cause of action or claim for relief, civil or criminal, shall lie or damages be recoverable against any school officer or employee by reason of such officer's or employee's participation in the formulation of such records or any statements made or of judgments expressed therein concerning a student's academic performance, personal conduct, health, habits, school related activities or potential; nor by reason of the disclosure of the records or personally identifiable information from the records, nor lack of access thereto, in accordance with subsections (a) through (c) of this section.

Data collection, review, and reporting of disciplinary policies and actions

STATUTES

3807. State Board of Education; Department of Public Safety.

The Department of Safety and Homeland Security and the Department of Education shall both have the power to monitor and evaluate the projects and programs under this chapter, and to make comments and suggestions to the Division.

4112D. School bullying prevention.

(c) Dissemination of policy and accountability.

(1) Each school district and charter school shall adopt the policy consistent with subsection (b) of this section and submit a copy to the Delaware Department of Education by January 1, 2008, or by January 1 of a newly approved charter school's first year of operation.

(2) The policy shall appear in the student and staff handbook and if no handbook is available, or it is not practical to reprint new handbooks, a copy of the policy will be distributed annually to all students, parents, faculty and staff. The telephone number of the Department of Justice School Ombudsman shall be provided in writing to parents, students, faculty and staff; and shall be on the website of each school and school district. The contact information shall also be prominently displayed in each school.

(3) The policy shall be submitted to the Delaware Department of Education by January 1 of each subsequent year. Access to the policy via the district or charter school's website will meet the criteria as being submitted. Revision or revisions to an existing district or charter school policy shall be submitted to the Department within 30 days of a district's school board or charter school's board of directors approval of the revision or revisions. The Department shall review such policy or revision or revisions to policy for compliance with state and federal law and regulations promulgated by the Department of Education.

(4) The Delaware Department of Education shall prepare an annual report, which shall include a summary of all reported and all substantiated incidences of bullying, and shall include a summary of the information gathered pursuant to paragraph (b)(2)f. of this section and the results of audits conducted pursuant to paragraph (d)(4) of this section. This report shall be posted on the Delaware Department of Education's website.

4112E. School teen dating violence and sexual assault act.

(e) Dissemination of policy and accountability.

(1) Each school district and charter school shall adopt a policy consistent with subsection (b) of this section. Following review by the Domestic Violence Coordinating Council, each school district and charter school shall submit a copy to the Delaware Department of Education by January 5, 2015.

4112F. Limitations on use of seclusion and restraint.

(c) Department of Education role; regulations.

(1) The Department of Education shall promulgate regulations implementing this section. Such regulations shall include, but not be limited to, the following:

a. Requirement of uniform public school data collection on each use of physical restraint, by school, which includes demographic information on affected students such as age, gender, race, ethnicity, and disability category, if any;

(2) To facilitate data collection and analysis, the Department of Education may adopt a uniform reporting document and may require reporting of data in a standardized electronic or nonelectronic format.

(3) The Department of Education shall issue an annual report on use of physical restraint which includes rates of usage by school and by subcategories identified in paragraph (c)(1)a. of this section, identifies trends, and analyzes significant results.

(4) Unless proscribed by federal law, the Secretary of Education may issue a waiver of the prohibition on mechanical restraint and seclusion for an individual student based on compelling justification and subject to specific conditions and safeguards which must include a requirement of continuous visual staff monitoring and parental notice of each use of mechanical restraint or seclusion.

ADMINISTRATIVE CODE

603. Compliance with the gun free schools act.

4.0 Reporting Requirements and Timelines

4.1 Each public school district and charter school shall have an electronic copy of its policy implementing the Gun-Free Schools Act [(20 USC 4141) (20 USC 7151)] and 11 Del.C. §1457(j) or its successor statute on file with the Department of Education.

4.2 Each public school district and charter school shall provide an electronic copy of any policy implementing the Gun-Free Schools Act [(20 USC 4141) (20 USC 7151)] and 11 Del.C. §1457(j) or its successor statute within ninety (90) days of such revision(s) regardless of whether said revisions were made as a result of changes to Federal, state or local law, regulations, guidance or policies.

605. Student rights and responsibilities.

3.0 Reporting Requirements and Timelines

3.1 Each local school district and charter school shall have an electronic copy of its current student rights and responsibilities policy(s) on file with the Department of Education.

3.2 Each local school district and charter school shall provide an electronic copy of any student rights and responsibilities policy(s) to the Department within ninety (90) days of such revision(s) regardless of whether said revisions were made as a result of changes to Federal, state or local law, regulations, guidance or policies.

611. Consortium discipline alternative programs for treatment of severe discipline problems.

6.1 Each district shall establish an Alternative Placement Team to review each case and prescribe the appropriate placement for students. The Placement Team, in concert with the Consortium Discipline Alternative Program staff, shall design an Individual Service Plan (ISP) for each student that will include educational goals, behavioral goals, and services needed by both students and their families. The ISP shall include a tentative transition plan.

13.0 Evaluation

The Department of Education shall annually evaluate the effectiveness of the Consortium Discipline Alternative Programs using criteria that includes student demographic data, types of interventions employed, and prior versus subsequent behavioral and academic patterns, parent involvement, agency involvement and recidivism. In addition, the Department of Education shall annually review the decisions acquired pursuant to Section 3.0 to assess the reasons for non-placement of students in the alternative programs, including lack of space and number, age, race and special education status of excluded students by district and charter school. Grantees shall compile and submit data based on uniform standards and format established by the Department.

612. Possession, use or distribution of drugs and alcohol.

3.0 Requirement of Each School District and Charter School to have a Policy.

Each school district and charter school shall have a policy on file and update it periodically…

4.0 Reporting Requirements and Timelines

4.1 Each local school district and charter school shall have an electronic copy of its current possession, use and distribution of drugs and alcohol policy on file with the Department of Education.

4.2 When a local school district or charter school revises its possession, use, and distribution of drugs and alcohol policy, it shall provide an electronic copy of the revised policy to the Department within thirty (30] days of the revision, even if the revision was made because of changes in Federal, state or local law, regulations, guidance or policies.

School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers

Authority and power to implement school arrest

No relevant statutes found.

Certification or training

No relevant statutes found.

MOUs, authorization, and/or funding

ADMINISTRATIVE CODE

601. Schools and law enforcement agencies.

3.0 Written Policy and Memorandum of Agreement (MOA)

3.1 All local school districts, charter schools, and Alternative Programs shall establish a written policy on effectively communicating and working with law enforcement agencies. Each school district, charter school and Alternative Program shall develop a Memorandum of Agreement (MOA) with each law enforcement agency which provides services to it. Each MOA shall be in a form substantially similar to a Model MOA as developed, approved and from time to time revised by the Department of Education.

3.2 The Department shall review the Model MOA and each school district, charter school, or Alternative Program shall review its current MOA at least once every three years.

State Education Agency Support

State model policies and implementation support

STATUTES

4112D. School bullying prevention.

(d) Duties of the Department of Education.

(1) The Delaware Department of Education shall collaborate with the Delaware Department of Justice to develop a model policy, that may change from time to time, that is applicable to kindergarten through grade 12, and post this policy, along with the contact information for the School Ombudsman, on their websites in order to assist the school districts and charter schools. In addition, the Department of Education shall promulgate a uniform cyberbullying policy, which shall be based upon a model prepared by the Department of Justice and public comment upon that model. This uniform cyberbullying policy shall be formally adopted as written by each charter school and school district within 90 days of becoming final.

(4) The Department of Education shall conduct random audits of schools to insure compliance with paragraphs (b)(2)i. and (b)(2)k. of this section. The Department shall report the results of these audits annually.

4123A. School bullying prevention and criminal youth gang detection training.

(a) Each school district and charter school shall ensure that its public school employees receive combined training each year totaling 1 hour in the identification and reporting of criminal youth gang activity pursuant to § 617 of Title 11 and bullying prevention pursuant to § 4112D of this title. The training materials shall be prepared by the Department of Justice and the Department of Education in collaboration with law enforcement agencies, the Delaware State Education Association, the Delaware School Boards Association and the Delaware Association of School Administrators.

ADMINISTRATIVE CODE

601. Schools and law enforcement agencies.

4.0 Training Component

4.1 Any school administrator responsible for reporting school crimes or reporting school conduct incidents to law enforcement and to the Department of Education; or any school administrator responsible for reporting suspension and expulsion data to the Department; or any school administrator responsible for any disciplinary process involving staff or students shall complete Department of Education approved training and any such additional training the Department of Education may prescribe from time to time.

4.2 The approved training shall be primarily provided by staff at the Department of Education. The training may be provided by a school administrator at the district, charter school, or Alternative Program who is qualified to provide such training by having completed the Department of Education approved training within the last twenty-four (24) months. The district, charter school, or Alternative Program shall provide the name(s) of the trainer(s) conducting the training and the name(s) of those school administrator(s) attending the training if such training was provided by the district, charter school, or Alternative Program.

4.3 Each school district, charter school, and Alternative Program shall, at the time of hiring and at the beginning of each school year thereafter, advise each School Employee of his/her duty to report school crimes and the penalty for failure to so report as prescribed in 14 Del.C. §4112 (e).

Funding appropriations

STATUTES

1602. Appropriation.

The General Assembly shall annually provide an appropriation for the operation of the Comprehensive School Discipline Improvement Program in the budget appropriation bill. From the funds appropriated, the Department may allocate funds to the public school districts for the financial support of various components of the program.

1605A. Prevention component.

(1) The Council shall issue prevention funding to local school districts proposing to establish an integrated plan to deliver prevention services including, but not limited to, academic tutoring and student mentoring programs to provide at-risk students with the extra help they may need to succeed academically and with positive adult role models; outreach programs to promote parental, family and community involvement in students' academic studies and in reducing and resolving school discipline problems; school-linked support services to help students with family or health problems that may be adversely affecting their academic performance and their conduct at school; training to help students and school personnel resolve conflicts peacefully and non-disruptively; and assistance to help teachers better manage the behavior of students in their classrooms.

(3) The Council shall provide technical assistance to districts preparing applications and ongoing assistance to districts awarded funding pursuant to this section.

3803. Division of Substance Abuse and Mental Health.

(a) The Division of Substance Abuse and Mental Health shall allocate and award all funds appropriated for any purposes set forth in § 3801 and elsewhere in this chapter. Such funds shall be awarded only to programs or projects, undertaken jointly by a law enforcement entity and a local school district or other public school entity, to prevent and/or suppress substance abuse and the trafficking of prohibited or controlled substances in the public schools. All applications for such funds shall be applications made jointly by the school and law enforcement entities involved in the proposed project.

(b) In the allocation and awarding of funds to joint law enforcement and public school recipients, the Division shall obtain the comments and recommendations of the State Drug-free School Advisory Committee. All allocation and awarding of funds by the Division shall be in accordance with the Administrative Procedures Act, and with those guidelines promulgated by the State Drug-free School Advisory Committee which do not conflict with existing state laws.

(c) Each application shall be accompanied by a fiscal note, prepared by the joint applicants, which sets forth all anticipated first-year costs and the anticipated total costs of the project or program. The Division may return any application to the applicant with a request that any or all expenses be more fully set out, together with the applicant's explanations or reasons for each projected cost or expense.

3804. State Drug-free School Advisory Committee.

(a) All criteria for the rating of applications for funds under this chapter shall be developed by the State Drug-free School Advisory Committee. The State Drug-free School Advisory Committee shall be composed of 16 members appointed by the Governor: 1 police chief; 1 sheriff; 1 prosecutor from the

State Department of Justice who specializes in drug and/or alcohol cases; 1 attorney primarily engaged in criminal defense; 1 person from each county appointed by an active parent group or community-based group concerned primarily with drug and/or alcohol problems; 1 representative of the Division of Substance Abuse and Mental Health; 1 county drug and/or alcohol program administrator; and a permanent, full-time member of a drug treatment clinic or office, public or private. In addition, membership shall include the Attorney General or the Attorney General's designee; 4 members who are professional employees of the Department of Education, 1 of whom shall be the Secretary of Education; and a drug and/or alcohol prevention professional employed by the Department of Education. The Committee shall review applications made to the Division for those funds which are awarded pursuant to this chapter, and shall recommend approval for those applications which the Committee deems appropriate, and which it deems are consistent with the guidelines and procedures established pursuant to this chapter. The Division shall not approve nor release any funds until approval under § 3805(b) of this title is first obtained.

(b) The State Drug-free School Advisory Committee shall develop specific guidelines and procedures which shall set forth the terms and conditions upon which grants of funds are made. Funds disbursed under this chapter shall not be used for the acquisition of equipment.

(c) Funds disbursed under this chapter shall not be used to pay informants for information on drug and/or alcohol offenders. Not more than 10 percent of the total amount of funds disbursed under this chapter shall be used for administrative costs.

3805. Local drug-free school advisory committees.

(a) A local drug-free school advisory committee may be established and appointed by each local board of education. Such committee may be either a newly created committee, or an existing local drug and alcohol abuse committee formerly established by the county, municipality or school district. Although the committee may have additional members, its basic membership shall be composed of the following residents of the district or area affected:

(1) One local law enforcement officer;

(2) An administrator or teacher, employed by the local school district, who has expertise in drug and alcohol programs;

(3) One administrator and 1 teacher from the school or school district which has direct involvement in the program;

(4) One parent who has a son or daughter enrolled in the school;

(5) Three high school students;

(6) One person who is a permanent full-time employee of the state, county or municipality, and whose duties primarily involve drug education or treatment;

(7) Any other person who is involved, by employment or as a volunteer, in any drug and/or alcohol prevention program.

(b) No project or program, financed in whole or in part with funds under this chapter, shall begin in any school until such project or program has first received the approval of the local drug-free school advisory committee.

3806. Utilization of funds.

(a) Funds shall be awarded primarily for projects undertaken jointly by the school district or other public school entity, and a law enforcement entity. In participating in any joint application for the funds, the public school entity shall consult with the superintendent of each affected school. Any funds disbursed under this chapter are supplemental to and shall not supplant local funds which would, in the absence of this

chapter, be otherwise available to suppress and prevent drug and alcohol abuse among school age children, or which otherwise would be used to curtail drug and alcohol trafficking in and around schools, parks and playgrounds.

(b) When applying for funds under this chapter, the local law enforcement entity and the public school entity may jointly enter into those agreements between themselves which would allow and facilitate the administrative, fiscal and operational responsibilities created by their joint project or program.

(c) Funds disbursed under the provisions of this chapter shall be utilized primarily for enhanced apprehension, prevention, and education efforts, and for obtaining material and information resources relating to drug and alcohol abuse and drug trafficking in and around schools, parks and playgrounds. Enhanced apprehension, prevention and education efforts shall include, but are not limited to:

(1) Drug and alcohol trafficking intervention programs;

(2) School and classroom oriented programs, each of which shall utilize a tested drug and alcohol education curriculum that provides in-depth and accurate information on drugs and alcohol. Such programs may include the participation of local law enforcement agencies and/or qualified drug and alcohol use prevention specialists. Each such program shall be designed to increase, in both teachers and students, an awareness of the dangers of drugs and alcohol;

(3) Family-oriented programs aimed at preventing drug and alcohol abuse, which programs may include the participation of any community-based organization which is experienced in the successful operation of a family-oriented program;

(4) Development and distribution of appropriate written and audio-visual aids for the training of persons not otherwise trained or experienced in the handling of drug and alcohol-related problems and offenses within the public schools;

(5) Development of prevention and intervention programs for elementary school teachers and students, including utilization of existing prevention and intervention programs, where appropriate;

(6) Development of a coordinated intervention system that identifies "at-risk" students, and students with chronic drug and alcohol abuse problems.

4112D. School bullying prevention.

(d) Duties of the Department of Education.

(2) Distribution of the Comprehensive School Discipline Improvement Program funds to a school district and charter school provided in the General Appropriations Act starting in fiscal year 2009 and thereafter is contingent upon Department of Education approval of the school district's or charter school's bullying prevention policy.

(3) To the extent that funding is available the State Department of Education will provide for an award system for schools with exemplary programs based on criteria promulgated by the Delaware Department of Education.

ADMINISTRATIVE CODE

609 District and school based intervention services

2.0 Application for Funding

2.1 Any school district requesting an incentive or supplemental grant to provide intervention services shall apply for such funds using the LEA Consolidated Application process provided by the Department of Education.

2.2 Any incentive or supplemental grant approved as part of the LEA Consolidated Application process shall be in the amount appropriated for that purpose by law.

Other/Uncategorized

Professional immunity or liability

STATUTES

701. Authority of teachers and administrators to control the disruptive behavior of students.

(i) No teacher who purports to have acted pursuant to the teacher's rights established by this chapter shall be found liable for civil damages arising from that action unless that teacher's conduct shocks the conscience.

4112. Reporting school crimes.

(f) Immunity from civil liability; review of criminal complaint. (1) Any school employee who in good faith provides information to a police agency, a principal, a superintendent, or to the Department of Education under subsection (b) or subsection (c) of this section shall not be held civilly liable for providing such information.

4112D. School bullying prevention.

(e) Immunity. A school employee, school volunteer or student is individually immune from a cause of action for damages arising from reporting bullying in good faith and to the appropriate person or persons using the procedures specified in the school district and charter school's bullying prevention policy, but there shall be no such immunity if the act of reporting constituted gross negligence and/or reckless, wilful or intentional conduct.

4112E. School Teen Dating Violence and Sexual Assault Act.

(f) Immunity. A school employee, school volunteer or student is individually immune from a cause of action for damages arising from reporting teen dating violence and/or sexual assault in good faith and to the appropriate person or persons using the procedures specified in the school district or charter school's teen dating violence and sexual assault policy, but there shall be no such immunity if the act of reporting constituted gross negligence and/or reckless, wilful or intentional conduct.

Community input or involvement

STATUTES

1604. Treatment of severe discipline problems component.

The Department of Education shall establish a program component which will provide alternative educational and related services for the more severe discipline problems in the public schools. This component will serve primarily secondary school students, including but not limited to: youngsters who have been expelled from regular schools, students who may be subject to expulsion, and others who have serious violations of the local school district discipline code. The Department of Education shall provide rules and regulations for the conduct of programs authorized under this section subject to the following limitations:

(1) School districts shall make application to the Department of Education for funding to implement programs authorized under this section. Preference shall be given to applications from consortia of school districts. To the extent feasible, programs offered under this component should serve eligible

pupils within a county, however, multiple sites may be operated by a single consortia of school districts within a county.

(2) Any application submitted under this section shall specify the types and level of services to be provided and an estimate of the number of youngsters to be served. The application shall also include a budget of proposed expenditures during a fiscal year. That budget shall indicate, at a minimum, the funds being requested from appropriations authorized under this section and funds to be obtained from all other sources.

(3) All applications submitted to the Department of Education under this section shall indicate an agreement to fund at least 30 percent of the total cost of services provided from sources of funding other than those authorized under this section.

(4) All projects funded under this section shall submit an annual evaluation report on the effectiveness of the program to the Department of Education. Such report shall incorporate the data and information specified by the Department.

(5) School districts shall be permitted to use funds collected in accordance with the provisions of Chapter 6 of this title to make tuition payments for youngsters assigned to programs authorized under this section.

(6) Nothing in this section shall prohibit a consortia of school districts from contracting for educational or related services with public or private agencies when operating programs authorized under this section.

(7) The provisions of § 4130 of this title shall not apply to youngsters enrolled in programs authorized under this section.

(8) A student 16 years of age or less who is expelled or suspended pending expulsion by a local school district or charter school shall be presumed appropriate for placement in a Consortium Discipline Alternative Program site, provided the student is not otherwise ineligible by statute or regulation for placement in such a program. The burden of establishing that a student is not appropriate for placement in a Consortium Discipline Alternative Program shall be on the local school district or charter school. Any student not shown by preponderance of evidence to be inappropriate for placement in a Consortium Discipline Alternative Program shall be placed in such a program.

1604A. Site selection for alternative educational facilities.

(a) New alternative school programs funded on or after July 1, 2002, or alternative school programs except for those located on school property currently funded pursuant to § 1604 of this title that change locations on or after July 1, 2002, shall be subject to the following process:

(1) The school district or consortium of school districts shall notify by mail the Secretary of Education and every property owner located within 200 feet of the site's boundary lines that there is a plan to establish an alternative educational facility for children exhibiting discipline problems on the site. The notice must include the date, time and location of an informational meeting that will explain the details of the site, facility and program plans.

(2) The school district or consortium of school districts shall notify city council members and state legislators who represent residents of the school district in which the proposed site is located and the chief elected official of the county and town or city in which the proposed site is located of the time, date and location of the informational meeting. Further, the school district or consortium of school districts shall publish public notice of the time, date and location of the informational meeting once a week for 2 weeks in a newspaper in general circulation in the school district of the proposed site selection.

(3) Written comments shall be directed to the superintendent of the district in which the facility is to be located within 10 business days of the informational meeting.

a. If there are objections to the proposed site by at least 5 citizens who reside within 200 feet of the site or by at least 25 citizens who reside within the school district in which the site is located, the local school board shall hold a special public meeting to consider the concerns of the community and the responses of the school district or consortium of school districts proposing the facility site.

b. The local school board shall take action on the proposed site at its next regularly scheduled meeting after the informational meeting or special public meeting, whichever occurs last. The decision by the local school board is final and not subject to appeal.

(b) This section does not apply to a facility site that is located in a public school building or on the grounds of a public school building or on land owned by a reorganized school district, vocational-technical school district or charter school.

1605. School and district level component.

The Department of Education shall be authorized to approve and provide financial support for programs to provide alternative educational and related services to disruptive students in the public schools. This component will serve students, in schools enrolling pupils in grades K through 12, who are causing repeated disruptions in the regular classes to which they are assigned. Services may be delivered in a variety of modes with students assigned to the specific programs for short- or long-term assistance. Programs authorized under this section could also serve as a transition for youngsters returning from programs operated under the provisions of § 1604 of this title. The Department of Education shall provide rules and regulations for the conduct of programs authorized under this section subject to the following limitations:

(1) School districts shall be permitted to use personnel authorized by any of the provisions of this title to establish alternative educational and related service programs for disruptive students. Such personnel shall continue to be paid in accordance with salary schedules specified in Chapter 13 of this title.

(2) In the event that a school district uses personnel authorized under various sections of this title to establish and operate a program for disruptive students, the district may elect to employ 2 service aides or 2 instructional aides, paid in accordance with § 1324 of this title, in lieu of 1 staff member paid in accordance with § 1305 of this title.

(3) Any school which either enrolls pupils in at least 2 of the grades 3 through 12 or enrolls pupils solely in 1 or more of grades K through 3, and which establishes a program for disruptive students in accordance with the provisions of this section and the rules and regulations of the Department of Education may make application to the Department for an incentive grant to help defray the cost of operating such program. No school may qualify for more than 1 incentive grant per fiscal year, and all applications for such grants must have the prior approval of the board of education of the school district in which the applicant school is located. The maximum dollar value of an incentive grant shall be specified in the annual budget appropriation bill. Funds available to the Department of Education shall be allocated on a competitive basis if in any fiscal year more schools are eligible for funding than there are funds appropriated for the incentive grants.

(4) Funds provided to a school under an incentive grant provided under paragraph (3) of this section may be used for any purpose that Division I or II funds may be used, provided, however, that such funds shall not be used to pay salaries to employees beyond the state-supported salaries specified in Chapter 13 of this title.

(5) To achieve the most cost-effective impact from the incentive funds authorized by this section and to increase the coordination of services by schools and other governmental and nongovernmental social service agencies consistent with § 1607 of this title, schools and school districts shall consider contracting for educational or related goods and services with the State Departments of Services for Children, Youth and Their Families and Health and Social Services, and other governmental and

nongovernmental social service agencies using funds authorized by this section. Each school filing a report pursuant to paragraph (6) of this section shall include information regarding the provisions of this paragraph (5).

(6) All schools receiving an incentive grant pursuant to paragraph (3) of this section shall submit an annual evaluation report on the effectiveness of the program to the Department of Education. The report shall be in a format and shall include the data and information specified by the Department.

(7) To receive a supplemental grant greater than the dollar amount for base grants funded in support of programs defined in this section by the annual budget act, schools shall establish a site-based committee in the school to govern discipline matters and shall meet the criteria set forth in this subdivision. Supplemental grants shall be available for grades 7, 8, 9 and 10 only. The annual budget act shall establish the dollar amount of such supplemental grants. Before issuing funding pursuant to this subdivision, the Department shall determine that the school's application meets the following criteria:

a. The grant application must certify that the majority of the members of the school level committee are members of the school professional staff, of which a majority shall be instructional staff; that the committee contains representatives of the support staff, student body (for schools enrolling students, grades 7 through 12), parents and the community; that representatives of the employee groups are chosen by members of each respective group and representatives of the nonemployee groups are appointed by the local board of education; and that the committee operates on the 1-person, 1-vote principle for reaching all decisions.

b. The grant application must certify that the committee has the authority, within established local district budgetary guidelines and at its sole discretion, to:

1. Establish a school code of conduct which defines the roles and responsibilities of all members of the school community (administrators, teachers, support staff, contracted service personnel, students, families and child/family advocates) and which is consistent with the established state and federal laws, state and federal regulations, local board policies, local district codes of conduct and local district budgetary guidelines, unless relevant waivers have been granted.

2. Hear concerns from a staff member dissatisfied with the disposition of any disciplinary matter by the school administration;

3. Refer students to programs defined in § 1604 of this title; provided, however, that any child with disabilities be referred to such programs through the child's Individualized Education Plan;

4. Design, approve and oversee the implementation of programs established in the school as defined in this chapter;

5. Establish and enforce the school's attendance policy, including mandating attendance in programs established in paragraph 7. of this subdivision;

6. Establish extended day, week or year programs, for students with discipline or attendance problems, or at risk of academic failure, that provide for the assessment of penalties for violations of school discipline or attendance policies and for academic acceleration and tutoring, mentoring and counseling services for such students and their families as an integral program component;

7. Establish staff development programs for conflict resolution for all school staff, and establish programs in classroom and behavioral management for schools staff identified as needing improvement;

8. Design student mentoring, conflict resolution and/or peer counseling programs for all students, especially for those who are identified as having chronic discipline, academic or attendance problems.

1605A. Prevention component.

The Family Services Cabinet Council (Council), with the Department of Education and the Department of Services for Children, Youth and Their Families acting as lead agencies, shall administer a program to offer prevention-related student support services (prevention services) to students to prevent them from becoming discipline problems and from failing academically in our schools. Within the limits of appropriations made for this purpose, the Council shall provide rules and regulations for the award of prevention grants and the conduct of prevention programs authorized under this section, subject to the following limitations:

(1) The Council shall issue prevention funding to local school districts proposing to establish an integrated plan to deliver prevention services including, but not limited to, academic tutoring and student mentoring programs to provide at-risk students with the extra help they may need to succeed academically and with positive adult role models; outreach programs to promote parental, family and community involvement in students' academic studies and in reducing and resolving school discipline problems; school-linked support services to help students with family or health problems that may be adversely affecting their academic performance and their conduct at school; training to help students and school personnel resolve conflicts peacefully and non-disruptively; and assistance to help teachers better manage the behavior of students in their classrooms.

(2) Applications for funding pursuant to this section shall be made by school districts in accordance with procedures and standards established by the Council. Each applicant shall set forth an integrated plan to provide prevention services consistent with paragraph (1) of this section. To avoid duplication of effort, maximize the impact of limited resources, and increase the effect of efforts by state, local, community and private, nonprofit agencies through increased coordination and cooperation, the Council shall give preference to applications which:

a. Are submitted by 2 or more school districts working in concert, where appropriate;

b. Include private, nonprofit agencies and community organizations as partners in the application, and identify the roles those agencies and organizations are to play in delivering prevention services in the community;

c. Indicate how grants from the federal government and foundations will be used or sought to help deliver prevention services in the community; and

d. Identify the roles state and local agencies are to play in delivering prevention services in the community.

(3) The Council shall provide technical assistance to districts preparing applications and ongoing assistance to districts awarded funding pursuant to this section.

(4) The Council shall establish a timetable for the award of grants pursuant to this section which shall provide, at minimum, for a period of 1 month for joint planning between the Council and the applicants that the Counsel selects as finalists eligible for a funding award. During such joint planning, the Council and the applicant shall refine the applicant's prevention plan, ensure that the plan makes cost-effective use of the resources and services of state, local, community and private, nonprofit agencies, and consider the incorporation of successful elements of other districts' prevention programs into the applicant's plans. Final awards shall be made by the Council on or before January 15 of each year for the subsequent school year, contingent upon the appropriation of funds for such purpose in the annual appropriations act.

3804. State Drug-free School Advisory Committee.

(a) All criteria for the rating of applications for funds under this chapter shall be developed by the State Drug-free School Advisory Committee. The State Drug-free School Advisory Committee shall be composed of 16 members appointed by the Governor: 1 police chief; 1 sheriff; 1 prosecutor from the

State Department of Justice who specializes in drug and/or alcohol cases; 1 attorney primarily engaged in criminal defense; 1 person from each county appointed by an active parent group or community-based group concerned primarily with drug and/or alcohol problems; 1 representative of the Division of Substance Abuse and Mental Health; 1 county drug and/or alcohol program administrator; and a permanent, full-time member of a drug treatment clinic or office, public or private. In addition, membership shall include the Attorney General or the Attorney General's designee; 4 members who are professional employees of the Department of Education, 1 of whom shall be the Secretary of Education; and a drug and/or alcohol prevention professional employed by the Department of Education. The Committee shall review applications made to the Division for those funds which are awarded pursuant to this chapter, and shall recommend approval for those applications which the Committee deems appropriate, and which it deems are consistent with the guidelines and procedures established pursuant to this chapter. The Division shall not approve nor release any funds until approval under § 3805(b) of this title is first obtained.

(b) The State Drug-free School Advisory Committee shall develop specific guidelines and procedures which shall set forth the terms and conditions upon which grants of funds are made. Funds disbursed under this chapter shall not be used for the acquisition of equipment.

(c) Funds disbursed under this chapter shall not be used to pay informants for information on drug and/or alcohol offenders. Not more than 10 percent of the total amount of funds disbursed under this chapter shall be used for administrative costs.

3805. Local drug-free school advisory committees.

(a) A local drug-free school advisory committee may be established and appointed by each local board of education. Such committee may be either a newly created committee, or an existing local drug and alcohol abuse committee formerly established by the county, municipality or school district. Although the committee may have additional members, its basic membership shall be composed of the following residents of the district or area affected:

(1) One local law enforcement officer;

(2) An administrator or teacher, employed by the local school district, who has expertise in drug and alcohol programs;

(3) One administrator and 1 teacher from the school or school district which has direct involvement in the program;

(4) One parent who has a son or daughter enrolled in the school;

(5) Three high school students;

(6) One person who is a permanent full-time employee of the state, county or municipality, and whose duties primarily involve drug education or treatment;

(7) Any other person who is involved, by employment or as a volunteer, in any drug and/or alcohol prevention program.

(b) No project or program, financed in whole or in part with funds under this chapter, shall begin in any school until such project or program has first received the approval of the local drug-free school advisory committee.

4112D. School bullying prevention.

(b) Prohibition of bullying.

(2) Each school district and charter school shall establish a policy which, at a minimum, includes the following components:

d. A requirement that each school establish a site-based committee that is responsible for coordinating the school's bully prevention program including the design, approval and monitoring of the program. A majority of the members of the site-based committee shall be members of the school professional staff, of which a majority shall be instructional staff. The committee also shall contain representatives of the administrative staff, support staff, student body (for school enrolling students in grades 7 through 12), parents and staff from the before- or after-school program or programs. These representatives shall be chosen by members of each respective group except that representatives of the nonemployee groups shall be appointed by the school principal. The committee shall operate on a 1-person, 1-vote principle. In the event a site-based school discipline committee has been established pursuant to § 1605(7)a. and b. of this title, that committee shall vote whether or not to accept the aforementioned responsibilities.

Other/Uncategorized

No relevant statutes found.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by Delaware provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
Website		
Delaware Department of Education	School Climate & Discipline	http://www.doe.k12.de.us/infosuites/students_family/climate/default.shtml
Documents		
No relevant resources found		
Other Resources		
Mandatory School Crime Reporting Training	Power Point	http://www.doe.k12.de.us/infosuites/students_family/climate/files/School_Conduct_Reporting_2012.pdf
Bullying Prevention Training	Power Point	http://www.doe.k12.de.us/infosuites/students_family/climate/files/BullyingPreventionTraining_2012_VO_Final2.pps
Gang ID Training	Power Point	http://www.doe.k12.de.us/infosuites/students_family/climate/files/Gang_Training_for_Web2Final.pps

Florida
Compilation of School Discipline Laws and Regulations

Prepared: August 12, 2013

Introduction

This compilation presents school discipline-related state statutes, school discipline-related regulations, and, where available, links to state-sponsored websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSLE). For example, one major category encompasses all state laws or regulations mandating specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of state legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in each state.

Discipline categories were not mutually exclusive. Statutes and regulations often appeared across multiple categories. For states with more extensive statutes covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. State laws, ordered by chapter and section number, appear first within each category followed by state regulations. All statutes and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists statutes by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to state-sponsored websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of May 2013, with the exception of the state laws related to seclusion and restraint, which are complete and current as of December 2012. Readers should also note that the information in this document was compiled from individual state sources that are created by each state and which are maintained and updated with varying frequencies. Readers should consult the source information provided for each state directly in order to check for updates to this state's laws and regulations or conduct further research.

For further information, including definitions of the different policy categories, please refer to the Discipline Laws and Regulations Compendium posted on the Center's website.

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Safe Supportive Learning
Engagement | Safety | Environment

Table of Contents

Florida State Codes Cited **1**

General Provisions **3**

Authority to develop and establish rules of conduct 3
Scope 5
Communication of policy 6

In-School Discipline **7**

Use of multi-tiered discipline approaches 7
Teacher authority to remove students from classrooms 8
Alternatives to suspension 9
Use of corporal punishment 10
Use of student and locker searches 11
Other in-school disciplinary approaches 11

Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements **13**

Grounds for possible suspension or expulsion 13
Grounds for mandatory suspension or expulsion 14
Limitations, conditions or exclusions for use of suspension and expulsion 16
Administrative procedures related to suspension and expulsion 16
In-school suspension 21
Return to school following removal 22
Use of restraint and seclusion 23
Alternative placements 25

Disciplinary Approaches Addressing Specific Infractions and Conditions **27**

Firearms (as required by the Guns-Free Schools Act) 27
Other weapons 29
Students with chronic disciplinary issues 29
Attendance and truancy 30
Substance use 33
Bullying, harassment, or hazing 33
Other special infractions or conditions 36

Prevention and Behavioral Interventions (Non-Punitive) **39**

Prevention 39
Behavioral interventions and student support services 39
Professional development 40

Monitoring and Accountability **42**

Formal incident reporting of conduct violations 42
Parental notification 42
Reporting and referrals between schools and law enforcement 44
Disclosure of school records 47
Data collection, review, and reporting of disciplinary policies and actions 49

School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers 52
Authority and power to implement school arrest 52
Certification or training 52
MOUs, authorization, and/or funding 52
State Education Agency Support 54
State model policies and implementation support 54
Funding appropriations 55
Other/Uncategorized 56
Professional immunity or liability 56
Community input or involvement 56
Other/Uncategorized 57
State-Sponsored, Publicly Available Websites or Other Resources on School Discipline 58

Florida State Codes Cited

Florida Revised Statutes

Title XLVI. Crimes

Chapter 790. Weapons and Firearms

790.115. Possessing or discharging weapons or firearms at a school-sponsored event or on school property prohibited; penalties; exceptions

Title XLVIII. K-20 Education Code

Chapter 1002. Student and Parental Rights and Educational Choices

Part II. Student and Parental Rights

1002.22. Education records and reports of K-12 students; rights of parents and students; notification; penalty
1002.221. K-12 education records

Chapter 1003. Public K-12 Education

Part I. General Provisions

1003.02. District school board operation and control of public K-12 education within the school district
1003.04. Student conduct and parental involvement

Part II. School Attendance

1003.26. Enforcement of school attendance
1003.29. Notice to schools of court action

Part III. Control of Students

1003.31. Students subject to control of school
1003.32. Authority of teacher; responsibility for control of students; district school board and principal duties

Part V. Specialized Instruction for Certain K-12 Students

1003.53. Dropout prevention and academic intervention
1003.54. Teenage parent programs
1003.573. Use of restraint and seclusion on students with disabilities

Chapter 1006. Support for Learning

Part I. Public K-12 Education Support for Learning and Student Services

Subpart C. Student Discipline and School Safety

1006.07. District school board duties relating to student discipline and school safety
1006.08. District school superintendent duties relating to student discipline and school safety
1006.09. Duties of school principal relating to student discipline and school safety
1006.10. Authority of school bus drivers and district school boards relating to student discipline and student safety on school buses

1006.11.	Standards for use of reasonable force
1006.12.	School resource officers and school safety officers
1006.13.	Policy of zero tolerance for crime and victimization
1006.135.	Hazing at high schools with grades 9-12 prohibited
1006.14.	Secret societies prohibited in public K-12 schools
1006.147.	Bullying and harassment prohibited
1006.148.	Dating violence and abuse prohibited

Florida Administrative Code

No relevant regulations found.

General Provisions

Authority to develop and establish rules of conduct

STATUTES

1003.02. District school board operation and control of public K-12 education within the school district.

As provided in part II of chapter 1001, district school boards are constitutionally and statutorily charged with the operation and control of public K-12 education within their school district. The district school boards must establish, organize, and operate their public K-12 schools and educational programs, employees, and facilities. Their responsibilities include staff development, public K-12 school student education including education for exceptional students and students in juvenile justice programs, special programs, adult education programs, and career education programs. Additionally, district school boards must:

(1) Provide for the proper accounting for all students of school age, for the attendance and control of students at school, and for proper attention to health, safety, and other matters relating to the welfare of students in the following fields:

(a) Admission, classification, promotion, and graduation of students. Adopt rules for admitting, classifying, promoting, and graduating students to or from the various schools of the district.

(b) Enforcement of attendance laws. Provide for the enforcement of all laws and rules relating to the attendance of students at school. District school boards are authorized to establish policies that allow accumulated unexcused tardies, regardless of when they occur during the school day, and early departures from school to be recorded as unexcused absences. District school boards are also authorized to establish policies that require referral to a school's child study team for students who have fewer absences than the number required by s. 1003.26(1)(b).

(c) Control of students.

1. Adopt rules for the control, attendance, discipline, in-school suspension, suspension, and expulsion of students and decide all cases recommended for expulsion.

2. Maintain a code of student conduct as provided in chapter 1006.

1003.31. Students subject to control of school.

(1) Subject to law and rules of the State Board of Education and of the district school board, each student enrolled in a school shall:

(d) During a reasonable time before and after the student is on the premises for attendance at school or for authorized participation in a school-sponsored activity, and only when on the premises, be under the control and direction of the principal or teacher in charge of the school, and under the immediate control and direction of the teacher or other member of the instructional staff or of the bus driver to whom such responsibility may be assigned by the principal. However, the State Board of Education or the district school board may, by rules, subject each student to the control and direction of the principal or teacher in charge of the school during the time she or he is otherwise en route to or from school or is presumed by law to be attending school. Each district school board, each district school superintendent, and each school principal shall fully support the authority of teachers, according to s. 1003.32, and school bus drivers to remove disobedient, disrespectful, violent, abusive, uncontrollable, or disruptive students from

the classroom and the school bus and, when appropriate and available, place such students in an alternative educational setting.

1003.573. Use of restraint and seclusion on students with disabilities.

(3) School district policies and procedures.

(a) Each school district shall develop policies and procedures that are consistent with this section and that govern the following:

1. Incident-reporting procedures.

2. Data collection and monitoring, including when, where, and why students are restrained or secluded; the frequency of occurrences of such restraint or seclusion; and the prone or mechanical restraint that is most used.

3. Monitoring and reporting of data collected.

4. Training programs relating to manual or physical restraint and seclusion.

5. The district's plan for selecting personnel to be trained.

6. The district's plan for reducing the use of restraint and seclusion particularly in settings in which it occurs frequently or with students who are restrained repeatedly, and for reducing the use of prone restraint and mechanical restraint. The plan must include a goal for reducing the use of restraint and seclusion and must include activities, skills, and resources needed to achieve that goal. Activities may include, but are not limited to:

a. Additional training in positive behavioral support and crisis management;

b. Parental involvement;

c. Data review;

d. Updates of students' functional behavioral analysis and positive behavior intervention plans;

e. Additional student evaluations;

f. Debriefing with staff;

g. Use of schoolwide positive behavior support; and

h. Changes to the school environment.

(b) Any revisions to the district's policies and procedures, which must be prepared as part of its special policies and procedures, must be filed with the bureau chief of the Bureau of Exceptional Education and Student Services no later than January 31, 2012.

1006.07. District school board duties relating to student discipline and school safety.

The district school board shall provide for the proper accounting for all students, for the attendance and control of students at school, and for proper attention to health, safety, and other matters relating to the welfare of students.

1006.13. Policy of zero tolerance for crime and victimization.

(2) Each district school board shall adopt a policy of zero tolerance that:

(a) Defines criteria for reporting to a law enforcement agency any act that occurs whenever or wherever students are within the jurisdiction of the district school board.

(b) Defines acts that pose a serious threat to school safety.

(c) Defines petty acts of misconduct.

(d) Minimizes the victimization of students, staff, or volunteers, including taking all steps necessary to protect the victim of any violent crime from any further victimization.

(e) Establishes a procedure that provides each student with the opportunity for a review of the disciplinary action imposed pursuant to s. 1006.07.

1006.147. Bullying and harassment prohibited.

(4) By December 1, 2008, each school district shall adopt a policy prohibiting bullying and harassment of any student or employee of a public K-12 educational institution. Each school district's policy shall be in substantial conformity with the Department of Education's model policy mandated in subsection (5). The school district bullying and harassment policy shall afford all students the same protection regardless of their status under the law. The school district may establish separate discrimination policies that include categories of students.

1006.148. Dating violence and abuse prohibited.

(1) Each district school board shall adopt and implement a dating violence and abuse policy. The policy shall:

(a) Prohibit dating violence and abuse by any student on school property, during a school-sponsored activity, or during school-sponsored transportation.

(b) Provide procedures for responding to such incidents of dating violence or abuse, including accommodations for students experiencing dating violence or abuse.

(c) Define dating violence and abuse and provide for a teen dating violence and abuse component in the health education curriculum, according to s. 1003.42(2)(n), with emphasis on prevention education.

(d) Be implemented in a manner that is integrated with a school district's discipline policies.

Scope

STATUTES

1003.31. Students subject to control of school.

(1) Subject to law and rules of the State Board of Education and of the district school board, each student enrolled in a school shall:

(a) During the time she or he is being transported to or from school at public expense;

(b) During the time she or he is attending school;

(c) During the time she or he is on the school premises participating with authorization in a school-sponsored activity; and

(d) During a reasonable time before and after the student is on the premises for attendance at school or for authorized participation in a school-sponsored activity, and only when on the premises, be under the control and direction of the principal or teacher in charge of the school, and under the immediate control and direction of the teacher or other member of the instructional staff or of the bus driver to whom such responsibility may be assigned by the principal. However, the State Board of Education or the district school board may, by rules, subject each student to the control and direction of the principal or teacher in charge of the school during the time she or he is otherwise en route to or from school or is presumed by law to be attending school.

(2) There is a rebuttable presumption that the term "reasonable time" means 30 minutes before or after the activity is scheduled or actually begins or ends, whichever period is longer. A school or district school board may, by policy or other formal action, assume a longer period of supervision. Casual or incidental contact between school district personnel and students on school property shall not result in a legal duty to supervise outside of the reasonable times set forth in this section, provided that parents shall be advised in writing twice per year or by posted signs of the school's formal supervisory responsibility and

that parents should not rely on additional supervision. The duty of supervision shall not extend to anyone other than students attending school and students authorized to participate in school-sponsored activities.

1006.147. Bullying and harassment prohibited.

(2) Bullying or harassment of any student or employee of a public K-12 educational institution is prohibited:

(a) During any education program or activity conducted by a public K-12 educational institution;

(b) During any school-related or school-sponsored program or activity or on a school bus of a public K-12 educational institution; or

(c) Through the use of data or computer software that is accessed through a computer, computer system, or computer network of a public K-12 educational institution.

(7) (a) The physical location or time of access of a computer-related incident cannot be raised as a defense in any disciplinary action initiated under this section.

1006.148. Dating violence and abuse prohibited.

(1) Each district school board shall adopt and implement a dating violence and abuse policy. The policy shall:

(a) Prohibit dating violence and abuse by any student on school property, during a school-sponsored activity, or during school-sponsored transportation.

(b) Provide procedures for responding to such incidents of dating violence or abuse, including accommodations for students experiencing dating violence or abuse.

(c) Define dating violence and abuse and provide for a teen dating violence and abuse component in the health education curriculum, according to s. 1003.42(2)(n), with emphasis on prevention education.

(d) Be implemented in a manner that is integrated with a school district's discipline policies.

Communication of policy

STATUTES

1006.07. District school board duties relating to student discipline and school safety.

(2) Code of Student Conduct. Adopt a code of student conduct for elementary schools and a code of student conduct for middle and high schools and distribute the appropriate code to all teachers, school personnel, students, and parents, at the beginning of every school year. Each code shall be organized and written in language that is understandable to students and parents and shall be discussed at the beginning of every school year in student classes, school advisory council meetings, and parent and teacher association or organization meetings. Each code shall be based on the rules governing student conduct and discipline adopted by the district school board and shall be made available in the student handbook or similar publication.

In-School Discipline

Use of multi-tiered discipline approaches

STATUTES

1003.32. Authority of teacher; responsibility for control of students; district school board and principal duties.

(3) A teacher may send a student to the principal's office to maintain effective discipline in the classroom and may recommend an appropriate consequence consistent with the student code of conduct under s. 1006.07. The principal shall respond by employing the teacher's recommended consequence or a more serious disciplinary action if the student's history of disruptive behavior warrants it. If the principal determines that a lesser disciplinary action is appropriate, the principal should consult with the teacher prior to taking disciplinary action.

(5) If a teacher removes a student from class under subsection (4), the principal may place the student in another appropriate classroom, in in-school suspension, or in a dropout prevention and academic intervention program as provided by s. 1003.53; or the principal may recommend the student for out-of-school suspension or expulsion, as appropriate. The student may be prohibited from attending or participating in school-sponsored or school-related activities. The principal may not return the student to that teacher's class without the teacher's consent unless the committee established under subsection (6) determines that such placement is the best or only available alternative. The teacher and the placement review committee must render decisions within 5 days of the removal of the student from the classroom.

1003.53. Dropout prevention and academic intervention.

(d) 6. Prior to assignment of students to second chance schools, district school boards are encouraged to use alternative programs, such as in-school suspension, which provide instruction and counseling leading to improved student behavior, a reduction in the incidence of truancy, and the development of more effective interpersonal skills.

1006.07. District school board duties relating to student discipline and school safety.

(2)(d)2. Any student who violates the dress policy described in subparagraph 1. is subject to the following disciplinary actions:

a. For a first offense, a student shall be given a verbal warning and the school principal shall call the student's parent or guardian.

b. For a second offense, the student is ineligible to participate in any extracurricular activity for a period of time not to exceed 5 days and the school principal shall meet with the student's parent or guardian.

c. For a third or subsequent offense, a student shall receive an in-school suspension pursuant to s. 1003.01(5) for a period not to exceed 3 days, the student is ineligible to participate in any extracurricular activity for a period not to exceed 30 days, and the school principal shall call the student's parent or guardian and send the parent or guardian a written letter regarding the student's in-school suspension and ineligibility to participate in extracurricular activities.

1006.10. Authority of school bus drivers and district school boards relating to student discipline and student safety on school buses.

(2) The district school board shall require a system of progressive discipline of transported students for actions which are prohibited by the code of student conduct. Disciplinary actions, including suspension of

students from riding on district school board owned or contracted school buses, shall be subject to district school board policies and procedures and may be imposed by the principal or the principal's designee. The principal or the principal's designee may delegate any disciplinary authority to school bus drivers except for suspension of students from riding the bus.

Teacher authority to remove students from classrooms

STATUTES

1003.04. Student conduct and parental involvement.

(2) The parent of each public K-12 student must cooperate with the authority of the student's district school board, superintendent, principal, teachers, and school bus drivers, according to ss.1003.31 and 1003.32, to remove the student from the classroom and the school bus and, when appropriate and available, to place the student in an alternative educational setting, if the student is disobedient, disrespectful, violent, abusive, uncontrollable, or disruptive.

1003.31. Students subject to control of school.

(1) Each district school board, each district school superintendent, and each school principal shall fully support the authority of teachers, according to s. 1003.32, and school bus drivers to remove disobedient, disrespectful, violent, abusive, uncontrollable, or disruptive students from the classroom and the school bus and, when appropriate and available, place such students in an alternative educational setting.

1003.32. Authority of teacher; responsibility for control of students; district school board and principal duties.

Subject to law and to the rules of the district school board, each teacher or other member of the staff of any school shall have such authority for the control and discipline of students as may be assigned to him or her by the principal or the principal's designated representative and shall keep good order in the classroom and in other places in which he or she is assigned to be in charge of students.

(1) In accordance with this section and within the framework of the district school board's code of student conduct, teachers and other instructional personnel shall have the authority to undertake any of the following actions in managing student behavior and ensuring the safety of all students in their classes and school and their opportunity to learn in an orderly and disciplined classroom:

(a) Establish classroom rules of conduct.

(b) Establish and implement consequences, designed to change behavior, for infractions of classroom rules.

(c) Have disobedient, disrespectful, violent, abusive, uncontrollable, or disruptive students removed from the classroom for behavior management intervention.

(d) Have violent, abusive, uncontrollable, or disruptive students directed for information or assistance from appropriate school or district school board personnel.

(e) Assist in enforcing school rules on school property, during school-sponsored transportation, and during school-sponsored activities.

(f) Request and receive information as to the disposition of any referrals to the administration for violation of classroom or school rules.

(g) Request and receive immediate assistance in classroom management if a student becomes uncontrollable or in case of emergency.

(h) Request and receive training and other assistance to improve skills in classroom management, violence prevention, conflict resolution, and related areas.

(i) Press charges if there is a reason to believe that a crime has been committed on school property, during school-sponsored transportation, or during school-sponsored activities.

(j) Use reasonable force, according to standards adopted by the State Board of Education, to protect himself or herself or others from injury.

(3) A teacher may send a student to the principal's office to maintain effective discipline in the classroom and may recommend an appropriate consequence consistent with the student code of conduct under s. 1006.07.

(4) A teacher may remove from class a student whose behavior the teacher determines interferes with the teacher's ability to communicate effectively with the students in the class or with the ability of the student's classmates to learn. Each district school board, each district school superintendent, and each school principal shall support the authority of teachers to remove disobedient, violent, abusive, uncontrollable, or disruptive students from the classroom.

1006.08. District school superintendent duties relating to student discipline and school safety.

(1) Each district school superintendent shall fully support the authority of his or her principals, teachers, and school bus drivers to remove disobedient, disrespectful, violent, abusive, uncontrollable, or disruptive students from the classroom and the school bus and, when appropriate and available, to place such students in an alternative educational setting.

1006.09. Duties of school principal relating to student discipline and school safety.

(1) (a) Subject to law and to the rules of the State Board of Education and the district school board, the principal in charge of the school or the principal's designee shall develop policies for delegating to any teacher or other member of the instructional staff or to any bus driver transporting students of the school responsibility for the control and direction of students. Each school principal shall fully support the authority of his or her teachers and school bus drivers to remove disobedient, disrespectful, violent, abusive, uncontrollable, or disruptive students from the classroom and the school bus and, when appropriate and available, place such students in an alternative educational setting. The principal or the principal's designee must give full consideration to the recommendation for discipline made by a teacher, other member of the instructional staff, or a bus driver when making a decision regarding student referral for discipline.

Alternatives to suspension

STATUTES

1003.32. Authority of teacher; responsibility for control of students; district school board and principal duties.

(5) If a teacher removes a student from class under subsection (4), the principal may place the student in another appropriate classroom, in in-school suspension, or in a dropout prevention and academic intervention program as provided by s. 1003.53; or the principal may recommend the student for out-of-school suspension or expulsion, as appropriate. The student may be prohibited from attending or participating in school-sponsored or school-related activities. The principal may not return the student to that teacher's class without the teacher's consent unless the committee established under subsection (6) determines that such placement is the best or only available alternative. The teacher and the placement review committee must render decisions within 5 days of the removal of the student from the classroom.

1003.53. Dropout prevention and academic intervention.

(d) 6. Prior to assignment of students to second chance schools, district school boards are encouraged to use alternative programs, such as in-school suspension, which provide instruction and counseling leading to improved student behavior, a reduction in the incidence of truancy, and the development of more effective interpersonal skills.

1006.09. Duties of school principal relating to student discipline and school safety.

(1) (b) A good faith effort shall be made by the principal or the principal's designee to employ parental assistance or other alternative measures prior to suspension, except in the case of emergency or disruptive conditions which require immediate suspension or in the case of a serious breach of conduct as defined by rules of the district school board.

1006.13. Policy of zero tolerance for crime and victimization.

(1) It is the intent of the Legislature to promote a safe and supportive learning environment in schools, to protect students and staff from conduct that poses a serious threat to school safety, and to encourage schools to use alternatives to expulsion or referral to law enforcement agencies by addressing disruptive behavior through restitution, civil citation, teen court, neighborhood restorative justice, or similar programs. The Legislature finds that zero-tolerance policies are not intended to be rigorously applied to petty acts of misconduct and misdemeanors, including, but not limited to, minor fights or disturbances.

(8) School districts are encouraged to use alternatives to expulsion or referral to law enforcement agencies unless the use of such alternatives will pose a threat to school safety.

Use of corporal punishment

STATUTES

1003.32. Authority of teacher; responsibility for control of students; district school board and principal duties.

(1) In accordance with this section and within the framework of the district school board's code of student conduct, teachers and other instructional personnel shall have the authority to undertake any of the following actions in managing student behavior and ensuring the safety of all students in their classes and school and their opportunity to learn in an orderly and disciplined classroom:

(j) Use reasonable force, according to standards adopted by the State Board of Education, to protect himself or herself or others from injury.

(k) Use corporal punishment according to school board policy and at least the following procedures, if a teacher feels that corporal punishment is necessary:

1. The use of corporal punishment shall be approved in principle by the principal before it is used, but approval is not necessary for each specific instance in which it is used. The principal shall prepare guidelines for administering such punishment which identify the types of punishable offenses, the conditions under which the punishment shall be administered, and the specific personnel on the school staff authorized to administer the punishment.

2. A teacher or principal may administer corporal punishment only in the presence of another adult who is informed beforehand, and in the student's presence, of the reason for the punishment.

3. A teacher or principal who has administered punishment shall, upon request, provide the student's parent with a written explanation of the reason for the punishment and the name of the other adult who was present.

1006.07. District school board duties relating to student discipline and school safety.

(2) Code of student conduct. Each code shall include, but is not limited to:

(b) Procedures to be followed for acts requiring discipline, including corporal punishment.

1006.11. Standards for use of reasonable force.

(1) The State Board of Education shall adopt standards for the use of reasonable force by district school board personnel to maintain a safe and orderly learning environment. Such standards shall be distributed to each school in the state and shall provide guidance to district school board personnel in receiving the limitations on liability specified in subsection (2).

(2) Except in the case of excessive force or cruel and unusual punishment, a teacher or other member of the instructional staff, a principal or the principal's designated representative, or a school bus driver shall not be civilly or criminally liable for any action carried out in conformity with the State Board of Education and district school board rules regarding the control, discipline, suspension, and expulsion of students, including, but not limited to, any exercise of authority under s. 1003.32 or s. 1006.09.

Use of student and locker searches

STATUTES

1006.09. Duties of school principal relating to student discipline and school safety.

(9) A school principal or a school employee designated by the principal, if she or he has reasonable suspicion that a prohibited or illegally possessed substance or object is contained within a student's locker or other storage area, may search the locker or storage area. The district school board shall require and each school principal shall cause to be posted in each public K-12 school, in a place readily seen by students, a notice stating that a student's locker or other storage area is subject to search, upon reasonable suspicion, for prohibited or illegally possessed substances or objects. This subsection does not prohibit the use of metal detectors or specially trained animals in the course of a search for illegally possessed substances or objects.

Other in-school disciplinary approaches

STATUTES

1003.53. Dropout prevention and academic intervention.

(d) 6. Prior to assignment of students to second chance schools, district school boards are encouraged to use alternative programs, such as in-school suspension, which provide instruction and counseling leading to improved student behavior, a reduction in the incidence of truancy, and the development of more effective interpersonal skills.

1006.07. District school board duties relating to student discipline and school safety.

(2)(a)2. Any student who violates the dress policy described in subparagraph 1. is subject to the following disciplinary actions:

a. For a first offense, a student shall be given a verbal warning and the school principal shall call the student's parent or guardian.

b. For a second offense, the student is ineligible to participate in any extracurricular activity for a period of time not to exceed 5 days and the school principal shall meet with the student's parent or guardian.

c. For a third or subsequent offense, a student shall receive an in-school suspension pursuant to s. 1003.01(5) for a period not to exceed 3 days, the student is ineligible to participate in any extracurricular activity for a period not to exceed 30 days, and the school principal shall call the student's parent or guardian and send the parent or guardian a written letter regarding the student's in-school suspension and ineligibility to participate in extracurricular activities.

Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements

Grounds for possible suspension or expulsion

STATUTES

1003.31. Students subject to control of school.

(3) Nothing shall prohibit a district school board from having the right to expel, or to take disciplinary action against, a student who is found to have committed an offense on school property at any time if:

(a) The student is found to have committed a delinquent act which would be a felony if committed by an adult;

(b) The student has had adjudication withheld for a delinquent act which, if committed by an adult, would be a felony; or

(c) The student has been found guilty of a felony.

However, if the student is a student with a disability, the disciplinary action must comply with the procedures set forth in State Board of Education rule.

1006.07. District school board duties relating to student discipline and school safety.

(2) Code of student conduct. Each code shall include, but is not limited to:

(e) Notice that illegal use, possession, or sale of controlled substances, as defined in chapter 893, by any student while the student is upon school property or in attendance at a school function is grounds for disciplinary action by the school and may also result in criminal penalties being imposed.

(f) Notice that use of a wireless communications device includes the possibility of the imposition of disciplinary action by the school or criminal penalties if the device is used in a criminal act. A student may possess a wireless communications device while the student is on school property or in attendance at a school function. Each district school board shall adopt rules governing the use of a wireless communications device by a student while the student is on school property or in attendance at a school function.

(g) Notice that the possession of a firearm or weapon as defined in chapter 790 by any student while the student is on school property or in attendance at a school function is grounds for disciplinary action and may also result in criminal prosecution.

(h) Notice that violence against any district school board personnel by a student is grounds for in-school suspension, out-of-school suspension, expulsion, or imposition of other disciplinary action by the school and may also result in criminal penalties being imposed.

(i) Notice that violation of district school board transportation policies, including disruptive behavior on a school bus or at a school bus stop, by a student is grounds for suspension of the student's privilege of riding on a school bus and may be grounds for disciplinary action by the school and may also result in criminal penalties being imposed.

(j) Notice that violation of the district school board's sexual harassment policy by a student is grounds for in-school suspension, out-of-school suspension, expulsion, or imposition of other disciplinary action by the school and may also result in criminal penalties being imposed.

1006.09. Duties of school principal relating to student discipline and school safety

(1) (b) The principal or the principal's designee may suspend any student transported to or from school at public expense from the privilege of riding on a school bus for violation of district school board transportation policies, which shall include a policy regarding behavior at school bus stops, and the principal or the principal's designee shall give notice in writing to the student's parent and to the district school superintendent within 24 hours.

(c) The principal or the principal's designee may recommend to the district school superintendent the expulsion of any student who has committed a serious breach of conduct, including, but not limited to, willful disobedience, open defiance of authority of a member of his or her staff, violence against persons or property, or any other act which substantially disrupts the orderly conduct of the school. A recommendation of expulsion or assignment to a second chance school may also be made for any student found to have intentionally made false accusations that jeopardize the professional reputation, employment, or professional certification of a teacher or other member of the school staff, according to the district school board code of student conduct.

(2) If the court determines that the student did commit the felony or delinquent act which would have been a felony if committed by an adult, the district school board may expel the student, provided that expulsion under this subsection shall not affect the delivery of educational services to the student in any residential, nonresidential, alternative, daytime, or evening program outside of the regular school setting.

Any student who is subject to discipline or expulsion for unlawful possession or use of any substance controlled under chapter 893 may be entitled to a waiver of the discipline or expulsion:

(a) If the student divulges information leading to the arrest and conviction of the person who supplied the controlled substance to him or her, or if the student voluntarily discloses his or her unlawful possession of the controlled substance prior to his or her arrest. Any information divulged which leads to arrest and conviction is not admissible in evidence in a subsequent criminal trial against the student divulging the information.

(b) If the student commits himself or herself, or is referred by the court in lieu of sentence, to a state-licensed drug abuse program and successfully completes the program.

Grounds for mandatory suspension or expulsion

STATUTES

1006.07. District school board duties relating to student discipline and school safety.

(2) Code of student conduct. Each code shall include, but is not limited to:

(h) Notice that violence against any district school board personnel by a student is grounds for in-school suspension, out-of-school suspension, expulsion, or imposition of other disciplinary action by the school and may also result in criminal penalties being imposed.

(i) Notice that violation of district school board transportation policies, including disruptive behavior on a school bus or at a school bus stop, by a student is grounds for suspension of the student's privilege of riding on a school bus and may be grounds for disciplinary action by the school and may also result in criminal penalties being imposed.

(j) Notice that violation of the district school board's sexual harassment policy by a student is grounds for in-school suspension, out-of-school suspension, expulsion, or imposition of other disciplinary action by the school and may also result in criminal penalties being imposed.

(l) Notice that any student who is determined to have brought a firearm or weapon, as defined in chapter 790, to school, to any school function, or onto any school-sponsored transportation, or to have

possessed a firearm at school, will be expelled, with or without continuing educational services, from the student's regular school for a period of not less than 1 full year and referred to the criminal justice or juvenile justice system. District school boards may assign the student to a disciplinary program or second chance school for the purpose of continuing educational services during the period of expulsion. District school superintendents may consider the 1-year expulsion requirement on a case-by-case basis and request the district school board to modify the requirement by assigning the student to a disciplinary program or second chance school if the request for modification is in writing and it is determined to be in the best interest of the student and the school system.

(m) Notice that any student who is determined to have made a threat or false report, as defined by ss. 790.162 and 790.163, respectively, involving school or school personnel's property, school transportation, or a school-sponsored activity will be expelled, with or without continuing educational services, from the student's regular school for a period of not less than 1 full year and referred for criminal prosecution. District school boards may assign the student to a disciplinary program or second chance school for the purpose of continuing educational services during the period of expulsion. District school superintendents may consider the 1-year expulsion requirement on a case-by-case basis and request the district school board to modify the requirement by assigning the student to a disciplinary program or second chance school if it is determined to be in the best interest of the student and the school system.

1006.13. Policy of zero tolerance for crime and victimization.

(1) It is the intent of the Legislature to promote a safe and supportive learning environment in schools, to protect students and staff from conduct that poses a serious threat to school safety, and to encourage schools to use alternatives to expulsion or referral to law enforcement agencies by addressing disruptive behavior through restitution, civil citation, teen court, neighborhood restorative justice, or similar programs. The Legislature finds that zero-tolerance policies are not intended to be rigorously applied to petty acts of misconduct and misdemeanors, including, but not limited to, minor fights or disturbances. The Legislature finds that zero-tolerance policies must apply equally to all students regardless of their economic status, race, or disability.

(2) Each district school board shall adopt a policy of zero tolerance that:

(a) Defines criteria for reporting to a law enforcement agency any act that occurs whenever or wherever students are within the jurisdiction of the district school board.

(b) Defines acts that pose a serious threat to school safety.

(c) Defines petty acts of misconduct.

(d) Minimizes the victimization of students, staff, or volunteers, including taking all steps necessary to protect the victim of any violent crime from any further victimization.

(e) Establishes a procedure that provides each student with the opportunity for a review of the disciplinary action imposed pursuant to s. 1006.07.

(3) Zero-tolerance policies must require students found to have committed one of the following offenses to be expelled, with or without continuing educational services, from the student's regular school for a period of not less than 1 full year, and to be referred to the criminal justice or juvenile justice system.

(a) Bringing a firearm or weapon, as defined in chapter 790, to school, to any school function, or onto any school-sponsored transportation or possessing a firearm at school.

(b) Making a threat or false report, as defined by ss. 790.162 and 790.163, respectively, involving school or school personnel's property, school transportation, or a school-sponsored activity.

District school boards may assign the student to a disciplinary program for the purpose of continuing educational services during the period of expulsion. District school superintendents may consider the 1-

year expulsion requirement on a case-by-case basis and request the district school board to modify the requirement by assigning the student to a disciplinary program or second chance school if the request for modification is in writing and it is determined to be in the best interest of the student and the school system. If a student committing any of the offenses in this subsection is a student who has a disability, the district school board shall comply with applicable State Board of Education rules.

(5) Notwithstanding any other provision of law, each district school board shall adopt rules providing that any student found to have committed any offense in s. 784.081(1), (2), or (3) [assault on a school employee] shall be expelled or placed in an alternative school setting or other program, as appropriate. Upon being charged with the offense, the student shall be removed from the classroom immediately and placed in an alternative school setting pending disposition.

Limitations, conditions or exclusions for use of suspension and expulsion

STATUTES

1003.31. Students subject to control of school

(3) However, if the student is a student with a disability, the disciplinary action must comply with the procedures set forth in State Board of Education rule.

1006.09. Duties of school principal relating to student discipline and school safety.

(1) (b) No student shall be suspended for unexcused tardiness, lateness, absence, or truancy.

(2) Any student who is subject to discipline or expulsion for unlawful possession or use of any substance controlled under chapter 893 may be entitled to a waiver of the discipline or expulsion:

(a) If the student divulges information leading to the arrest and conviction of the person who supplied the controlled substance to him or her, or if the student voluntarily discloses his or her unlawful possession of the controlled substance prior to his or her arrest. Any information divulged which leads to arrest and conviction is not admissible in evidence in a subsequent criminal trial against the student divulging the information.

(b) If the student commits himself or herself, or is referred by the court in lieu of sentence, to a state-licensed drug abuse program and successfully completes the program.

(5) Any recommendation for the suspension or expulsion of a student with a disability must be made in accordance with rules adopted by the State Board of Education.

Administrative procedures related to suspension and expulsion

STATUTES

1003.32 Authority of teacher; responsibility for control of students; district school board and principal duties

(6) (d) The teacher who withheld consent to readmitting the student may not serve on the committee. The teacher and the placement review committee must render decisions within 5 days after the removal of the student from the classroom. If the placement review committee's decision is contrary to the decision of the teacher to withhold consent to the return of the removed student to the teacher's class, the teacher may appeal the committee's decision to the district school superintendent.

1006.07. District school board duties relating to student discipline and school safety.

The district school board shall provide for the proper accounting for all students, for the attendance and control of students at school, and for proper attention to health, safety, and other matters relating to the welfare of students, including:

(1) Control of students.

(a) Adopt rules for the control, discipline, in-school suspension, suspension, and expulsion of students and decide all cases recommended for expulsion. Suspension hearings are exempted from the provisions of chapter 120. Expulsion hearings shall be governed by ss. 120.569 and 120.57(2) and are exempt from s. 286.011. However, the student's parent must be given notice of the provisions of s. 286.011 and may elect to have the hearing held in compliance with that section. The district school board may prohibit the use of corporal punishment, if the district school board adopts or has adopted a written program of alternative control or discipline.

(b) Require each student at the time of initial registration for school in the school district to note previous school expulsions, arrests resulting in a charge, and juvenile justice actions the student has had, and have the authority as the district school board of a receiving school district to honor the final order of expulsion or dismissal of a student by any in-state or out-of-state public district school board or private school, or lab school, for an act which would have been grounds for expulsion according to the receiving district school board's code of student conduct, in accordance with the following procedures:

1. A final order of expulsion shall be recorded in the records of the receiving school district.

2. The expelled student applying for admission to the receiving school district shall be advised of the final order of expulsion.

3. The district school superintendent of the receiving school district may recommend to the district school board that the final order of expulsion be waived and the student be admitted to the school district, or that the final order of expulsion be honored and the student not be admitted to the school district. If the student is admitted by the district school board, with or without the recommendation of the district school superintendent, the student may be placed in an appropriate educational program at the direction of the district school board.

(2) Code of student conduct. Adopt a code of student conduct for elementary schools and a code of student conduct for middle and high schools and distribute the appropriate code to all teachers, school personnel, students, and parents, at the beginning of every school year. Each code shall be organized and written in language that is understandable to students and parents and shall be discussed at the beginning of every school year in student classes, school advisory council meetings, and parent and teacher association or organization meetings. Each code shall be based on the rules governing student conduct and discipline adopted by the district school board and shall be made available in the student handbook or similar publication. Each code shall include, but is not limited to:

(a) Consistent policies and specific grounds for disciplinary action, including in-school suspension, out-of-school suspension, expulsion, and any disciplinary action that may be imposed for the possession or use of alcohol on school property or while attending a school function or for the illegal use, sale, or possession of controlled substances as defined in chapter 893.

(b) Procedures to be followed for acts requiring discipline, including corporal punishment.

(c) An explanation of the responsibilities and rights of students with regard to attendance, respect for persons and property, knowledge and observation of rules of conduct, the right to learn, free speech and student publications, assembly, privacy, and participation in school programs and activities.

(d)1. An explanation of the responsibilities of each student with regard to appropriate dress, respect for self and others, and the role that appropriate dress and respect for self and others has on an

orderly learning environment. Each district school board shall adopt a dress code policy that prohibits a student, while on the grounds of a public school during the regular school day, from wearing clothing that exposes underwear or body parts in an indecent or vulgar manner or that disrupts the orderly learning environment.

2. Any student who violates the dress policy described in subparagraph 1. is subject to the following disciplinary actions:

a. For a first offense, a student shall be given a verbal warning and the school principal shall call the student's parent or guardian.

b. For a second offense, the student is ineligible to participate in any extracurricular activity for a period of time not to exceed 5 days and the school principal shall meet with the student's parent or guardian.

c. For a third or subsequent offense, a student shall receive an in-school suspension pursuant to s. 1003.01(5) for a period not to exceed 3 days, the student is ineligible to participate in any extracurricular activity for a period not to exceed 30 days, and the school principal shall call the student's parent or guardian and send the parent or guardian a written letter regarding the student's in-school suspension and ineligibility to participate in extracurricular activities.

(e) Notice that illegal use, possession, or sale of controlled substances, as defined in chapter 893, by any student while the student is upon school property or in attendance at a school function is grounds for disciplinary action by the school and may also result in criminal penalties being imposed.

(f) Notice that use of a wireless communications device includes the possibility of the imposition of disciplinary action by the school or criminal penalties if the device is used in a criminal act. A student may possess a wireless communications device while the student is on school property or in attendance at a school function. Each district school board shall adopt rules governing the use of a wireless communications device by a student while the student is on school property or in attendance at a school function.

(g) Notice that the possession of a firearm or weapon as defined in chapter 790 by any student while the student is on school property or in attendance at a school function is grounds for disciplinary action and may also result in criminal prosecution.

(h) Notice that violence against any district school board personnel by a student is grounds for in-school suspension, out-of-school suspension, expulsion, or imposition of other disciplinary action by the school and may also result in criminal penalties being imposed.

(i) Notice that violation of district school board transportation policies, including disruptive behavior on a school bus or at a school bus stop, by a student is grounds for suspension of the student's privilege of riding on a school bus and may be grounds for disciplinary action by the school and may also result in criminal penalties being imposed.

(j) Notice that violation of the district school board's sexual harassment policy by a student is grounds for in-school suspension, out-of-school suspension, expulsion, or imposition of other disciplinary action by the school and may also result in criminal penalties being imposed.

(k) Policies to be followed for the assignment of violent or disruptive students to an alternative educational program.

(l) Notice that any student who is determined to have brought a firearm or weapon, as defined in chapter 790, to school, to any school function, or onto any school-sponsored transportation, or to have possessed a firearm at school, will be expelled, with or without continuing educational services, from the student's regular school for a period of not less than 1 full year and referred to the criminal justice or juvenile justice system. District school boards may assign the student to a disciplinary program or second chance school for the purpose of continuing educational services during the

period of expulsion. District school superintendents may consider the 1-year expulsion requirement on a case-by-case basis and request the district school board to modify the requirement by assigning the student to a disciplinary program or second chance school if the request for modification is in writing and it is determined to be in the best interest of the student and the school system.

(m) Notice that any student who is determined to have made a threat or false report, as defined by ss. 790.162 and 790.163, respectively, involving school or school personnel's property, school transportation, or a school-sponsored activity will be expelled, with or without continuing educational services, from the student's regular school for a period of not less than 1 full year and referred for criminal prosecution. District school boards may assign the student to a disciplinary program or second chance school for the purpose of continuing educational services during the period of expulsion. District school superintendents may consider the 1-year expulsion requirement on a case-by-case basis and request the district school board to modify the requirement by assigning the student to a disciplinary program or second chance school if it is determined to be in the best interest of the student and the school system.

(3) Student crime watch program. By resolution of the district school board, implement a student crime watch program to promote responsibility among students and to assist in the control of criminal behavior within the schools.

1006.08. District school superintendent duties relating to student discipline and school safety

(1) When the district school superintendent makes a recommendation for expulsion to the district school board, he or she shall give written notice to the student and the student's parent of the recommendation, setting forth the charges against the student and advising the student and his or her parent of the student's right to due process as prescribed by ss. 120.569 and 120.57(2).

1006.09 Duties of school principal relating to student discipline and school safety

(1) (b) Such rules shall require oral and written notice to the student of the charges and an explanation of the evidence against him or her prior to the suspension. Each student shall be given an opportunity to present his or her side of the story.

(2) Suspension proceedings, pursuant to rules of the State Board of Education, may be initiated against any enrolled student who is formally charged with a felony, or with a delinquent act which would be a felony if committed by an adult, by a proper prosecuting attorney for an incident which allegedly occurred on property other than public school property, if that incident is shown, in an administrative hearing with notice provided to the parents of the student by the principal of the school pursuant to rules adopted by the State Board of Education and to rules developed pursuant to s. 1001.54, to have an adverse impact on the educational program, discipline, or welfare in the school in which the student is enrolled.

1006.09. Duties of school principal relating to student discipline and school safety.

(1) (a) Subject to law and to the rules of the State Board of Education and the district school board, the principal in charge of the school or the principal's designee shall develop policies for delegating to any teacher or other member of the instructional staff or to any bus driver transporting students of the school responsibility for the control and direction of students. Each school principal shall fully support the authority of his or her teachers and school bus drivers to remove disobedient, disrespectful, violent, abusive, uncontrollable, or disruptive students from the classroom and the school bus and, when appropriate and available, place such students in an alternative educational setting. The principal or the principal's designee must give full consideration to the recommendation for discipline made by a teacher, other member of the instructional staff, or a bus driver when making a decision regarding student referral for discipline.

(b) The principal or the principal's designee may suspend a student only in accordance with the rules of the district school board. The principal or the principal's designee shall make a good faith effort to immediately inform a student's parent by telephone of a student's suspension and the reasons for the suspension. Each suspension and the reasons for the suspension shall be reported in writing within 24 hours to the student's parent by United States mail. Each suspension and the reasons for the suspension shall also be reported in writing within 24 hours to the district school superintendent. A good faith effort shall be made by the principal or the principal's designee to employ parental assistance or other alternative measures prior to suspension, except in the case of emergency or disruptive conditions which require immediate suspension or in the case of a serious breach of conduct as defined by rules of the district school board. Such rules shall require oral and written notice to the student of the charges and an explanation of the evidence against him or her prior to the suspension. Each student shall be given an opportunity to present his or her side of the story. No student shall be suspended for unexcused tardiness, lateness, absence, or truancy. The principal or the principal's designee may suspend any student transported to or from school at public expense from the privilege of riding on a school bus for violation of district school board transportation policies, which shall include a policy regarding behavior at school bus stops, and the principal or the principal's designee shall give notice in writing to the student's parent and to the district school superintendent within 24 hours. School personnel shall not be held legally responsible for suspensions of students made in good faith.

(c) The principal or the principal's designee may recommend to the district school superintendent the expulsion of any student who has committed a serious breach of conduct, including, but not limited to, willful disobedience, open defiance of authority of a member of his or her staff, violence against persons or property, or any other act which substantially disrupts the orderly conduct of the school. A recommendation of expulsion or assignment to a second chance school may also be made for any student found to have intentionally made false accusations that jeopardize the professional reputation, employment, or professional certification of a teacher or other member of the school staff, according to the district school board code of student conduct. Any recommendation of expulsion shall include a detailed report by the principal or the principal's designated representative on the alternative measures taken prior to the recommendation of expulsion.

(d) The principal or the principal's designee shall include an analysis of suspensions and expulsions in the annual report of school progress.

(2) Suspension proceedings, pursuant to rules of the State Board of Education, may be initiated against any enrolled student who is formally charged with a felony, or with a delinquent act which would be a felony if committed by an adult, by a proper prosecuting attorney for an incident which allegedly occurred on property other than public school property, if that incident is shown, in an administrative hearing with notice provided to the parents of the student by the principal of the school pursuant to rules adopted by the State Board of Education and to rules developed pursuant to s. 1001.54, to have an adverse impact on the educational program, discipline, or welfare in the school in which the student is enrolled. Any student who is suspended as the result of such proceedings may be suspended from all classes of instruction on public school grounds during regular classroom hours for a period of time, which may exceed 10 days, as determined by the district school superintendent. The suspension shall not affect the delivery of educational services to the student, and the student shall be immediately enrolled in a daytime alternative education program, or an evening alternative education program, where appropriate. If the court determines that the student did commit the felony or delinquent act which would have been a felony if committed by an adult, the district school board may expel the student, provided that expulsion under this subsection shall not affect the delivery of educational services to the student in any residential, nonresidential, alternative, daytime, or evening program outside of the regular school setting. Any student who is subject to discipline or expulsion for unlawful possession or use of any substance controlled under chapter 893 may be entitled to a waiver of the discipline or expulsion:

(a) If the student divulges information leading to the arrest and conviction of the person who supplied the controlled substance to him or her, or if the student voluntarily discloses his or her unlawful possession of the controlled substance prior to his or her arrest. Any information divulged which leads to arrest and conviction is not admissible in evidence in a subsequent criminal trial against the student divulging the information.

(b) If the student commits himself or herself, or is referred by the court in lieu of sentence, to a state-licensed drug abuse program and successfully completes the program.

(3) A student may be disciplined or expelled for unlawful possession or use of any substance controlled under chapter 893 upon the third violation of this provision.

(4) When a student has been the victim of a violent crime perpetrated by another student who attends the same school, the school principal shall make full and effective use of the provisions of subsection (2) and s. 1006.13(6). A school principal who fails to comply with this subsection shall be ineligible for any portion of the performance pay or the differentiated pay under s. 1012.22. However, if any party responsible for notification fails to properly notify the school, the school principal shall be eligible for the performance pay or differentiated pay.

(5) Any recommendation for the suspension or expulsion of a student with a disability must be made in accordance with rules adopted by the State Board of Education.

(6) Each school principal must ensure that standardized forms prescribed by rule of the State Board of Education are used to report data concerning school safety and discipline to the department. The school principal must develop a plan to verify the accuracy of reported incidents.

(7) The State Board of Education shall adopt by rule a standardized form to be used by each school principal to report data concerning school safety and discipline.

(8) The school principal shall require all school personnel to report to the principal or principal's designee any suspected unlawful use, possession, or sale by a student of any controlled substance, as defined in s. 893.02; any counterfeit controlled substance, as defined in s. 831.31; any alcoholic beverage, as defined in s. 561.01(4); or model glue. School personnel are exempt from civil liability when reporting in good faith to the proper school authority such suspected unlawful use, possession, or sale by a student. Only a principal or principal's designee is authorized to contact a parent or legal guardian of a student regarding this situation. Reports made and verified under this subsection shall be forwarded to an appropriate agency. The principal or principal's designee shall timely notify the student's parent that a verified report made under this subsection with respect to the student has been made and forwarded.

(9) A school principal or a school employee designated by the principal, if she or he has reasonable suspicion that a prohibited or illegally possessed substance or object is contained within a student's locker or other storage area, may search the locker or storage area. The district school board shall require and each school principal shall cause to be posted in each public K-12 school, in a place readily seen by students, a notice stating that a student's locker or other storage area is subject to search, upon reasonable suspicion, for prohibited or illegally possessed substances or objects. This subsection does not prohibit the use of metal detectors or specially trained animals in the course of a search for illegally possessed substances or objects.

In-school suspension

STATUTES

1003.53. Dropout prevention and academic intervention.

(d) 6. Prior to assignment of students to second chance schools, district school boards are encouraged to use alternative programs, such as in-school suspension, which provide instruction and counseling

leading to improved student behavior, a reduction in the incidence of truancy, and the development of more effective interpersonal skills.

1006.07. District school board duties relating to student discipline and school safety.

(2) Code of student conduct. Each code shall include, but is not limited to:

(a) Consistent policies and specific grounds for disciplinary action, including in-school suspension, out-of-school suspension, expulsion, and any disciplinary action that may be imposed for the possession or use of alcohol on school property or while attending a school function or for the illegal use, sale, or possession of controlled substances as defined in chapter 893.

(d) 2. Any student who violates the dress policy described in subparagraph 1. is subject to the following disciplinary actions:

a. For a first offense, a student shall be given a verbal warning and the school principal shall call the student's parent or guardian.

b. For a second offense, the student is ineligible to participate in any extracurricular activity for a period of time not to exceed 5 days and the school principal shall meet with the student's parent or guardian.

c. For a third or subsequent offense, a student shall receive an in-school suspension pursuant to s. 1003.01(5) for a period not to exceed 3 days, the student is ineligible to participate in any extracurricular activity for a period not to exceed 30 days, and the school principal shall call the student's parent or guardian and send the parent or guardian a written letter regarding the student's in-school suspension and ineligibility to participate in extracurricular activities.

(h) Notice that violence against any district school board personnel by a student is grounds for in-school suspension, out-of-school suspension, expulsion, or imposition of other disciplinary action by the school and may also result in criminal penalties being imposed.

(j) Notice that violation of the district school board's sexual harassment policy by a student is grounds for in-school suspension, out-of-school suspension, expulsion, or imposition of other disciplinary action by the school and may also result in criminal penalties being imposed.

1006.13 Policy of zero tolerance for crime and victimization

(3) District school boards may assign the student to a disciplinary program for the purpose of continuing educational services during the period of expulsion.

Return to school following removal

STATUTES

1003.32. Authority of teacher; responsibility for control of students; district school board and principal duties.

Subject to law and to the rules of the district school board, each teacher or other member of the staff of any school shall have such authority for the control and discipline of students as may be assigned to him or her by the principal or the principal's designated representative and shall keep good order in the classroom and in other places in which he or she is assigned to be in charge of students.

(5) If a teacher removes a student from class under subsection (4), the principal may place the student in another appropriate classroom, in in-school suspension, or in a dropout prevention and academic intervention program as provided by s. 1003.53; or the principal may recommend the student for out-of-school suspension or expulsion, as appropriate. The student may be prohibited from attending or participating in school-sponsored or school-related activities. The principal may not return the student to that teacher's class without the teacher's consent unless the committee established under subsection

(6) determines that such placement is the best or only available alternative. The teacher and the placement review committee must render decisions within 5 days of the removal of the student from the classroom.

(6) (a) Each school shall establish a placement review committee to determine placement of a student when a teacher withholds consent to the return of a student to the teacher's class. A school principal must notify each teacher in that school about the availability, the procedures, and the criteria for the placement review committee as outlined in this section.

(b) The principal must report on a quarterly basis to the district school superintendent and district school board each incidence of a teacher's withholding consent for a removed student to return to the teacher's class and the disposition of the incident, and the superintendent must annually report these data to the department.

(c) The Commissioner of Education shall annually review each school district's compliance with this section, and success in achieving orderly classrooms, and shall use all appropriate enforcement actions up to and including the withholding of disbursements from the Educational Enhancement Trust Fund until full compliance is verified.

(d) Placement review committee membership must include at least the following:

1. Two teachers, one selected by the school's faculty and one selected by the teacher who has removed the student.
2. One member from the school's staff who is selected by the principal.

The teacher who withheld consent to readmitting the student may not serve on the committee. The teacher and the placement review committee must render decisions within 5 days after the removal of the student from the classroom. If the placement review committee's decision is contrary to the decision of the teacher to withhold consent to the return of the removed student to the teacher's class, the teacher may appeal the committee's decision to the district school superintendent.

Use of restraint and seclusion

STATUTES

1003.573. Use of restraint and seclusion on students with disabilities.

(1) Documentation and reporting.

(a) A school shall prepare an incident report within 24 hours after a student is released from restraint or seclusion. If the student's release occurs on a day before the school closes for the weekend, a holiday, or another reason, the incident report must be completed by the end of the school day on the day the school reopens.

(b) The following must be included in the incident report:

1. The name of the student restrained or secluded.
2. The age, grade, ethnicity, and disability of the student restrained or secluded.
3. The date and time of the event and the duration of the restraint or seclusion.
4. The location at which the restraint or seclusion occurred.
5. A description of the type of restraint used in terms established by the Department of Education.
6. The name of the person using or assisting in the restraint or seclusion of the student.
7. The name of any nonstudent who was present to witness the restraint or seclusion.
8. A description of the incident, including:

a. The context in which the restraint or seclusion occurred.

b. The student's behavior leading up to and precipitating the decision to use manual or physical restraint or seclusion, including an indication as to why there was an imminent risk of serious injury or death to the student or others.

c. The specific positive behavioral strategies used to prevent and deescalate the behavior.

d. What occurred with the student immediately after the termination of the restraint or seclusion.

e. Any injuries, visible marks, or possible medical emergencies that may have occurred during the restraint or seclusion, documented according to district policies.

f. Evidence of steps taken to notify the student's parent or guardian.

(c) A school shall notify the parent or guardian of a student each time manual or physical restraint or seclusion is used. Such notification must be in writing and provided before the end of the school day on which the restraint or seclusion occurs. Reasonable efforts must also be taken to notify the parent or guardian by telephone or computer e-mail, or both, and these efforts must be documented. The school shall obtain, and keep in its records, the parent's or guardian's signed acknowledgment that he or she was notified of his or her child's restraint or seclusion.

(d) A school shall also provide the parent or guardian with the completed incident report in writing by mail within 3 school days after a student was manually or physically restrained or secluded. The school shall obtain, and keep in its records, the parent's or guardian's signed acknowledgment that he or she received a copy of the incident report.

(2) Monitoring.

(a) Monitoring of the use of manual or physical restraint or seclusion on students shall occur at the classroom, building, district, and state levels.

(b) Documentation prepared as required in subsection (1) shall be provided to the school principal, the district director of Exceptional Student Education, and the bureau chief of the Bureau of Exceptional Education and Student Services electronically each month that the school is in session.

(c) The department shall maintain aggregate data of incidents of manual or physical restraint and seclusion and disaggregate the data for analysis by county, school, student exceptionality, and other variables, including the type and method of restraint or seclusion used. This information shall be updated monthly.

(d) The department shall establish standards for documenting, reporting, and monitoring the use of manual or physical restraint or mechanical restraint, and occurrences of seclusion. These standards shall be provided to school districts by October 1, 2011.

(3) School district policies and procedures.

(a) Each school district shall develop policies and procedures that are consistent with this section and that govern the following:

1. Incident-reporting procedures.

2. Data collection and monitoring, including when, where, and why students are restrained or secluded; the frequency of occurrences of such restraint or seclusion; and the prone or mechanical restraint that is most used.

3. Monitoring and reporting of data collected.

4. Training programs relating to manual or physical restraint and seclusion.

5. The district's plan for selecting personnel to be trained.

6. The district's plan for reducing the use of restraint and seclusion particularly in settings in which it occurs frequently or with students who are restrained repeatedly, and for reducing the use of prone restraint and mechanical restraint. The plan must include a goal for reducing the use of restraint and

seclusion and must include activities, skills, and resources needed to achieve that goal. Activities may include, but are not limited to:

a. Additional training in positive behavioral support and crisis management;

b. Parental involvement;

c. Data review;

d. Updates of students' functional behavioral analysis and positive behavior intervention plans;

e. Additional student evaluations;

f. Debriefing with staff;

g. Use of schoolwide positive behavior support; and

h. Changes to the school environment.

(b) Any revisions to the district's policies and procedures, which must be prepared as part of its special policies and procedures, must be filed with the bureau chief of the Bureau of Exceptional Education and Student Services no later than January 31, 2012.

(4) Prohibited restraint. School personnel may not use a mechanical restraint or a manual or physical restraint that restricts a student's breathing.

(5) Seclusion. School personnel may not close, lock, or physically block a student in a room that is unlit and does not meet the rules of the State Fire Marshal for seclusion time-out rooms.

Alternative placements

STATUTES

1003.04. Student conduct and parental involvement.

(2) The parent of each public K-12 student must cooperate with the authority of the student's district school board, superintendent, principal, teachers, and school bus drivers, according to ss.1003.31 and 1003.32, to remove the student from the classroom and the school bus and, when appropriate and available, to place the student in an alternative educational setting, if the student is disobedient, disrespectful, violent, abusive, uncontrollable, or disruptive.

1003.31. Students subject to control of school.

(1) Each district school board, each district school superintendent, and each school principal shall fully support the authority of teachers, according to s. 1003.32, and school bus drivers to remove disobedient, disrespectful, violent, abusive, uncontrollable, or disruptive students from the classroom and the school bus and, when appropriate and available, place such students in an alternative educational setting.

1006.07. District school board duties relating to student discipline and school safety.

(2) Code of student conduct. Each code shall include, but is not limited to:

(k) Policies to be followed for the assignment of violent or disruptive students to an alternative educational program.

(5) Educational services in detention facilities. Offer educational services to minors who have not graduated from high school and eligible students with disabilities under the age of 22 who have not graduated with a standard diploma or its equivalent who are detained in a county or municipal detention facility as defined in s. 951.23. These educational services shall be based upon the estimated length of time the student will be in the facility and the student's current level of functioning. District school superintendents or their designees shall be notified by the county sheriff or chief correctional officer, or his or her designee, upon the assignment of a student under the age of 21 to the facility. A cooperative

agreement with the district school board and applicable law enforcement units shall be developed to address the notification requirement and the provision of educational services to these students.

1006.08. District school superintendent duties relating to student discipline and school safety.

(1) Each district school superintendent shall fully support the authority of his or her principals, teachers, and school bus drivers to remove disobedient, disrespectful, violent, abusive, uncontrollable, or disruptive students from the classroom and the school bus and, when appropriate and available, to place such students in an alternative educational setting.

1006.09. Duties of school principal relating to student discipline and school safety.

(1) (a) Subject to law and to the rules of the State Board of Education and the district school board, the principal in charge of the school or the principal's designee shall develop policies for delegating to any teacher or other member of the instructional staff or to any bus driver transporting students of the school responsibility for the control and direction of students. Each school principal shall fully support the authority of his or her teachers and school bus drivers to remove disobedient, disrespectful, violent, abusive, uncontrollable, or disruptive students from the classroom and the school bus and, when appropriate and available, place such students in an alternative educational setting. The principal or the principal's designee must give full consideration to the recommendation for discipline made by a teacher, other member of the instructional staff, or a bus driver when making a decision regarding student referral for discipline.

(2) The suspension shall not affect the delivery of educational services to the student, and the student shall be immediately enrolled in a daytime alternative education program, or an evening alternative education program, where appropriate.

1006.13. Policy of zero tolerance for crime and victimization

(3) District school boards may assign the student to a disciplinary program for the purpose of continuing educational services during the period of expulsion.

Disciplinary Approaches Addressing Specific Infractions and Conditions

Firearms (as required by the Guns-Free Schools Act)

STATUTES

790.115. Possessing or discharging weapons or firearms at a school-sponsored event or on school property prohibited; penalties; exceptions.

(1) A person who exhibits any sword, sword cane, firearm, electric weapon or device, destructive device, or other weapon as defined in s. 790.001(13), including a razor blade, box cutter, or common pocketknife, except as authorized in support of school-sanctioned activities, in the presence of one or more persons in a rude, careless, angry, or threatening manner and not in lawful self-defense, at a school-sponsored event or on the grounds or facilities of any school, school bus, or school bus stop, or within 1,000 feet of the real property that comprises a public or private elementary school, middle school, or secondary school, during school hours or during the time of a sanctioned school activity, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. This subsection does not apply to the exhibition of a firearm or weapon on private real property within 1,000 feet of a school by the owner of such property or by a person whose presence on such property has been authorized, licensed, or invited by the owner.

(2) (a) A person shall not possess any firearm, electric weapon or device, destructive device, or other weapon as defined in s. 790.001(13), including a razor blade or box cutter, except as authorized in support of school-sanctioned activities, at a school-sponsored event or on the property of any school, school bus, or school bus stop; however, a person may carry a firearm:

1. In a case to a firearms program, class or function which has been approved in advance by the principal or chief administrative officer of the school as a program or class to which firearms could be carried;

2. In a case to a career center having a firearms training range; or

3. In a vehicle pursuant to s. 790.25(5); except that school districts may adopt written and published policies that waive the exception in this subparagraph for purposes of student and campus parking privileges.

For the purposes of this section, “school” means any preschool, elementary school, middle school, junior high school, secondary school, career center, or postsecondary school, whether public or nonpublic.

(b) A person who willfully and knowingly possesses any electric weapon or device, destructive device, or other weapon as defined in s. 790.001(13), including a razor blade or box cutter, except as authorized in support of school-sanctioned activities, in violation of this subsection commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) 1. A person who willfully and knowingly possesses any firearm in violation of this subsection commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. A person who stores or leaves a loaded firearm within the reach or easy access of a minor who obtains the firearm and commits a violation of subparagraph 1. commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083; except that this does not apply if the firearm was stored or left in a securely locked box or container or in a location which a reasonable person would have believed to be secure, or was securely locked with a firearm-mounted push-button

combination lock or a trigger lock; if the minor obtains the firearm as a result of an unlawful entry by any person; or to members of the Armed Forces, National Guard, or State Militia, or to police or other law enforcement officers, with respect to firearm possession by a minor which occurs during or incidental to the performance of their official duties.

(d) A person who discharges any weapon or firearm while in violation of paragraph (a), unless discharged for lawful defense of himself or herself or another or for a lawful purpose, commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(e) The penalties of this subsection shall not apply to persons licensed under s. 790.06. Persons licensed under s. 790.06 shall be punished as provided in s. 790.06(12), except that a licenseholder who unlawfully discharges a weapon or firearm on school property as prohibited by this subsection commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) This section does not apply to any law enforcement officer as defined in s. 943.10(1), (2), (3), (4), (6), (7), (8), (9), or (14).

(4) Notwithstanding s. 985.24, s. 985.245, or s. 985.25(1), any minor under 18 years of age who is charged under this section with possessing or discharging a firearm on school property shall be detained in secure detention, unless the state attorney authorizes the release of the minor, and shall be given a probable cause hearing within 24 hours after being taken into custody. At the hearing, the court may order that the minor continue to be held in secure detention for a period of 21 days, during which time the minor shall receive medical, psychiatric, psychological, or substance abuse examinations pursuant to s. 985.18, and a written report shall be completed.

1006.07. District school board duties relating to student discipline and school safety.

(2) Code of student conduct. Each code shall include, but is not limited to:

(g) Notice that the possession of a firearm or weapon as defined in chapter 790 by any student while the student is on school property or in attendance at a school function is grounds for disciplinary action and may also result in criminal prosecution.

(l) Notice that any student who is determined to have brought a firearm or weapon, as defined in chapter 790, to school, to any school function, or onto any school-sponsored transportation, or to have possessed a firearm at school, will be expelled, with or without continuing educational services, from the student's regular school for a period of not less than 1 full year and referred to the criminal justice or juvenile justice system. District school boards may assign the student to a disciplinary program or second chance school for the purpose of continuing educational services during the period of expulsion. District school superintendents may consider the 1-year expulsion requirement on a case-by-case basis and request the district school board to modify the requirement by assigning the student to a disciplinary program or second chance school if the request for modification is in writing and it is determined to be in the best interest of the student and the school system.

1006.13. Policy of zero tolerance for crime and victimization.

(3) Zero-tolerance policies must require students found to have committed one of the following offenses to be expelled, with or without continuing educational services, from the student's regular school for a period of not less than 1 full year, and to be referred to the criminal justice or juvenile justice system.

(a) Bringing a firearm or weapon, as defined in chapter 790, to school, to any school function, or onto any school-sponsored transportation or possessing a firearm at school.

Other weapons

STATUTES

1006.07. District school board duties relating to student discipline and school safety.

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(g) Notice that the possession of a firearm or weapon as defined in chapter 790 by any student while the student is on school property or in attendance at a school function is grounds for disciplinary action and may also result in criminal prosecution.

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(a) Bringing a firearm or weapon, as defined in chapter 790, to school, to any school function, or onto any school-sponsored transportation or possessing a firearm at school.

Students with chronic disciplinary issues

STATUTES

1003.53. Dropout prevention and academic intervention

(d) 3. A student enrolled in a sixth, seventh, eighth, ninth, or tenth grade class may be assigned to a second chance school if the student meets the following criteria:

a. The student is a habitual truant as defined in s. 1003.01.

b. The student's excessive absences have detrimentally affected the student's academic progress and the student may have unique needs that a traditional school setting may not meet.

c. The student's high incidences of truancy have been directly linked to a lack of motivation.

d. The student has been identified as at risk of dropping out of school.

4. A student who is habitually truant may be assigned to a second chance school only if the case staffing committee, established pursuant to s. 984.12, determines that such placement could be beneficial to the student and the criteria included in subparagraph 3. are met.

5. A student may be assigned to a second chance school if the district school board in which the student resides has a second chance school and if the student meets one of the following criteria:

a. The student habitually exhibits disruptive behavior in violation of the code of student conduct adopted by the district school board.

b. The student interferes with the student's own learning or the educational process of others and requires attention and assistance beyond that which the traditional program can provide, or, while the student is under the jurisdiction of the school either in or out of the classroom, frequent conflicts of a disruptive nature occur.

c. The student has committed a serious offense which warrants suspension or expulsion from school according to the district school board's code of student conduct. For the purposes of this program, "serious offense" is behavior which:

(I) Threatens the general welfare of students or others with whom the student comes into contact;

(II) Includes violence;

(III) Includes possession of weapons or drugs; or

(IV) Is harassment or verbal abuse of school personnel or other students.

Attendance and truancy

STATUTES

1003.26. Enforcement of school attendance.

The Legislature finds that poor academic performance is associated with nonattendance and that school districts must take an active role in promoting and enforcing attendance as a means of improving student performance. It is the policy of the state that each district school superintendent be responsible for enforcing school attendance of all students subject to the compulsory school age in the school district and supporting enforcement of school attendance by local law enforcement agencies. The responsibility includes recommending policies and procedures to the district school board that require public schools to respond in a timely manner to every unexcused absence, and every absence for which the reason is unknown, of students enrolled in the schools. District school board policies shall require the parent of a student to justify each absence of the student, and that justification will be evaluated based on adopted district school board policies that define excused and unexcused absences. The policies must provide that public schools track excused and unexcused absences and contact the home in the case of an unexcused absence from school, or an absence from school for which the reason is unknown, to prevent the development of patterns of nonattendance. The Legislature finds that early intervention in school attendance is the most effective way of producing good attendance habits that will lead to improved student learning and achievement. Each public school shall implement the following steps to promote and enforce regular school attendance:

(1) Contact, refer, and enforce.

(a) Upon each unexcused absence, or absence for which the reason is unknown, the school principal or his or her designee shall contact the student's parent to determine the reason for the absence. If the absence is an excused absence, as defined by district school board policy, the school shall provide opportunities for the student to make up assigned work and not receive an academic penalty unless the work is not made up within a reasonable time.

(b) If a student has had at least five unexcused absences, or absences for which the reasons are unknown, within a calendar month or 10 unexcused absences, or absences for which the reasons are unknown, within a 90-calendar-day period, the student's primary teacher shall report to the school principal or his or her designee that the student may be exhibiting a pattern of nonattendance. The principal shall, unless there is clear evidence that the absences are not a pattern of nonattendance, refer the case to the school's child study team to determine if early patterns of truancy are developing. If the child study team finds that a pattern of nonattendance is developing, whether the absences are excused or not, a meeting with the parent must be scheduled to identify potential

remedies, and the principal shall notify the district school superintendent and the school district contact for home education programs that the referred student is exhibiting a pattern of nonattendance.

(c) If an initial meeting does not resolve the problem, the child study team shall implement the following:

1. Frequent attempts at communication between the teacher and the family.
2. Evaluation for alternative education programs.
3. Attendance contracts.

The child study team may, but is not required to, implement other interventions, including referral to other agencies for family services or recommendation for filing a truancy petition pursuant to s.984.151.

(d) The child study team shall be diligent in facilitating intervention services and shall report the case to the district school superintendent only when all reasonable efforts to resolve the nonattendance behavior are exhausted.

(e) If the parent refuses to participate in the remedial strategies because he or she believes that those strategies are unnecessary or inappropriate, the parent may appeal to the district school board. The district school board may provide a hearing officer, and the hearing officer shall make a recommendation for final action to the district school board. If the district school board's final determination is that the strategies of the child study team are appropriate, and the parent still refuses to participate or cooperate, the district school superintendent may seek criminal prosecution for noncompliance with compulsory school attendance.

(f) 1. If the parent of a child who has been identified as exhibiting a pattern of nonattendance enrolls the child in a home education program pursuant to chapter 1002, the district school superintendent shall provide the parent a copy of s. 1002.41 and the accountability requirements of this paragraph. The district school superintendent shall also refer the parent to a home education review committee composed of the district contact for home education programs and at least two home educators selected by the parent from a district list of all home educators who have conducted a home education program for at least 3 years and who have indicated a willingness to serve on the committee. The home education review committee shall review the portfolio of the student, as defined by s. 1002.41, every 30 days during the district's regular school terms until the committee is satisfied that the home education program is in compliance with s. 1002.41(1)(b). The first portfolio review must occur within the first 30 calendar days of the establishment of the program. The provisions of subparagraph 2. do not apply once the committee determines the home education program is in compliance with s. 1002.41(1)(b).

2. If the parent fails to provide a portfolio to the committee, the committee shall notify the district school superintendent. The district school superintendent shall then terminate the home education program and require the parent to enroll the child in an attendance option that meets the definition of "regular school attendance" under s. 1003.01(13)(a), (b), (c), or (e), within 3 days. Upon termination of a home education program pursuant to this subparagraph, the parent shall not be eligible to reenroll the child in a home education program for 180 calendar days. Failure of a parent to enroll the child in an attendance option as required by this subparagraph after termination of the home education program pursuant to this subparagraph shall constitute noncompliance with the compulsory attendance requirements of s. 1003.21 and may result in criminal prosecution under s.1003.27(2). Nothing contained herein shall restrict the ability of the district school superintendent, or the ability of his or her designee, to review the portfolio pursuant to s. 1002.41(1)(b).

(g) If a student subject to compulsory school attendance will not comply with attempts to enforce school attendance, the parent or the district school superintendent or his or her designee shall refer the case to the case staffing committee pursuant to s. 984.12, and the district school superintendent or his or her designee may file a truancy petition pursuant to the procedures in s. 984.151.

(2) Give written notice.

(a) Under the direction of the district school superintendent, a designated school representative shall give written notice that requires enrollment or attendance within 3 days after the date of notice, in person or by return-receipt mail, to the parent when no valid reason is found for a student's nonenrollment in school. If the notice and requirement are ignored, the designated school representative shall report the case to the district school superintendent, and may refer the case to the case staffing committee, established pursuant to s. 984.12. The district school superintendent shall take such steps as are necessary to bring criminal prosecution against the parent.

(b) Subsequent to the activities required under subsection (1), the district school superintendent or his or her designee shall give written notice in person or by return-receipt mail to the parent that criminal prosecution is being sought for nonattendance. The district school superintendent may file a truancy petition, as defined in s. 984.03, following the procedures outlined in s. 984.151.

(3) Return student to parent. A designated school representative may visit the home or place of residence of a student and any other place in which he or she is likely to find any student who is required to attend school when the student is not enrolled or is absent from school during school hours without an excuse, and, when the student is found, shall return the student to his or her parent or to the principal or teacher in charge of the school, or to the private tutor from whom absent, or to the juvenile assessment center or other location established by the district school board to receive students who are absent from school. Upon receipt of the student, the parent shall be immediately notified.

(4) Report to appropriate authority. A designated school representative shall report to the appropriate authority designated by law to receive such notices, all violations of the Child Labor Law that may come to his or her knowledge.

(5) Right to inspect. A designated school representative shall have the right of access to, and inspection of, establishments where minors may be employed or detained only for the purpose of ascertaining whether students of compulsory school age are actually employed there and are actually working there regularly. The designated school representative shall, if he or she finds unsatisfactory working conditions or violations of the Child Labor Law, report his or her findings to the appropriate authority.

1003.53. Dropout prevention and academic intervention.

(d) 3. A student enrolled in a sixth, seventh, eighth, ninth, or tenth grade class may be assigned to a second chance school if the student meets the following criteria:

a. The student is a habitual truant as defined in s. 1003.01.

b. The student's excessive absences have detrimentally affected the student's academic progress and the student may have unique needs that a traditional school setting may not meet.

c. The student's high incidences of truancy have been directly linked to a lack of motivation.

d. The student has been identified as at risk of dropping out of school.

4. A student who is habitually truant may be assigned to a second chance school only if the case staffing committee, established pursuant to s. 984.12, determines that such placement could be beneficial to the student and the criteria included in subparagraph 3. are met.

Substance use

STATUTES

1006.09. Duties of school principal relating to student discipline and school safety.

(8) The school principal shall require all school personnel to report to the principal or principal's designee any suspected unlawful use, possession, or sale by a student of any controlled substance, as defined in s. 893.02; any counterfeit controlled substance, as defined in s. 831.31; any alcoholic beverage, as defined in s. 561.01(4); or model glue. School personnel are exempt from civil liability when reporting in good faith to the proper school authority such suspected unlawful use, possession, or sale by a student.

(9) A school principal or a school employee designated by the principal, if she or he has reasonable suspicion that a prohibited or illegally possessed substance or object is contained within a student's locker or other storage area, may search the locker or storage area. The district school board shall require and each school principal shall cause to be posted in each public K-12 school, in a place readily seen by students, a notice stating that a student's locker or other storage area is subject to search, upon reasonable suspicion, for prohibited or illegally possessed substances or objects. This subsection does not prohibit the use of metal detectors or specially trained animals in the course of a search for illegally possessed substances or objects.

Bullying, harassment, or hazing

STATUTES

1006.135. Hazing at high schools with grades 9-12 prohibited.

(1) As used in this section, "hazing" means any action or situation that recklessly or intentionally endangers the mental or physical health or safety of a student at a high school with grades 9 through 12 for purposes including, but not limited to, initiation or admission into or affiliation with any organization operating under the sanction of a high school with grades 9 through 12. "Hazing" includes, but is not limited to, pressuring or coercing the student into violating state or federal law, any brutality of a physical nature, such as whipping, beating, branding, exposure to the elements, forced consumption of any food, liquor, drug, or other substance, or other forced physical activity that could adversely affect the physical health or safety of the student, and also includes any activity that would subject the student to extreme mental stress, such as sleep deprivation, forced exclusion from social contact, forced conduct that could result in extreme embarrassment, or other forced activity that could adversely affect the mental health or dignity of the student. Hazing does not include customary athletic events or other similar contests or competitions or any activity or conduct that furthers a legal and legitimate objective.

(2) A person commits hazing, a third degree felony, punishable as provided in s. 775.082 or s.775.083, when he or she intentionally or recklessly commits any act of hazing as defined in subsection (1) upon another person who is a member of or an applicant to any type of student organization and the hazing results in serious bodily injury or death of such other person.

(3) A person commits hazing, a first degree misdemeanor, punishable as provided in s. 775.082 or s. 775.083, when he or she intentionally or recklessly commits any act of hazing as defined in subsection (1) upon another person who is a member of or an applicant to any type of student organization and the hazing creates a substantial risk of physical injury or death to such other person.

(4) As a condition of any sentence imposed pursuant to subsection (2) or subsection (3), the court shall order the defendant to attend and complete a 4-hour hazing education course and may also impose a condition of drug or alcohol probation.

(5) It is not a defense to a charge of hazing that:

(a) Consent of the victim had been obtained;

(b) The conduct or activity that resulted in the death or injury of a person was not part of an official organizational event or was not otherwise sanctioned or approved by the organization; or

(c) The conduct or activity that resulted in death or injury of the person was not done as a condition of membership to an organization.

(6) This section shall not be construed to preclude prosecution for a more general offense resulting from the same criminal transaction or episode.

1006.147. Bullying and harassment prohibited.

(1) This section may be cited as the "Jeffrey Johnston Stand Up for All Students Act."

(2) Bullying or harassment of any student or employee of a public K-12 educational institution is prohibited:

(a) During any education program or activity conducted by a public K-12 educational institution;

(b) During any school-related or school-sponsored program or activity or on a school bus of a public K-12 educational institution; or

(c) Through the use of data or computer software that is accessed through a computer, computer system, or computer network of a public K-12 educational institution.

(3) For purposes of this section:

(a) "Bullying" means systematically and chronically inflicting physical hurt or psychological distress on one or more students and may involve:

1. Teasing;
2. Social exclusion;
3. Threat;
4. Intimidation;
5. Stalking;
6. Physical violence;
7. Theft;
8. Sexual, religious, or racial harassment;
9. Public humiliation; or
10. Destruction of property.

(b) "Harassment" means any threatening, insulting, or dehumanizing gesture, use of data or computer software, or written, verbal, or physical conduct directed against a student or school employee that:

1. Places a student or school employee in reasonable fear of harm to his or her person or damage to his or her property;
2. Has the effect of substantially interfering with a student's educational performance, opportunities, or benefits; or
3. Has the effect of substantially disrupting the orderly operation of a school.

(c) Definitions in s. 815.03 and the definition in s. 784.048(1)(d) relating to stalking are applicable to this section.

(d) The definitions of "bullying" and "harassment" include:

1. Retaliation against a student or school employee by another student or school employee for asserting or alleging an act of bullying or harassment. Reporting an act of bullying or harassment that is not made in good faith is considered retaliation.

2. Perpetuation of conduct listed in paragraph (a) or paragraph (b) by an individual or group with intent to demean, dehumanize, embarrass, or cause physical harm to a student or school employee by:

a. Incitement or coercion;

b. Accessing or knowingly causing or providing access to data or computer software through a computer, computer system, or computer network within the scope of the district school system; or

c. Acting in a manner that has an effect substantially similar to the effect of bullying or harassment.

(4) By December 1, 2008, each school district shall adopt a policy prohibiting bullying and harassment of any student or employee of a public K-12 educational institution. Each school district's policy shall be in substantial conformity with the Department of Education's model policy mandated in subsection (5). The school district bullying and harassment policy shall afford all students the same protection regardless of their status under the law. The school district may establish separate discrimination policies that include categories of students. The school district shall involve students, parents, teachers, administrators, school staff, school volunteers, community representatives, and local law enforcement agencies in the process of adopting the policy. The school district policy must be implemented in a manner that is ongoing throughout the school year and integrated with a school's curriculum, a school's discipline policies, and other violence prevention efforts. The school district policy must contain, at a minimum, the following components:

(a) A statement prohibiting bullying and harassment.

(b) A definition of bullying and a definition of harassment that include the definitions listed in this section.

(c) A description of the type of behavior expected from each student and employee of a public K-12 educational institution.

(d) The consequences for a student or employee of a public K-12 educational institution who commits an act of bullying or harassment.

(e) The consequences for a student or employee of a public K-12 educational institution who is found to have wrongfully and intentionally accused another of an act of bullying or harassment.

(f) A procedure for reporting an act of bullying or harassment, including provisions that permit a person to anonymously report such an act. However, this paragraph does not permit formal disciplinary action to be based solely on an anonymous report.

(g) A procedure for the prompt investigation of a report of bullying or harassment and the persons responsible for the investigation. The investigation of a reported act of bullying or harassment is deemed to be a school-related activity and begins with a report of such an act. Incidents that require a reasonable investigation when reported to appropriate school authorities shall include alleged incidents of bullying or harassment allegedly committed against a child while the child is en route to school aboard a school bus or at a school bus stop.

(h) A process to investigate whether a reported act of bullying or harassment is within the scope of the district school system and, if not, a process for referral of such an act to the appropriate jurisdiction.

(i) A procedure for providing immediate notification to the parents of a victim of bullying or harassment and the parents of the perpetrator of an act of bullying or harassment, as well as notification to all local agencies where criminal charges may be pursued against the perpetrator.

(j) A procedure to refer victims and perpetrators of bullying or harassment for counseling.

(k) A procedure for including incidents of bullying or harassment in the school's report of data concerning school safety and discipline required under s. 1006.09(6). The report must include each incident of bullying or harassment and the resulting consequences, including discipline and referrals. The report must include in a separate section each reported incident of bullying or harassment that does not meet the criteria of a prohibited act under this section with recommendations regarding such incidents. The Department of Education shall aggregate information contained in the reports.

(l) A procedure for providing instruction to students, parents, teachers, school administrators, counseling staff, and school volunteers on identifying, preventing, and responding to bullying or harassment.

(m) A procedure for regularly reporting to a victim's parents the actions taken to protect the victim.

(n) A procedure for publicizing the policy, which must include its publication in the code of student conduct required under s. 1006.07(2) and in all employee handbooks.

(5) To assist school districts in developing policies prohibiting bullying and harassment, the Department of Education shall develop a model policy that shall be provided to school districts no later than October 1, 2008.

(6) A school employee, school volunteer, student, or parent who promptly reports in good faith an act of bullying or harassment to the appropriate school official designated in the school district's policy and who makes this report in compliance with the procedures set forth in the policy is immune from a cause of action for damages arising out of the reporting itself or any failure to remedy the reported incident.

(7) (a) The physical location or time of access of a computer-related incident cannot be raised as a defense in any disciplinary action initiated under this section.

(b) This section does not apply to any person who uses data or computer software that is accessed through a computer, computer system, or computer network when acting within the scope of his or her lawful employment or investigating a violation of this section in accordance with school district policy.

(8) Distribution of safe schools funds to a school district provided in the 2009-2010 General Appropriations Act is contingent upon and payable to the school district upon the Department of Education's approval of the school district's bullying and harassment policy. The department's approval of each school district's bullying and harassment policy shall be granted upon certification by the department that the school district's policy has been submitted to the department and is in substantial conformity with the department's model bullying and harassment policy as mandated in subsection (5). Distribution of safe schools funds provided to a school district in fiscal year 2010-2011 and thereafter shall be contingent upon and payable to the school district upon the school district's compliance with all reporting procedures contained in this section.

(9) On or before January 1 of each year, the Commissioner of Education shall report to the Governor, the President of the Senate, and the Speaker of the House of Representatives on the implementation of this section. The report shall include data collected pursuant to paragraph (4)(k).

(10) Nothing in this section shall be construed to abridge the rights of students or school employees that are protected by the First Amendment to the Constitution of the United States.

Other special infractions or conditions

STATUTES

1006.07. District school board duties relating to student discipline and school safety.

(2)(a)2. Any student who violates the dress policy described in subparagraph 1. is subject to the following disciplinary actions:

a. For a first offense, a student shall be given a verbal warning and the school principal shall call the student's parent or guardian.

b. For a second offense, the student is ineligible to participate in any extracurricular activity for a period of time not to exceed 5 days and the school principal shall meet with the student's parent or guardian.

c. For a third or subsequent offense, a student shall receive an in-school suspension pursuant to s. 1003.01(5) for a period not to exceed 3 days, the student is ineligible to participate in any extracurricular activity for a period not to exceed 30 days, and the school principal shall call the student's parent or guardian and send the parent or guardian a written letter regarding the student's in-school suspension and ineligibility to participate in extracurricular activities.

1006.14. Secret societies prohibited in public K-12 schools.

(1) It is unlawful for any person, group, or organization to organize or establish a fraternity, sorority, or other secret society whose membership is comprised in whole or in part of students enrolled in any public K-12 school or to go upon any public K-12 school premises for the purpose of soliciting any students to join such an organization.

(2) A secret society shall be interpreted to be a fraternity, sorority, or other organization whose active membership is comprised wholly or partly of students enrolled in public K-12 schools and which perpetuates itself wholly or partly by taking in additional members from the students enrolled in public K-12 schools on the basis of the decision of its membership rather than on the right of any student who is qualified by the rules of the school to be a member of and take part in any class or group exercise designated and classified according to gender, subjects included in the course of study, or program of school activities fostered and promoted by the district school board and district school superintendent or by school principals.

(3) This section shall not be construed to prevent the establishment of an organization fostered and promoted by school authorities, or approved and accepted by school authorities, and whose membership is selected on the basis of good character, good scholarship, leadership ability, and achievement. Full information regarding the charter, principles, purposes, and conduct of any such accepted organization shall be made available to all students and instructional personnel of the school.

(4) This section shall not be construed to relate to any junior organization or society sponsored by the Police Athletic League, Knights of Pythias, Oddfellows, Moose, Woodmen of the World, Knights of Columbus, Elks, Masons, B'nai B'rith, Young Men's and Young Women's Hebrew Associations, Young Men's and Young Women's Christian Associations, Kiwanis, Rotary, Optimist, Civitan, Exchange Clubs, Florida Federation of Garden Clubs, and Florida Federation of Women's Clubs.

(5) It is unlawful for any student enrolled in any public K-12 school to be a member of, to join or to become a member of or to pledge himself or herself to become a member of any secret fraternity, sorority, or group wholly or partly formed from the membership of students attending public K-12 schools or to take part in the organization or formation of any such fraternity, sorority, or secret society; provided that this does not prevent any student from belonging to any organization fostered and promoted by the school authorities, or approved and accepted by the school authorities and whose membership is selected on the basis of good character, good scholarship, leadership ability, and achievement.

(6) The district school board may enforce the provisions of this section and prescribe and enforce such rules as are necessary. District school boards shall enforce the provisions of this section by suspending or, if necessary, expelling any student in any public K-12 school who violates this section.

1006.148. Dating violence and abuse prohibited.

(1) Each district school board shall adopt and implement a dating violence and abuse policy. The policy shall:

(a) Prohibit dating violence and abuse by any student on school property, during a school-sponsored activity, or during school-sponsored transportation.

Prevention and Behavioral Interventions (Non-Punitive)

Prevention

STATUTES

1003.53. Dropout prevention and academic intervention.

(1) (a) Dropout prevention and academic intervention programs may differ from traditional educational programs and schools in scheduling, administrative structure, philosophy, curriculum, or setting and shall employ alternative teaching methodologies, curricula, learning activities, and diagnostic and assessment procedures in order to meet the needs, interests, abilities, and talents of eligible students. The educational program shall provide curricula, character development and law education, and related services that support the program goals and lead to improved performance in the areas of academic achievement, attendance, and discipline. Student participation in such programs shall be voluntary. District school boards may, however, assign students to a program for disruptive students.

(c) A student shall be identified as being eligible to receive services funded through the dropout prevention and academic intervention program based upon one of the following criteria:

3. The student has a history of disruptive behavior in school or has committed an offense that warrants out-of-school suspension or expulsion from school according to the district school board's code of student conduct. For the purposes of this program, "disruptive behavior" is behavior that:

a. Interferes with the student's own learning or the educational process of others and requires attention and assistance beyond that which the traditional program can provide or results in frequent conflicts of a disruptive nature while the student is under the jurisdiction of the school either in or out of the classroom; or

b. Severely threatens the general welfare of students or others with whom the student comes into contact.

1006.148. Dating violence and abuse prohibited.

(1) Each district school board shall adopt and implement a dating violence and abuse policy. The policy shall:

(c) Define dating violence and abuse and provide for a teen dating violence and abuse component in the health education curriculum, according to s. 1003.42(2)(n), with emphasis on prevention education.

1006.07. District school board duties relating to student discipline and school safety.

(3) Student crime watch program. By resolution of the district school board, implement a student crime watch program to promote responsibility among students and to assist in the control of criminal behavior within the schools.

Behavioral interventions and student support services

STATUTES

1003.573. Use of restraint and seclusion on students with disabilities.

(3) School district policies and procedures.

(a) Each school district shall develop policies and procedures that are consistent with this section and that govern the following:

6. The district's plan for reducing the use of restraint and seclusion particularly in settings in which it occurs frequently or with students who are restrained repeatedly, and for reducing the use of prone restraint and mechanical restraint. The plan must include a goal for reducing the use of restraint and seclusion and must include activities, skills, and resources needed to achieve that goal. Activities may include, but are not limited to:

a. Additional training in positive behavioral support and crisis management;

b. Parental involvement;

c. Data review;

d. Updates of students' functional behavioral analysis and positive behavior intervention plans;

e. Additional student evaluations;

f. Debriefing with staff;

g. Use of schoolwide positive behavior support; and

h. Changes to the school environment.

1006.148. Dating violence and abuse prohibited.

(1) Each district school board shall adopt and implement a dating violence and abuse policy. The policy shall:

(b) Provide procedures for responding to such incidents of dating violence or abuse, including accommodations for students experiencing dating violence or abuse.

Professional development

STATUTES

1003.32. Authority of teacher; responsibility for control of students; district school board and principal duties.

(1) In accordance with this section and within the framework of the district school board's code of student conduct, teachers and other instructional personnel shall have the authority to undertake any of the following actions in managing student behavior and ensuring the safety of all students in their classes and school and their opportunity to learn in an orderly and disciplined classroom:

(h) Request and receive training and other assistance to improve skills in classroom management, violence prevention, conflict resolution, and related areas.

(2) Teachers and other instructional personnel shall:

(b) Seek professional development to improve classroom management skills when data show that they are not effective in handling minor classroom disruptions.

(3) Each district school board shall provide training for teachers, staff, and school administrators to implement this section.

(7) Any teacher who removes 25 percent of his or her total class enrollment shall be required to complete professional development to improve classroom management skills.

1003.573. Use of restraint and seclusion on students with disabilities.

(3) School district policies and procedures.

(a) Each school district shall develop policies and procedures that are consistent with this section and that govern the following:

4. Training programs relating to manual or physical restraint and seclusion.

5. The district's plan for selecting personnel to be trained.

6. The district's plan for reducing the use of restraint and seclusion particularly in settings in which it occurs frequently or with students who are restrained repeatedly, and for reducing the use of prone restraint and mechanical restraint. The plan must include a goal for reducing the use of restraint and seclusion and must include activities, skills, and resources needed to achieve that goal. Activities may include, but are not limited to:

a. Additional training in positive behavioral support and crisis management;

1006.148 Dating violence and abuse prohibited.

(3) Each district school board shall provide training for teachers, staff, and school administrators to implement this section.

Monitoring and Accountability

Formal incident reporting of conduct violations

STATUTES

1003.573. Use of restraint and seclusion on students with disabilities.

(3) School district policies and procedures.

(a) Each school district shall develop policies and procedures that are consistent with this section and that govern the following:

1. Incident-reporting procedures.

1006.09. Duties of school principal relating to student discipline and school safety

(8) The school principal shall require all school personnel to report to the principal or principal's designee any suspected unlawful use, possession, or sale by a student of any controlled substance, as defined in s. 893.02; any counterfeit controlled substance, as defined in s. 831.31; any alcoholic beverage, as defined in s. 561.01(4); or model glue. School personnel are exempt from civil liability when reporting in good faith to the proper school authority such suspected unlawful use, possession, or sale by a student.

Parental notification

STATUTES

1003.26. Enforcement of school attendance.

(1) Contact, refer, and enforce.

(a) Upon each unexcused absence, or absence for which the reason is unknown, the school principal or his or her designee shall contact the student's parent to determine the reason for the absence. If the absence is an excused absence, as defined by district school board policy, the school shall provide opportunities for the student to make up assigned work and not receive an academic penalty unless the work is not made up within a reasonable time.

(b) If a student has had at least five unexcused absences, or absences for which the reasons are unknown, within a calendar month or 10 unexcused absences, or absences for which the reasons are unknown, within a 90-calendar-day period, the student's primary teacher shall report to the school principal or his or her designee that the student may be exhibiting a pattern of nonattendance. The principal shall, unless there is clear evidence that the absences are not a pattern of nonattendance, refer the case to the school's child study team to determine if early patterns of truancy are developing. If the child study team finds that a pattern of nonattendance is developing, whether the absences are excused or not, a meeting with the parent must be scheduled to identify potential remedies, and the principal shall notify the district school superintendent and the school district contact for home education programs that the referred student is exhibiting a pattern of nonattendance.

(c) If an initial meeting does not resolve the problem, the child study team shall implement the following:

1. Frequent attempts at communication between the teacher and the family.

(2) Give written notice.

(a) Under the direction of the district school superintendent, a designated school representative shall give written notice that requires enrollment or attendance within 3 days after the date of notice, in

person or by return-receipt mail, to the parent when no valid reason is found for a student's nonenrollment in school. If the notice and requirement are ignored, the designated school representative shall report the case to the district school superintendent, and may refer the case to the case staffing committee, established pursuant to s. 984.12. The district school superintendent shall take such steps as are necessary to bring criminal prosecution against the parent.

(b) Subsequent to the activities required under subsection (1), the district school superintendent or his or her designee shall give written notice in person or by return-receipt mail to the parent that criminal prosecution is being sought for nonattendance. The district school superintendent may file a truancy petition, as defined in s. 984.03, following the procedures outlined in s. 984.151.

(3) Return student to parent. A designated school representative may visit the home or place of residence of a student and any other place in which he or she is likely to find any student who is required to attend school when the student is not enrolled or is absent from school during school hours without an excuse, and, when the student is found, shall return the student to his or her parent or to the principal or teacher in charge of the school, or to the private tutor from whom absent, or to the juvenile assessment center or other location established by the district school board to receive students who are absent from school. Upon receipt of the student, the parent shall be immediately notified.

1003.53. Dropout prevention and academic intervention.

(5) The school principal or his or her designee shall, prior to placement in a dropout prevention and academic intervention program or the provision of an academic service, provide written notice of placement or services by certified mail, return receipt requested, to the student's parent. The parent of the student shall sign an acknowledgment of the notice of placement or service and return the signed acknowledgment to the principal within 3 days after receipt of the notice. The parents of a student assigned to such a dropout prevention and academic intervention program shall be notified in writing and entitled to an administrative review of any action by school personnel relating to such placement pursuant to the provisions of chapter 120.

1003.573. Use of restraint and seclusion on students with disabilities.

(c) A school shall notify the parent or guardian of a student each time manual or physical restraint or seclusion is used. Such notification must be in writing and provided before the end of the school day on which the restraint or seclusion occurs. Reasonable efforts must also be taken to notify the parent or guardian by telephone or computer e-mail, or both, and these efforts must be documented. The school shall obtain, and keep in its records, the parent's or guardian's signed acknowledgment that he or she was notified of his or her child's restraint or seclusion.

(d) A school shall also provide the parent or guardian with the completed incident report in writing by mail within 3 school days after a student was manually or physically restrained or secluded. The school shall obtain, and keep in its records, the parent's or guardian's signed acknowledgment that he or she received a copy of the incident report.

1006.07. District school board duties relating to student discipline and school safety.

(2)(d)2. Any student who violates the dress policy described in subparagraph 1. is subject to the following disciplinary actions:

a. For a first offense, a student shall be given a verbal warning and the school principal shall call the student's parent or guardian.

b. For a second offense, the student is ineligible to participate in any extracurricular activity for a period of time not to exceed 5 days and the school principal shall meet with the student's parent or guardian.

c. For a third or subsequent offense, a student shall receive an in-school suspension pursuant to s. 1003.01(5) for a period not to exceed 3 days, the student is ineligible to participate in any extracurricular activity for a period not to exceed 30 days, and the school principal shall call the student's parent or guardian and send the parent or guardian a written letter regarding the student's in-school suspension and ineligibility to participate in extracurricular activities.

1006.09. Duties of school principal relating to student discipline and school safety.

(1) (b) The principal or the principal's designee may suspend any student transported to or from school at public expense from the privilege of riding on a school bus for violation of district school board transportation policies, which shall include a policy regarding behavior at school bus stops, and the principal or the principal's designee shall give notice in writing to the student's parent and to the district school superintendent within 24 hours.

(8) The principal or principal's designee shall timely notify the student's parent that a verified report made under this subsection with respect to the student has been made and forwarded.

Reporting and referrals between schools and law enforcement

STATUTES

1003.26. Enforcement of school attendance.

(2) Give written notice.

(a) Under the direction of the district school superintendent, a designated school representative shall give written notice that requires enrollment or attendance within 3 days after the date of notice, in person or by return-receipt mail, to the parent when no valid reason is found for a student's nonenrollment in school. If the notice and requirement are ignored, the designated school representative shall report the case to the district school superintendent, and may refer the case to the case staffing committee, established pursuant to s. 984.12. The district school superintendent shall take such steps as are necessary to bring criminal prosecution against the parent.

(b) Subsequent to the activities required under subsection (1), the district school superintendent or his or her designee shall give written notice in person or by return-receipt mail to the parent that criminal prosecution is being sought for nonattendance. The district school superintendent may file a truancy petition, as defined in s. 984.03, following the procedures outlined in s. 984.151.

(4) Report to appropriate authority. A designated school representative shall report to the appropriate authority designated by law to receive such notices, all violations of the Child Labor Law that may come to his or her knowledge.

1003.29. Notice to schools of court action.

If a court takes action that directly involves a student's school, including, but not limited to, an order that a student attend school, attend school with his or her parent, perform at grade level, or perform community service hours at the school, the office of the clerk of the court shall provide notice to the school of the court's action.

1003.32. Authority of teacher; responsibility for control of students; district school board and principal duties.

(8) Each teacher or other member of the staff of any school who knows or has reason to suspect that any person has committed, or has made a credible threat to commit, a crime of violence on school property shall report such knowledge or suspicion in accordance with the provisions of s.1006.13. Each district

school superintendent and each school principal shall fully support good faith reporting in accordance with the provisions of this subsection and s. 1006.13.

1006.07. District school board duties relating to student discipline and school safety.

(5) Educational Services in Detention Facilities. Offer educational services to minors who have not graduated from high school and eligible students with disabilities under the age of 22 who have not graduated with a standard diploma or its equivalent who are detained in a county or municipal detention facility as defined in s. 951.23. These educational services shall be based upon the estimated length of time the student will be in the facility and the student's current level of functioning. District school superintendents or their designees shall be notified by the county sheriff or chief correctional officer, or his or her designee, upon the assignment of a student under the age of 21 to the facility. A cooperative agreement with the district school board and applicable law enforcement units shall be developed to address the notification requirement and the provision of educational services to these students.

1006.08. District school superintendent duties relating to student discipline and school safety.

(2) Notwithstanding the provisions of s. 985.04(7) or any other provision of law to the contrary, the court shall, within 48 hours of the finding, notify the appropriate district school superintendent of the name and address of any student found to have committed a delinquent act, or who has had adjudication of a delinquent act withheld which, if committed by an adult, would be a felony, or the name and address of any student found guilty of a felony. Notification shall include the specific delinquent act found to have been committed or for which adjudication was withheld, or the specific felony for which the student was found guilty.

1006.09. Duties of school principal relating to student discipline and school safety.

(8) Reports made and verified under this subsection shall be forwarded to an appropriate agency.

1006.13 Policy of zero tolerance for crime and victimization.

(1) It is the intent of the Legislature to promote a safe and supportive learning environment in schools, to protect students and staff from conduct that poses a serious threat to school safety, and to encourage schools to use alternatives to expulsion or referral to law enforcement agencies by addressing disruptive behavior through restitution, civil citation, teen court, neighborhood restorative justice, or similar programs. The Legislature finds that zero-tolerance policies are not intended to be rigorously applied to petty acts of misconduct and misdemeanors, including, but not limited to, minor fights or disturbances.

(4) (a) Each district school board shall enter into agreements with the county sheriff's office and local police department specifying guidelines for ensuring that acts that pose a serious threat to school safety, whether committed by a student or adult, are reported to a law enforcement agency.

(c) Zero-tolerance policies do not require the reporting of petty acts of misconduct and misdemeanors to a law enforcement agency, including, but not limited to, disorderly conduct, disrupting a school function, simple assault or battery, affray, theft of less than $300, trespassing, and vandalism of less than $1,000.

1006.13. Policy of zero tolerance for crime and victimization.

(1) It is the intent of the Legislature to promote a safe and supportive learning environment in schools, to protect students and staff from conduct that poses a serious threat to school safety, and to encourage schools to use alternatives to expulsion or referral to law enforcement agencies by addressing disruptive behavior through restitution, civil citation, teen court, neighborhood restorative justice, or similar programs. The Legislature finds that zero-tolerance policies are not intended to be rigorously applied to petty acts of misconduct and misdemeanors, including, but not limited to, minor fights or disturbances.

(2) Each district school board shall adopt a policy of zero tolerance that:

(a) Defines criteria for reporting to a law enforcement agency any act that occurs whenever or wherever students are within the jurisdiction of the district school board.

(4) (a) Each district school board shall enter into agreements with the county sheriff's office and local police department specifying guidelines for ensuring that acts that pose a serious threat to school safety, whether committed by a student or adult, are reported to a law enforcement agency.

(b) The agreements must include the role of school resource officers, if applicable, in handling reported incidents, circumstances in which school officials may handle incidents without filing a report with a law enforcement agency, and a procedure for ensuring that school personnel properly report appropriate delinquent acts and crimes.

(c) Zero-tolerance policies do not require the reporting of petty acts of misconduct and misdemeanors to a law enforcement agency, including, but not limited to, disorderly conduct, disrupting a school function, simple assault or battery, affray, theft of less than $300, trespassing, and vandalism of less than $1,000.

(d) The school principal shall ensure that all school personnel are properly informed as to their responsibilities regarding crime reporting, that appropriate delinquent acts and crimes are properly reported, and that actions taken in cases with special circumstances are properly taken and documented.

(6) (a) Notwithstanding any provision of law prohibiting the disclosure of the identity of a minor, whenever any student who is attending a public school is adjudicated guilty of or delinquent for, or is found to have committed, regardless of whether adjudication is withheld, or pleads guilty or nolo contendere to, a felony violation of:

1. Chapter 782, relating to homicide;
2. Chapter 784, relating to assault, battery, and culpable negligence;
3. Chapter 787, relating to kidnapping, false imprisonment, luring or enticing a child, and custody offenses;
4. Chapter 794, relating to sexual battery;
5. Chapter 800, relating to lewdness and indecent exposure;
6. Chapter 827, relating to abuse of children;
7. Section 812.13, relating to robbery;
8. Section 812.131, relating to robbery by sudden snatching;
9. Section 812.133, relating to carjacking; or
10. Section 812.135, relating to home-invasion robbery,

and, before or at the time of such adjudication, withholding of adjudication, or plea, the offender was attending a school attended by the victim or a sibling of the victim of the offense, the Department of Juvenile Justice shall notify the appropriate district school board of the adjudication or plea, the requirements in this paragraph, and whether the offender is prohibited from attending that school or riding on a school bus whenever the victim or a sibling of the victim is attending the same school or riding on the same school bus, except as provided pursuant to a written disposition order under s. 985.455(2). Upon receipt of such notice, the district school board shall take appropriate action to effectuate the provisions in paragraph (b).

(b) Each district school board shall adopt a cooperative agreement with the Department of Juvenile Justice which establishes guidelines for ensuring that any no contact order entered by a court is reported and enforced and that all of the necessary steps are taken to protect the victim of the offense. Any offender described in paragraph (a), who is not exempted as provided in paragraph (a), may not

attend any school attended by the victim or a sibling of the victim of the offense or ride on a school bus on which the victim or a sibling of the victim is riding. The offender shall be permitted by the district school board to attend another school within the district in which the offender resides, only if the other school is not attended by the victim or sibling of the victim of the offense; or the offender may be permitted by another district school board to attend a school in that district if the offender is unable to attend any school in the district in which the offender resides.

(c) If the offender is unable to attend any other school in the district in which the offender resides and is prohibited from attending a school in another school district, the district school board in the school district in which the offender resides shall take every reasonable precaution to keep the offender separated from the victim while on school grounds or on school transportation. The steps to be taken by a district school board to keep the offender separated from the victim must include, but are not limited to, in-school suspension of the offender and the scheduling of classes, lunch, or other school activities of the victim and the offender so as not to coincide.

(d) The offender, or the parents of the offender if the offender is a juvenile, shall arrange and pay for transportation associated with or required by the offender's attending another school or that would be required as a consequence of the prohibition against riding on a school bus on which the victim or a sibling of the victim is riding. However, the offender or the parents of the offender may not be charged for existing modes of transportation that can be used by the offender at no additional cost to the district school board.

(8) School districts are encouraged to use alternatives to expulsion or referral to law enforcement agencies unless the use of such alternatives will pose a threat to school safety.

Disclosure of school records

STATUTES

1002.22. Education records and reports of K-12 students; rights of parents and students; notification; penalty

(1) Definitions. As used in this section, the term:

(a) "Agency" means any board, agency, or other entity that provides administrative control or direction of or performs services for public elementary or secondary schools, centers, or other institutions as defined in this chapter.

(b) "Institution" means any public school, center, institution, or other entity that is part of Florida's education system under s. 1000.04(1), (3), and (4).

(2) Rights of students and parents. The rights of students and their parents with respect to education records created, maintained, or used by public educational institutions and agencies shall be protected in accordance with the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. s. 1232g, the implementing regulations issued pursuant thereto, and this section. In order to maintain the eligibility of public educational institutions and agencies to receive federal funds and participate in federal programs, the State Board of Education shall comply with the FERPA after the board has evaluated and determined that the FERPA is consistent with the following principles:

(a) Students and their parents shall have the right to access their education records, including the right to inspect and review those records.

(b) Students and their parents shall have the right to waive their access to their education records in certain circumstances.

(c) Students and their parents shall have the right to challenge the content of education records in order to ensure that the records are not inaccurate, misleading, or otherwise a violation of privacy or other rights.

(d) Students and their parents shall have the right of privacy with respect to such records and reports.

(e) Students and their parents shall receive notice of their rights with respect to education records.

(3) Duties and responsibilities. The State Board of Education shall:

(a) Adopt rules pursuant to ss. 120.536(1) and 120.54 to administer this section.

(b) Monitor the FERPA and notify the Legislature of any significant change to the requirements of the FERPA or other major changes in federal law which may impact this section.

(c) Advise the Legislature of any change in the FERPA which may create a need for an exemption to the requirements of s. 24(a), Art. I of the State Constitution.

(4) Penalty. If any official or employee of an institution refuses to comply with this section, the aggrieved parent or student has an immediate right to bring an action in circuit court to enforce his or her rights by injunction. Any aggrieved parent or student who brings such action and whose rights are vindicated may be awarded attorney's fees and court costs.

(5) Applicability to records of defunct institutions. This section applies to student records that any nonpublic educational institution that is no longer operating has deposited with the district school superintendent in the county where the nonpublic educational institution was located.

1002.221. K-12 education records.

(1) Education records, as defined in the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. s. 1232g, and the federal regulations issued pursuant thereto, are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(2) (a) An agency, as defined in s. 1002.22(1)(a), or a public school, center, institution, or other entity that is part of Florida's education system under s. 1000.04(1), (3), or (4), may not release a student's education records without the written consent of the student or parent to any individual, agency, or organization, except in accordance with and as permitted by the FERPA. Education records released by an agency, as defined in s. 1002.22(1)(a), or by a public school, center, institution, or other entity that is part of Florida's education system under s. 1000.04(1), (3), or (4), to the Auditor General or the Office of Program Policy Analysis and Government Accountability, which are necessary for such agencies to perform their official duties and responsibilities, shall be used and maintained by the Auditor General and the Office of Program Policy Analysis and Government Accountability in accordance with the FERPA.

(b) In accordance with FERPA and the federal regulations issued pursuant to FERPA, an agency, as defined in s. 1002.22, or a public school, center, institution, or other entity that is part of Florida's education system under s. 1000.04(1), (3), or (4) may release a student's education records without written consent of the student or parent to parties to an interagency agreement among the Department of Juvenile Justice, the school, law enforcement authorities, and other signatory agencies. The purpose of such an agreement and information sharing is to reduce juvenile crime, especially motor vehicle theft, by promoting cooperation and collaboration and the sharing of appropriate information in a joint effort to improve school safety, to reduce truancy and in-school and out-of-school suspensions, and to support alternatives to in-school and out-of-school suspensions and expulsions, which provide structured and well-supervised educational programs supplemented by a coordinated overlay of other appropriate services designed to correct behaviors that lead to truancy, suspensions, and expulsions and that support students in successfully completing their education. Information provided in furtherance of an interagency agreement is intended solely for use in determining the appropriate

programs and services for each juvenile or the juvenile's family, or for coordinating the delivery of the programs and services, and as such is inadmissible in any court proceeding before a dispositional hearing unless written consent is provided by a parent or other responsible adult on behalf of the juvenile.

(3) This section is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2014, unless reviewed and saved from repeal through reenactment by the Legislature.

1003.53. Dropout prevention and academic intervention.

(6) District school board dropout prevention and academic intervention programs shall be coordinated with social service, law enforcement, prosecutorial, and juvenile justice agencies and juvenile assessment centers in the school district. Notwithstanding the provisions of s. 1002.22, these agencies are authorized to exchange information contained in student records and juvenile justice records. Such information is confidential and exempt from the provisions of s. 119.07(1). District school boards and other agencies receiving such information shall use the information only for official purposes connected with the certification of students for admission to and for the administration of the dropout prevention and academic intervention program, and shall maintain the confidentiality of such information unless otherwise provided by law or rule.

1006.08. District school superintendent duties relating to student discipline and school safety.

(3) Except to the extent necessary to protect the health, safety, and welfare of other students, the information obtained by the district school superintendent pursuant to this section may be released only to appropriate school personnel or as otherwise provided by law.

1006.09. Duties of school principal relating to student discipline and school safety.

(8) The school principal shall require all school personnel to report to the principal or principal's designee any suspected unlawful use, possession, or sale by a student of any controlled substance, as defined in s. 893.02; any counterfeit controlled substance, as defined in s. 831.31; any alcoholic beverage, as defined in s. 561.01(4); or model glue. School personnel are exempt from civil liability when reporting in good faith to the proper school authority such suspected unlawful use, possession, or sale by a student.

Data collection, review, and reporting of disciplinary policies and actions

STATUTES

1003.32. Authority of teacher; responsibility for control of students; district school board and principal duties.

(6) (b) The principal must report on a quarterly basis to the district school superintendent and district school board each incidence of a teacher's withholding consent for a removed student to return to the teacher's class and the disposition of the incident, and the superintendent must annually report these data to the department.

(c) The Commissioner of Education shall annually review each school district's compliance with this section, and success in achieving orderly classrooms, and shall use all appropriate enforcement actions up to and including the withholding of disbursements from the Educational Enhancement Trust Fund until full compliance is verified.

1003.573. Use of restraint and seclusion on students with disabilities.

(1) Documentation and Reporting.

(a) A school shall prepare an incident report within 24 hours after a student is released from restraint or seclusion. If the student's release occurs on a day before the school closes for the weekend, a holiday, or another reason, the incident report must be completed by the end of the school day on the day the school reopens.

(b) The following must be included in the incident report:

1. The name of the student restrained or secluded.
2. The age, grade, ethnicity, and disability of the student restrained or secluded.
3. The date and time of the event and the duration of the restraint or seclusion.
4. The location at which the restraint or seclusion occurred.
5. A description of the type of restraint used in terms established by the Department of Education.
6. The name of the person using or assisting in the restraint or seclusion of the student.
7. The name of any nonstudent who was present to witness the restraint or seclusion.
8. A description of the incident, including:

a. The context in which the restraint or seclusion occurred.

b. The student's behavior leading up to and precipitating the decision to use manual or physical restraint or seclusion, including an indication as to why there was an imminent risk of serious injury or death to the student or others.

c. The specific positive behavioral strategies used to prevent and deescalate the behavior.

d. What occurred with the student immediately after the termination of the restraint or seclusion.

e. Any injuries, visible marks, or possible medical emergencies that may have occurred during the restraint or seclusion, documented according to district policies.

f. Evidence of steps taken to notify the student's parent or guardian.

(3) School district policies and procedures.

(a) Each school district shall develop policies and procedures that are consistent with this section and that govern the following:

1. Incident-reporting procedures.
2. Data collection and monitoring, including when, where, and why students are restrained or secluded; the frequency of occurrences of such restraint or seclusion; and the prone or mechanical restraint that is most used.
3. Monitoring and reporting of data collected.

(b) Any revisions to the district's policies and procedures, which must be prepared as part of its special policies and procedures, must be filed with the bureau chief of the Bureau of Exceptional Education and Student Services no later than January 31, 2012.

6. The district's plan for reducing the use of restraint and seclusion particularly in settings in which it occurs frequently or with students who are restrained repeatedly, and for reducing the use of prone restraint and mechanical restraint. The plan must include a goal for reducing the use of restraint and seclusion and must include activities, skills, and resources needed to achieve that goal. Activities may include, but are not limited to:

c. Data review;

1006.09. Duties of school principal relating to student discipline and school safety.

(1) (b) Each suspension and the reasons for the suspension shall also be reported in writing within 24 hours to the district school superintendent.

(c) Any recommendation of expulsion shall include a detailed report by the principal or the principal's designated representative on the alternative measures taken prior to the recommendation of expulsion.

(d) The principal or the principal's designee shall include an analysis of suspensions and expulsions in the annual report of school progress.

(6) Each school principal must ensure that standardized forms prescribed by rule of the State Board of Education are used to report data concerning school safety and discipline to the department. The school principal must develop a plan to verify the accuracy of reported incidents.

(7) The State Board of Education shall adopt by rule a standardized form to be used by each school principal to report data concerning school safety and discipline.

School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers

Authority and power to implement school arrest

STATUTES

1006.12. School resource officers and school safety officers.

(2) (c) A school safety officer has and shall exercise the power to make arrests for violations of law on district school board property and to arrest persons, whether on or off such property, who violate any law on such property under the same conditions that deputy sheriffs are authorized to make arrests. A school safety officer has the authority to carry weapons when performing his or her official duties.

Certification or training

STATUTES

1006.12. School resource officers and school safety officers.

(2) (a) School safety officers shall be law enforcement officers, as defined in s. 943.10(1), certified under the provisions of chapter 943 and employed by either a law enforcement agency or by the district school board. If the officer is employed by the district school board, the district school board is the employing agency for purposes of chapter 943, and must comply with the provisions of that chapter.

MOUs, authorization, and/or funding

STATUTES

1006.12. School resource officers and school safety officers.

(1) District school boards may establish school resource officer programs, through a cooperative agreement with law enforcement agencies or in accordance with subsection (2).

(a) School resource officers shall be certified law enforcement officers, as defined in s.943.10(1), who are employed by a law enforcement agency as defined in s. 943.10(4). The powers and duties of a law enforcement officer shall continue throughout the employee's tenure as a school resource officer.

(b) School resource officers shall abide by district school board policies and shall consult with and coordinate activities through the school principal, but shall be responsible to the law enforcement agency in all matters relating to employment, subject to agreements between a district school board and a law enforcement agency. Activities conducted by the school resource officer which are part of the regular instructional program of the school shall be under the direction of the school principal.

(2) (a) School safety officers shall be law enforcement officers, as defined in s. 943.10(1), certified under the provisions of chapter 943 and employed by either a law enforcement agency or by the district school board. If the officer is employed by the district school board, the district school board is the employing agency for purposes of chapter 943, and must comply with the provisions of that chapter.

(b) A district school board may commission one or more school safety officers for the protection and safety of school personnel, property, and students within the school district. The district school superintendent may recommend and the district school board may appoint one or more school safety officers.

(c) A school safety officer has and shall exercise the power to make arrests for violations of law on district school board property and to arrest persons, whether on or off such property, who violate any law on such property under the same conditions that deputy sheriffs are authorized to make arrests. A school safety officer has the authority to carry weapons when performing his or her official duties.

(d) A district school board may enter into mutual aid agreements with one or more law enforcement agencies as provided in chapter 23. A school safety officer's salary may be paid jointly by the district school board and the law enforcement agency, as mutually agreed to.

1006.13. Policy of zero tolerance for crime and victimization.

(4) (a) Each district school board shall enter into agreements with the county sheriff's office and local police department specifying guidelines for ensuring that acts that pose a serious threat to school safety, whether committed by a student or adult, are reported to a law enforcement agency.

(b) The agreements must include the role of school resource officers, if applicable, in handling reported incidents, circumstances in which school officials may handle incidents without filing a report with a law enforcement agency, and a procedure for ensuring that school personnel properly report appropriate delinquent acts and crimes.

State Education Agency Support

State model policies and implementation support

STATUTES

1006.147. Bullying and harassment prohibited.

(4) By December 1, 2008, each school district shall adopt a policy prohibiting bullying and harassment of any student or employee of a public K-12 educational institution. Each school district's policy shall be in substantial conformity with the Department of Education's model policy mandated in subsection (5). The school district bullying and harassment policy shall afford all students the same protection regardless of their status under the law. The school district may establish separate discrimination policies that include categories of students. The school district shall involve students, parents, teachers, administrators, school staff, school volunteers, community representatives, and local law enforcement agencies in the process of adopting the policy. The school district policy must be implemented in a manner that is ongoing throughout the school year and integrated with a school's curriculum, a school's discipline policies, and other violence prevention efforts. The school district policy must contain, at a minimum, the following components:

(a) A statement prohibiting bullying and harassment.

(b) A definition of bullying and a definition of harassment that include the definitions listed in this section.

(c) A description of the type of behavior expected from each student and employee of a public K-12 educational institution.

(d) The consequences for a student or employee of a public K-12 educational institution who commits an act of bullying or harassment.

(e) The consequences for a student or employee of a public K-12 educational institution who is found to have wrongfully and intentionally accused another of an act of bullying or harassment.

(f) A procedure for reporting an act of bullying or harassment, including provisions that permit a person to anonymously report such an act. However, this paragraph does not permit formal disciplinary action to be based solely on an anonymous report.

(g) A procedure for the prompt investigation of a report of bullying or harassment and the persons responsible for the investigation. The investigation of a reported act of bullying or harassment is deemed to be a school-related activity and begins with a report of such an act. Incidents that require a reasonable investigation when reported to appropriate school authorities shall include alleged incidents of bullying or harassment allegedly committed against a child while the child is en route to school aboard a school bus or at a school bus stop.

(h) A process to investigate whether a reported act of bullying or harassment is within the scope of the district school system and, if not, a process for referral of such an act to the appropriate jurisdiction.

(i) A procedure for providing immediate notification to the parents of a victim of bullying or harassment and the parents of the perpetrator of an act of bullying or harassment, as well as notification to all local agencies where criminal charges may be pursued against the perpetrator.

(j) A procedure to refer victims and perpetrators of bullying or harassment for counseling.

(k) A procedure for including incidents of bullying or harassment in the school's report of data concerning school safety and discipline required under s. 1006.09(6). The report must include each incident of bullying or harassment and the resulting consequences, including discipline and referrals.

The report must include in a separate section each reported incident of bullying or harassment that does not meet the criteria of a prohibited act under this section with recommendations regarding such incidents. The Department of Education shall aggregate information contained in the reports.

(l) A procedure for providing instruction to students, parents, teachers, school administrators, counseling staff, and school volunteers on identifying, preventing, and responding to bullying or harassment.

(m) A procedure for regularly reporting to a victim's parents the actions taken to protect the victim.

(n) A procedure for publicizing the policy, which must include its publication in the code of student conduct required under s. 1006.07(2) and in all employee handbooks.

(5) To assist school districts in developing policies prohibiting bullying and harassment, the Department of Education shall develop a model policy that shall be provided to school districts no later than October 1, 2008.

1006.148. Dating violence and abuse prohibited.

(2) By January 1, 2011, the Department of Education shall develop a model policy to serve as a guide for district school boards in the development of the dating violence and abuse policy described in subsection (1).

Funding appropriations

STATUTES

1006.10. Authority of school bus drivers and district school boards relating to student discipline and student safety on school buses.

(6) District school boards may use transportation, school safety, or FEFP funds to provide added security for buses transporting disruptive or delinquent students to and from school or other educational activities.

1006.147. Bullying and harassment prohibited.

(8) Distribution of safe schools funds to a school district provided in the 2009-2010 General Appropriations Act is contingent upon and payable to the school district upon the Department of Education's approval of the school district's bullying and harassment policy. The department's approval of each school district's bullying and harassment policy shall be granted upon certification by the department that the school district's policy has been submitted to the department and is in substantial conformity with the department's model bullying and harassment policy as mandated in subsection (5). Distribution of safe schools funds provided to a school district in fiscal year 2010-2011 and thereafter shall be contingent upon and payable to the school district upon the school district's compliance with all reporting procedures contained in this section.

Other/Uncategorized

Professional immunity or liability

STATUTES

1003.32. Authority of teacher; responsibility for control of students; district school board and principal duties.

(8) … Any person who makes a report required by this subsection in good faith shall be immune from civil or criminal liability for making the report.

1006.09. Duties of school principal relating to student discipline and school safety.

(1) (b) School personnel shall not be held legally responsible for suspensions of students made in good faith.

(8) The school principal shall require all school personnel to report to the principal or principal's designee any suspected unlawful use, possession, or sale by a student of any controlled substance, as defined in s. 893.02; any counterfeit controlled substance, as defined in s. 831.31; any alcoholic beverage, as defined in s. 561.01(4); or model glue. School personnel are exempt from civil liability when reporting in good faith to the proper school authority such suspected unlawful use, possession, or sale by a student.

1006.11. Standards for use of reasonable force.

(1) The State Board of Education shall adopt standards for the use of reasonable force by district school board personnel to maintain a safe and orderly learning environment. Such standards shall be distributed to each school in the state and shall provide guidance to district school board personnel in receiving the limitations on liability specified in subsection (2).

(2) Except in the case of excessive force or cruel and unusual punishment, a teacher or other member of the instructional staff, a principal or the principal's designated representative, or a school bus driver shall not be civilly or criminally liable for any action carried out in conformity with the State Board of Education and district school board rules regarding the control, discipline, suspension, and expulsion of students, including, but not limited to, any exercise of authority under s. 1003.32 or s.1006.09.

1006.147 Bullying and harassment prohibited.

(6) A school employee, school volunteer, student, or parent who promptly reports in good faith an act of bullying or harassment to the appropriate school official designated in the school district's policy and who makes this report in compliance with the procedures set forth in the policy is immune from a cause of action for damages arising out of the reporting itself or any failure to remedy the reported incident.

Community input or involvement

STATUTES

1006.07. District school board duties relating to student discipline and school safety.

(2) Code of Student Conduct. Adopt a code of student conduct for elementary schools and a code of student conduct for middle and high schools and distribute the appropriate code to all teachers, school personnel, students, and parents, at the beginning of every school year. Each code shall be organized and written in language that is understandable to students and parents and shall be discussed at the beginning of every school year in student classes, school advisory council meetings, and parent and

teacher association or organization meetings. Each code shall be based on the rules governing student conduct and discipline adopted by the district school board and shall be made available in the student handbook or similar publication.

1006.147. Bullying and harassment prohibited.

(4) The school district shall involve students, parents, teachers, administrators, school staff, school volunteers, community representatives, and local law enforcement agencies in the process of adopting the policy.

Other/Uncategorized

STATUTES

1003.31. Students subject to control of school.

(4) Each student enrolled in a school may be required to take the following school child's daily conduct pledge:

(a) I will be respectful at all times and obedient unless asked to do wrong.

(b) I will not hurt another person with my words or my acts, because it is wrong to hurt others.

(c) I will tell the truth, because it is wrong to tell a lie.

(d) I will not steal, because it is wrong to take someone else's property.

(e) I will respect my body, and not take drugs.

(f) I will show strength and courage, and not do something wrong, just because others are doing it.

(g) I pledge to be nonviolent and to respect my teachers and fellow classmates.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by Florida provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
Website		
No relevant resources found		
Documents		
No relevant resources found		
Other Resources		
No relevant resources found		

Georgia
Compilation of School Discipline Laws and Regulations

Prepared: August 12, 2013

Introduction

This compilation presents school discipline-related state statutes, school discipline-related regulations, and, where available, links to state-sponsored websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSLE). For example, one major category encompasses all state laws or regulations mandating specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of state legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in each state.

Discipline categories were not mutually exclusive. Statutes and regulations often appeared across multiple categories. For states with more extensive statutes covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. State laws, ordered by chapter and section number, appear first within each category followed by state regulations. All statutes and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists statutes by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to state-sponsored websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of May 2013, with the exception of the state laws related to seclusion and restraint, which are complete and current as of December 2012. Readers should also note that the information in this document was compiled from individual state sources that are created by each state and which are maintained and updated with varying frequencies. Readers should consult the source information provided for each state directly in order to check for updates to this state's laws and regulations or conduct further research.

Note: Georgia DOE legal staff reviewed a preliminary draft of this document on April 3, 2013 and confirmed that the draft was correct and current up through that date. Subsequently, preparers conducted additional research and updated all compilations with additional policy categories; however, state reviews were not conducted during that phase.

For further information, including definitions of the different policy categories, please refer to the Discipline Laws and Regulations Compendium posted on the Center's website.

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Safe Supportive Learning
Engagement | Safety | Environment

Table of Contents

Georgia State Codes Cited **1**

General Provisions **4**

Authority to develop and establish rules of conduct 4
Scope 5
Communication of policy 6

In-School Discipline **7**

Use of multi-tiered discipline approaches 7
Teacher authority to remove students from classrooms 8
Alternatives to suspension 11
Use of corporal punishment 11
Use of student and locker searches 12
Other in-school disciplinary approaches 13

Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements **14**

Grounds for possible suspension or expulsion 14
Grounds for mandatory suspension or expulsion 14
Limitations, conditions or exclusions for use of suspension and expulsion 15
Administrative procedures related to suspension and expulsion 16
In-school suspension 23
Return to school following removal 23
Use of restraint and seclusion 25
Alternative placements 27

Disciplinary Approaches Addressing Specific Infractions and Conditions **33**

Firearms (as required by the Guns-Free Schools Act) 33
Other weapons 33
Students with chronic disciplinary issues 37
Attendance and truancy 38
Substance use 45
Bullying, harassment, or hazing 48
Other special infractions or conditions 50

Prevention and Behavioral Interventions (Non-Punitive) **52**

Prevention 52
Behavioral interventions and student support services 55
Professional development 56

Monitoring and Accountability **58**

Formal incident reporting of conduct violations 58
Parental notification 59
Reporting and referrals between schools and law enforcement 62
Disclosure of school records 63
Data collection, review, and reporting of disciplinary policies and actions 64

School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers 65
Authority and power to implement school arrest 65
Certification or training 65
MOUs, authorization, and/or funding 65
State Education Agency Support 67
State model policies and implementation support 67
Funding appropriations 68
Other/Uncategorized 69
Professional immunity or liability 69
Community input or involvement 70
Other/Uncategorized 71
State-Sponsored, Publicly Available Websites or Other Resources on School Discipline 73

Georgia State Codes Cited

Georgia Revised Statutes

Title 15. Courts

Chapter 11. Juvenile Proceedings

Article 1. Juvenile Proceedings

Part 8. Access to Records and Hearings

15-11-80. Notice to school officials

15-11-84. Name and addresses of children fingerprinted and offenses

Title 16. Crimes and Offenses

Chapter 13. Controlled Substances

Article 2. Regulation of Controlled Substances

Part 1. Schedules, Offenses, and Penalties

16-13-32.4. Manufacturing, distributing, dispensing, or possessing controlled substances in, on, or near public or private schools.

Title 20. Education

Chapter 1A. Early Care and Learning

Article 1. General Provisions

20-1A-15. "Inspection warrant" defined; procedure for issuance; evidence generated inadmissible in criminal proceedings

Chapter 2. Elementary and Secondary Education

Article 6. Quality Basic Education

Part 2. Competencies and Core Curriculum

20-2-142. Prescribed courses

20-2-145. Comprehensive character education program

Article 16. Students

Part 1. School Attendance

Subpart 2. Compulsory Attendance

20-2-701. Responsibility for reporting truants to juvenile or other courts

Part 2. Discipline

Subpart 1. Corporal Punishment

20-2-730. Policies and regulations on use of corporal punishment
20-2-731. When and how corporal punishment may be administered
20-2-732. When principal or teacher not liable for administering corporal punishment

Subpart 1A. Improved Student Learning Environment and Discipline

20-2-735. Adoption of policies by local boards to improve student learning environment
20-2-736. Student codes of conduct; distribution; disciplinary action for violations; parental involvement
20-2-737. Reports by teacher of violations of student code of conduct; notification to parents of support services or disciplinary action
20-2-738. Authority of teacher over classroom; procedures following removal of student from classroom; placement review committees
20-2-739. Conflict management and resolution; cultural diversity training programs
20-2-740. Annual report by local boards of education regarding disciplinary and placement actions; annual study by Department of Education
20-2-741. Local boards of education to send copies of policies to Department of Education; applicability; effect on Individualized Education Programs

Subpart 2. Public School Disciplinary Tribunals

20-2-750. Short title
20-2-751. Definitions
20-2-751.1. Expulsion and disciplinary policy for students bringing weapons to school
20-2-751.2. Students subject to disciplinary orders of other school systems
20-2-751.3. Student code of conduct; policy towards disruptive students
20-2-751.4. Policies prohibiting bullying; assignment to alternative school; notice
20-2-751.5. Student codes of conduct; safety rules on school buses; distribution
20-2-751.6. Disciplinary policy for students committing acts of physical violence against teacher, school bus driver, or other school official or employee
20-2-751.7. State mandated process for students to follow in reporting instances of alleged inappropriate behavior by teacher or other school personnel; notice of process; training; investigations
20-2-752. Establishment of disciplinary hearing officers, panels, or tribunals for imposition of suspension or expulsion; rules and regulations; appeals
20-2-753. Disciplinary hearing officer, panel, or tribunal to hold disciplinary hearing following allegation of assault and battery or recommended suspension or expulsion exceeding 10 days
20-2-754. Procedures to be followed by disciplinary officer, panel, or tribunal; review
20-2-755. Authorization of disciplinary officer, panel, or tribunal to determine disciplinary action
20-2-756. Reports to law enforcement officials
20-2-757. Applicability of public inspection and open meeting laws
20-2-758. Legal actions not prohibited, restricted, or limited by disciplinary hearing; rights to appeal from decision of school board
20-2-759. Children in kindergarten through grade five

Subpart 3. Chronic Disciplinary Problem Students

20-2-764.	Definitions
20-2-765.	Notification of parent or guardian of chronic disciplinary problem student; observance of child by parent or guardian; attendance of conference with principal or teacher or both
20-2-766.	Students returning from expulsion or suspension; notice to parents; conference with principal or teacher to devise disciplinary and behavioral correction plan
20-2-766.1.	Proceeding against parents for failure to cooperate in educational programs; penalty

Subpart 4. Alternative Educational Systems

20-2-767.	Definitions
20-2-768.	Expulsion or suspension of students for felonies; alternative educational system; policy
20-2-769.	Alternative educational programs; grants; annual reports

Article 18A. Liability of Educators for Disciplining Students

20-2-1000.	Limitation on civil damages for disciplining student; "educator" defined; frivolous or nonmeritorious actions; legal counsel for the educator
20-2-1001.	Limited immunity from criminal liability

Georgia Administrative Code

160-4-2-.12.	Comprehensive health and physical education program plan
160-4-7-.10.	Discipline
160-4-8-.01.	Student support services
160-4-8-.12.	Alternative education programs
160-4-8-.15.	Student discipline
160-5-1-.10.	Student attendance
160-5-1-.35.	Seclusion and restraint for all students

General Provisions

Authority to develop and establish rules of conduct

STATUTES

20-2-735. Adoption of policies by local boards to improve student learning environment.

(a) No later than July 1, 2000, each local board of education shall adopt policies designed to improve the student learning environment by improving student behavior and discipline. These policies shall provide for the development of age-appropriate student codes of conduct containing standards of behavior, a student support process, a progressive discipline process, and a parental involvement process. The State Board of Education shall establish minimum standards for such local board policies. The Department of Education shall make available for utilization by each local board of education model student codes of conduct, a model student support process, a model progressive discipline process, and a model parental involvement process.

(b) Student standards of behavior developed pursuant to this subpart shall be designed to create the expectation that students will behave themselves in such a way so as to facilitate a learning environment for themselves and other students, respect each other and school district employees, obey student behavior policies adopted by the local board of education, and obey student behavior rules established by individual schools.

(c) Student support processes developed pursuant to this subpart shall be designed to create the expectation that the process of disciplining students will include due consideration, as appropriate in light of the severity of the behavioral problem, of student support services that may help the student address behavioral problems and that may be available through the school, the school system, other public entities, or community organizations.

20-2-736. Student codes of conduct; distribution; disciplinary action for violations; parental involvement.

(b) Local boards of education shall provide for disciplinary action against students who violate student codes of conduct.

ADMINISTRATIVE CODE

160-4-7-.10. Discipline.

(1) General provisions.

(a) According to Georgia school laws, L EA s are given the responsibility to develop appropriate and legally based disciplinary procedures.

160-4-8-.15. Student discipline.

(2) Requirements.

(a) Each local board of education shall adopt policies designed to improve the student learning environment by improving student behavior and discipline…

(d) Local boards of education shall provide for disciplinary actions against students who violate student codes of conduct;

Scope

STATUTES

20-2-751.4. Policies prohibiting bullying; assignment to alternative school; notice.

(a) As used in this Code section, the term "bullying" means an act which occurs on school property, on school vehicles, at designated school bus stops, or at school related functions or activities, or by use of data or software that is accessed through a computer, computer system, computer network, or other electronic technology of a local school system

20-2-751.5. Student codes of conduct; safety rules on school buses; distribution.

(a) Each student code of conduct shall contain provisions that address the following conduct of students during school hours, at school related functions, and on the school bus in a manner that is appropriate to the age of the student:

(9) Willful or malicious damage to real or personal property of the school or to personal property of any person legitimately at the school;

(11) Marking, defacing, or destroying school property;

(17) Falsifying, misrepresenting, omitting, or erroneously reporting information regarding instances of alleged inappropriate behavior by a teacher, administrator, or other school employee toward a student.

With regard to paragraphs (9), (11), and (17) of this subsection, each student code of conduct shall also contain provisions that address conduct of students during off-school hours.

(b) (1) In addition to the requirements contained in subsection (a) of this Code section, each student code of conduct shall include comprehensive and specific provisions prescribing and governing student conduct and safety rules on all public school buses…

(c) Each student code of conduct shall also contain provisions that address any off-campus behavior of a student which could result in the student being criminally charged with a felony and which makes the student's continued presence at school a potential danger to persons or property at the school or which disrupts the educational process.

ADMINISTRATIVE CODE

160-4-8-.15. Student discipline.

(2) Requirements.

(a) Each local board of education shall adopt policies designed to improve the student learning environment by improving student behavior and discipline. These policies shall provide for the development of age appropriate student codes of conduct that contain the following, at a minimum:

1. Standards for student behavior during school hours, at school-related functions, on school buses, and at school bus stops designed to create the expectation that students will behave themselves in such a way so as to facilitate a learning environment for themselves and other students, respect each other and school district employees, obey student behavior policies adopted by the local board of education, and obey student behavior rules established by individual schools;

15. Any off-campus behavior of a student which could result in the student being criminally charged with a felony and which makes the student's continued presence at school a potential danger to persons or property at the school or which disrupts the educational process;

Communication of policy

STATUTES

16-13-32.4. Manufacturing, distributing, dispensing, or possessing controlled substances in, on, or near public or private schools.

(f) A county school board may adopt regulations requiring the posting of signs designating the areas within 1,000 feet of school boards and private or public elementary and secondary schools as "Drug-free School Zones."

20-2-736. Student codes of conduct; distribution; disciplinary action for violations; parental involvement.

(a) At the beginning of each school year, local boards of education shall provide for the distribution of student codes of conduct developed pursuant to Code Section 20-2-735 to each student upon enrollment. Local boards of education shall provide for the distribution of such student codes of conduct to the parents or guardians of each student through such means as may best accomplish such distribution at the local level and are appropriate in light of the grade level of the student, including distribution of student codes of conduct to students and parents or guardians jointly. Local boards of education shall solicit or require the signatures or confirmation of receipt of students and parents or guardians in acknowledgment of the receipt of such student codes of conduct. A signature or confirmation of receipt may be obtained in writing, via electronic mail or facsimile, or by any other electronic or other means as designated by the local board. A parent or legal guardian that does not acknowledge receipt of the student code of conduct shall not be absolved of any responsibility with respect to the information contained in the student code of conduct. In addition, student codes of conduct shall be available in each school and classroom.

20-2-751.4. Policies prohibiting bullying; assignment to alternative school; notice

(4) Each local board of education shall ensure that students and parents of students are notified of the prohibition against bullying, and the penalties for violating the prohibition, by posting such information at each school and by including such information in student and parent handbooks.

20-2-751.5. Student codes of conduct; safety rules on school buses; distribution.

(e) Any student handbook which is prepared by a local board or school shall include a copy of the student code of conduct for that school or be accompanied by a copy of the student code of conduct for that school as annually distributed pursuant to Code Section 20-2-736. When distributing a student code of conduct, a local school shall include a form for acknowledgment of the student's parent or guardian's receipt of the code, and the local school shall solicit or require that the form be signed and returned to the school.

ADMINISTRATIVE CODE

160-4-8-.15. Student discipline.

(b) Local boards of education shall provide for the distribution of student codes of conduct to each student upon enrollment and to the parents and guardians of each student and may solicit the signatures of students and parents or guardians in acknowledgment of the receipt of such student codes of conduct.

(c) Student codes of conduct shall be available in each school and classroom.

In-School Discipline

Use of multi-tiered discipline approaches

STATUTES

20-2-735. Adoption of policies by local boards to improve student learning environment.

(a) No later than July 1, 2000, each local board of education shall adopt policies designed to improve the student learning environment by improving student behavior and discipline. These policies shall provide for the development of age-appropriate student codes of conduct containing standards of behavior, a student support process, a progressive discipline process, and a parental involvement process. The State Board of Education shall establish minimum standards for such local board policies. The Department of Education shall make available for utilization by each local board of education model student codes of conduct, a model student support process, a model progressive discipline process, and a model parental involvement process.

(d) Progressive discipline processes developed pursuant to this subpart shall be designed to create the expectation that the degree of discipline will be in proportion to the severity of the behavior leading to the discipline, that the previous discipline history of the student being disciplined and other relevant factors will be taken into account, and that all due process procedures required by federal and state law will be followed.

20-2-751.4. Policies prohibiting bullying; assignment to alternative school; notice.

(c) No later than January 1, 2011, the Department of Education shall develop a model policy regarding bullying, that may be revised from time to time, and shall post such policy on its website in order to assist local school systems. Such model policy shall include:

(4) An age-appropriate range of consequences for bullying which shall include, at minimum and without limitation, disciplinary action or counseling as appropriate under the circumstances;

20-2-751.5. Student codes of conduct; safety rules on school buses; distribution.

(b) (2) If a student is found to have engaged in physical acts of violence as defined by Code Section 20-2-751.6, the student shall be subject to the penalties set forth in such Code section. If a student is found to have engaged in bullying as defined by subsection (a) of Code Section 20-2-751.4 or in physical assault or battery of another person on the school bus, the local school board policy shall require a meeting of the parent or guardian of the student and appropriate school district officials to form a school bus behavior contract for the student. Such contract shall provide for progressive age-appropriate discipline, penalties, and restrictions for student misconduct on the bus. Contract provisions may include but shall not be not limited to assigned seating, ongoing parental involvement, and suspension from riding the bus. This subsection is not to be construed to limit the instances when a school code of conduct or local board of education may require use of a student bus behavior contract.

ADMINISTRATIVE CODE

160-4-8-.15. Student discipline.

(1) Definitions.

(b) Disciplinary Order - any public or private school or school system order that imposes short-term suspension, long-term suspension, or expulsion upon a student in such school or system.

(c) Discipline Policies- outlines consequences and punishments that will occur in the response to specify unacceptable behaviors.

(d) Progressive Discipline -the levels of consequences assigned to students who violate codes of conduct based on severity of misbehavior, students discipline history, and other relevant factors.

(2) Requirements.

(a) Each local board of education shall adopt policies designed to improve the student learning environment by improving student behavior and discipline. These policies shall provide for the development of age appropriate student codes of conduct that contain the following, at a minimum:

18. Progressive discipline processes designed to create the expectation that the degree of discipline will be in proportion to the severity of the behavior, that the previous discipline history of the student and other relevant factors will be taken into account; and that all due process procedures required by federal and state law will be followed;

160-5-1-.10. Student attendance.

(2) Requirements.

(j) Each local board of education shall implement a progressive discipline process and a parental involvement process for truant students before referring the students to the juvenile or other court having jurisdiction.

Teacher authority to remove students from classrooms

STATUTES

20-2-738. Authority of teacher over classroom; procedures following removal of student from classroom; placement review committees.

(a) A teacher shall have the authority, consistent with local board policy, to manage his or her classroom, discipline students, and refer a student to the principal or the principal's designee to maintain discipline in the classroom. The principal or the principal's designee shall respond when a student is referred by a teacher by employing appropriate discipline management techniques that are consistent with local board policy.

(b) A teacher shall have the authority to remove from his or her class a student who repeatedly or substantially interferes with the teacher's ability to communicate effectively with the students in the class or with the ability of the student's classmates to learn, where the student's behavior is in violation of the student code of conduct, provided that the teacher has previously filed a report pursuant to Code Section 20-2-737 or determines that such behavior of the student poses an immediate threat to the safety of the student's classmates or the teacher. Each school principal shall fully support the authority of every teacher in his or her school to remove a student from the classroom under this Code section. Each school principal shall implement the policies and procedures of the superintendent and local board of education relating to the authority of every teacher to remove a student from the classroom and shall disseminate such policies and procedures to faculty, staff, and parents or guardians of students. The teacher shall file with the principal or the principal's designee a report describing the student's behavior, in one page or less, by the end of the school day on which such removal occurs or at the beginning of the next school day. The principal or the principal's designee shall, within one school day after the student's removal from class, send to the student's parents or guardians written notification that the student was removed from class, a copy of the report filed by the teacher, and information regarding how the student's parents or guardians may contact the principal or the principal's designee.

(c) If a teacher removes a student from class pursuant to subsection (b) of this Code section, the principal or the principal's designee shall discuss the matter with the teacher and the student by the end of the school day on which such removal occurs or at the beginning of the next school day. The principal or the principal's designee shall give the student oral or written notice of the grounds for his or her removal from class and, if the student denies engaging in such conduct, the principal or the principal's designee shall explain the evidence which supports his or her removal from class and give the student an opportunity to present his or her explanation of the situation. If, after such discussions, the principal or the principal's designee seeks to return the student to the teacher's class and the teacher gives his or her consent, the student shall be returned to the class, and the principal or the principal's designee may take action to discipline the student, as may be warranted, pursuant to paragraph (1) of subsection (e) of this Code section. If, after such discussions, the principal or the principal's designee seeks to return the student to the teacher's class and the teacher withholds his or her consent to the student's return to his or her class, the principal or the principal's designee shall determine an appropriate temporary placement for the student by the end of the first school day following such removal and shall also take steps to convene a meeting of a placement review committee. The placement review committee shall convene by the end of the second school day following such removal by the teacher and shall issue a decision by the end of the third school day following such removal by the teacher. An appropriate temporary placement for the student shall be a placement that, in the judgment of the principal or the principal's designee, provides the least interruption to the student's education and reflects other relevant factors, including, but not limited to, the severity of the behavior that was the basis for the removal, the student's behavioral history, the student's need for support services, and the available education settings; provided, however, that the student shall not be returned to the class of the teacher who removed him or her, as an appropriate temporary placement, unless the teacher gives his or her consent. The temporary placement shall be in effect from the time of removal until the decision of the placement review committee is issued or, if applicable, a placement determination is made pursuant to paragraph (2) of subsection (e) of this Code section.

(d) Local board policies adopted pursuant to Code Section 20-2-735 shall provide for the establishment at each school of one or more placement review committees, each of which is to be composed of three members, to determine the placement of a student when a teacher withholds his or her consent to the return of a student to the teacher's class. For each committee established, the faculty shall choose two teachers to serve as members and one teacher to serve as an alternate member, and the principal shall choose one member of the professional staff of the school to serve as a member. The teacher withholding consent to readmit the student may not serve on the committee. The placement review committee shall have the authority to:

(1) Return the student to the teacher's class upon determining that such placement is the best alternative or the only available alternative; or

(2) Refer the student to the principal or the principal's designee for appropriate action consistent with paragraph (2) of subsection (e) of this Code section.

The decision of the placement review committee shall be in writing and shall be made within three school days after the teacher withholds consent to the return of a student. Local boards of education shall provide training for members of placement review committees regarding the provisions of this subpart, including procedural requirements; local board policies relating to student discipline; and the student code of conduct that is applicable to the school.

(e) (1) If a placement review committee decides to return a student to a class from which he or she was removed, the principal or the principal's designee shall implement such decision of the placement review committee. In addition, the principal or the principal's designee may, consistent with any applicable procedural requirements of the Constitutions of the United States and this state and after

considering the use of any appropriate student support services, take any of the following actions which are authorized as a response to the alleged violation of the student code of conduct by local board policies adopted pursuant to Code Section 20-2-735:

(A) Place the student in an alternative education program;

(B) Impose out-of-school suspension for not more than ten school days, including any time during which the student was subject to out-of-school suspension after his or her removal from class pursuant to subsection (b) of this Code section; or

(C) Make another disciplinary decision or recommendation consistent with local board policy.

(2) If a placement review committee decides not to return a student to a class from which he or she was removed, the principal or the principal's designee shall implement such decision of the placement review committee. In addition, the principal or the principal's designee shall determine an appropriate placement for the student and may take action to discipline the student, in a manner consistent with any applicable procedural requirements of the Constitutions of the United States and this state and after considering the use of any appropriate student support services, as follows, provided that the placement or disciplinary action is authorized as a response to the alleged violation of the student code of conduct by local board policies adopted pursuant to Code Section 20-2-735:

(A) Place the student into another appropriate classroom or an alternative education program;

(B) Impose out-of-school suspension for not more than ten school days, including any time during which the student was subject to out-of-school suspension after his or her removal from class pursuant to subsection (b) of this Code section;

(C) Make another placement or disciplinary decision or recommendation consistent with local board policy; or

(D) Implement or recommend any appropriate combination of the above and return the student to the class from which he or she was removed upon the completion of any disciplinary or placement action taken pursuant to this paragraph.

(f) Within one school day of taking action pursuant to subsection (e) of this Code section, the principal or the principal's designee shall send written notification of such action to the teacher and the parents or guardians of the student and shall make a reasonable attempt to confirm that such written notification has been received by the student's parents or guardians.

(g) Parents or guardians of a student who has been removed from class pursuant to subsection (b) of this Code section may be required to participate in conferences that may be requested by the principal or the principal's designee; provided, however, that a student may not be penalized for the failure of his or her parent or guardian to attend such a conference.

(h) The procedures contained in this Code section relating to student conferences and notification of parents or guardians are minimum requirements. Nothing in this Code section shall be construed to limit the authority of a local board of education to establish additional requirements relating to student conferences, notification of parents or guardians, conferences with parents or guardians, or other procedures required by the Constitutions of the United States or this state.

20-2-751.5. Student codes of conduct; safety rules on school buses; distribution.

(d) Local board policies relating to student codes of conduct shall provide that each local school superintendent shall fully support the authority of principals and teachers in the school system to remove a student from the classroom pursuant to Code Section 20-2-738, including establishing and disseminating procedures. It is the policy of this state that it is preferable to reassign disruptive students to alternative educational settings rather than to suspend or expel such students from school.

ADMINISTRATIVE CODE

160-4-8-.15. Student discipline.

(2) Requirements.

(e) Local board policies relating to student codes of conduct shall provide that each local superintendent shall fully support the authority of principals and teachers in the school system to remove a student from the classroom pursuant to O.C.G.A. § 20-2-738, including establishing and disseminating procedures.

Alternatives to suspension

STATUTES

20-2-735. Adoption of policies by local boards to improve student learning environment.

(f) It is the policy of this state that it is preferable to reassign disruptive students to alternative educational settings rather than to suspend or expel such students from school.

20-2-751.5. Student codes of conduct; safety rules on school buses; distribution.

(d) Local board policies relating to student codes of conduct shall provide that each local school superintendent shall fully support the authority of principals and teachers in the school system to remove a student from the classroom pursuant to Code Section 20-2-738, including establishing and disseminating procedures. It is the policy of this state that it is preferable to reassign disruptive students to alternative educational settings rather than to suspend or expel such students from school.

ADMINISTRATIVE CODE

160-4-8-.15. Student discipline.

(2) Requirements.

(f) It is the preferred policy of the board that disruptive students are placed in alternative education settings in lieu of being suspended or expelled.

Use of corporal punishment

STATUTES

20-2-731. When and how corporal punishment may be administered.

An area, county, or independent board of education may, upon the adoption of written policies, authorize any principal or teacher employed by the board to administer, in the exercise of his sound discretion, corporal punishment on any pupil or pupils placed under his supervision in order to maintain proper control and discipline. Any such authorization shall be subject to the following requirements:

(1) The corporal punishment shall not be excessive or unduly severe;

(2) Corporal punishment shall never be used as a first line of punishment for misbehavior unless the pupil was informed beforehand that specific misbehavior could occasion its use; provided, however, that corporal punishment may be employed as a first line of punishment for those acts of misconduct which are so antisocial or disruptive in nature as to shock the conscience;

(3) Corporal punishment must be administered in the presence of a principal or assistant principal, or the designee of the principal or assistant principal, employed by the board of education authorizing such punishment, and the other principal or assistant principal, or the designee of the principal or

assistant principal, must be informed beforehand and in the presence of the pupil of the reason for the punishment;

(4) The principal or teacher who administered corporal punishment must provide the child's parent, upon request, a written explanation of the reasons for the punishment and the name of the principal or assistant principal, or designee of the principal or assistant principal, who was present; provided, however, that such an explanation shall not be used as evidence in any subsequent civil action brought as a result of the corporal punishment; and

(5) Corporal punishment shall not be administered to a child whose parents or legal guardian has upon the day of enrollment of the pupil filed with the principal of the school a statement from a medical doctor licensed in Georgia stating that it is detrimental to the child's mental or emotional stability.

20-2-732. When principal or teacher not liable for administering corporal punishment.

No principal or teacher who shall administer corporal punishment to a pupil or pupils under his care and supervision in conformity with the policies and regulations of the area, county, or independent board of education employing him and in accordance also with this subpart shall be held accountable or liable in any criminal or civil action based upon the administering of corporal punishment where the corporal punishment is administered in good faith and is not excessive or unduly severe.

Use of student and locker searches

STATUTES

20-1A-15. "Inspection warrant" defined; procedure for issuance; evidence generated inadmissible in criminal proceedings.

(a) As used in this chapter, the term "inspection warrant" means a warrant authorizing a search or inspection of private property where such a search or inspection is one that is necessary for the enforcement of any of the provisions of laws authorizing licensure, inspection, or regulation by the department.

(b) The commissioner or the commissioner's delegate, in addition to other procedures now or hereafter provided, may obtain an inspection warrant under the conditions specified in this Code section. Such warrant shall authorize the commissioner or the commissioner's agents to conduct a search or inspection of property, either with or without the consent of the person whose property is to be searched or inspected, if such search or inspection is one that is elsewhere authorized under the rules and regulations duly promulgated under this chapter or any provision of law which authorizes licensure, inspection, or regulation by the department.

(c) Inspection warrants shall be issued only by a judge of a court of record whose territorial jurisdiction encompasses the property to be inspected.

(d) The issuing judge shall issue the warrant when such judge is satisfied that the following conditions are met:

(1) The one seeking the warrant must establish under oath or affirmation that the property to be inspected is to be inspected as a part of a legally authorized program of inspection which includes that property or that there is probable cause for believing that there is a condition, object, activity, or circumstance which legally justifies such an inspection of that property; and

(2) The issuing judge determines that the issuance of the warrant is authorized by this Code section.

(e) The inspection warrant shall be validly issued only if it meets the following requirements:

(1) The warrant is attached to the affidavit required to be made in order to obtain the warrant;

(2) The warrant describes, either directly or by reference to the affidavit, the property upon which the inspection is to occur and is sufficiently accurate that the executor of the warrant and the owner or possessor of the property can reasonably determine from it the property of which the warrant authorizes an inspection;

(3) The warrant indicates the conditions, objects, activities, or circumstances which the inspection is intended to check or reveal; and

(4) The warrant refers, in general terms, to the statutory or regulatory provisions sought to be enforced.

(f) No facts discovered or evidence obtained in an inspection conducted under authority of an inspection warrant issued pursuant to this chapter shall be competent as evidence in any criminal proceeding against any party.

Other in-school disciplinary approaches

No relevant statutes found.

Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements

Grounds for possible suspension or expulsion

STATUTES

20-2-751.6. Disciplinary policy for students committing acts of physical violence against teacher, school bus driver, or other school official or employee.

(a) As used in this Code section, the term "physical violence" means:

(1) Intentionally making physical contact of an insulting or provoking nature with the person of another; or

(2) Intentionally making physical contact which causes physical harm to another unless such physical contacts or physical harms were in defense of himself or herself, as provided in Code Section 16-3-21.

(c) (3) Any student who is found by a disciplinary hearing officer, panel, or tribunal to have committed an act of physical violence as defined in paragraph (1) of subsection (a) of this Code section against a teacher, school bus driver, school official, or school employee may be disciplined by expulsion, long-term suspension, or short-term suspension.

Grounds for mandatory suspension or expulsion

STATUTES

20-2-751.1. Expulsion and disciplinary policy for students bringing weapons to school.

(a) Each local board of education shall establish a policy requiring the expulsion from school for a period of not less than one calendar year of any student who is determined, pursuant to this subpart, to have brought a weapon to school.

(b) The local board of education shall have the authority to modify such expulsion requirement as provided in subsection (a) of this Code section on a case-by-case basis.

(c) A hearing officer, tribunal, panel, superintendent, or local board of education shall be authorized to place a student determined to have brought a weapon to school in an alternative educational setting.

(d) Nothing in this Code section shall infringe on any right provided to students with Individualized Education Programs pursuant to the federal Individuals with Disabilities Education Act, Section 504 of the federal Rehabilitation Act of 1973, or the federal Americans with Disabilities Act.

20-2-751.6. Disciplinary policy for students committing acts of physical violence against teacher, school bus driver, or other school official or employee.

(a) As used in this Code section, the term "physical violence" means:

(1) Intentionally making physical contact of an insulting or provoking nature with the person of another; or

(2) Intentionally making physical contact which causes physical harm to another unless such physical contacts or physical harms were in defense of himself or herself, as provided in Code Section 16-3-21.

(b) Local board of education policies and student codes of conduct shall provide for the penalties to be assessed against a student found by a disciplinary hearing officer, panel, or tribunal pursuant to Code Section 20-2-752 to have committed any act of physical violence against a teacher, school bus driver, or

other school official or employee. Such disciplinary hearing officer, panel, or tribunal shall hold any disciplinary hearing in accordance with the provisions of Code Section 20-2-754. Any student alleged to have committed an act of physical violence shall be suspended pending the hearing by the disciplinary hearing officer, panel, or tribunal. The decision of the disciplinary hearing officer, panel, or tribunal may be appealed to the local school board pursuant to Code Section 20-2-754. If appropriate under paragraph (1) of subsection (c) of this Code section, the decision of the disciplinary hearing officer, panel, or tribunal shall include a recommendation as to whether a student may return to public school and, if return is recommended, a recommended time for the student's return to public school. The local school board may impose penalties not recommended by the disciplinary hearing officer, panel, or tribunal.

(c) (1) A student found by a disciplinary hearing officer, panel, or tribunal to have committed an act of physical violence as defined in paragraph (2) of subsection (a) of this Code section against a teacher, school bus driver, school official, or school employee shall be expelled from the public school system. The expulsion shall be for the remainder of the student's eligibility to attend public school pursuant to Code Section 20-2-150. The local school board at its discretion may permit the student to attend an alternative education program for the period of the student's expulsion. If the student who commits an act of physical violence is in kindergarten through grade eight, then the local school board at its discretion and on the recommendation of the disciplinary hearing officer, panel, or tribunal may permit such a student to reenroll in the regular public school program for grades nine through 12. If the local school board does not operate an alternative education program for students in kindergarten through grade six, the local school board at its discretion may permit a student in kindergarten through grade six who has committed an act of physical violence as defined in paragraph (2) of subsection (a) of this Code section to reenroll in the public school system;

(3) Any student who is found by a disciplinary hearing officer, panel, or tribunal to have committed an act of physical violence as defined in paragraph (1) of subsection (a) of this Code section against a teacher, school bus driver, school official, or school employee may be disciplined by expulsion, long-term suspension, or short-term suspension.

Limitations, conditions or exclusions for use of suspension and expulsion

STATUTES

20-2-731. When and how corporal punishment may be administered.

(3) Corporal punishment must be administered in the presence of a principal or assistant principal, or the designee of the principal or assistant principal, employed by the board of education authorizing such punishment, and the other principal or assistant principal, or the designee of the principal or assistant principal, must be informed beforehand and in the presence of the pupil of the reason for the punishment;

20-2-751.1. Expulsion and disciplinary policy for students bringing weapons to school.

(b) The local board of education shall have the authority to modify such expulsion requirement as provided in subsection (a) of this Code section on a case-by-case basis.

(c) A hearing officer, tribunal, panel, superintendent, or local board of education shall be authorized to place a student determined to have brought a weapon to school in an alternative educational setting.

(d) Nothing in this Code section shall infringe on any right provided to students with Individualized Education Programs pursuant to the federal Individuals with Disabilities Education Act, Section 504 of the federal Rehabilitation Act of 1973, or the federal Americans with Disabilities Act.

20-2-768. Expulsion or suspension of students for felonies; alternative educational system; policy.

(c) It is the policy of this state that it is preferable to reassign disruptive students to alternative educational settings rather than to suspend or expel such students from school.

ADMINISTRATIVE CODE

160-4-7-.10. Discipline

(1) General provisions.

(b) The code of student conduct shall apply to all children unless a child's individualized education program (IEP) specifically provides otherwise . The LEA shall ensure that the parents and the child with a disability receive notice of the rules and regulations applicable to children with disabilities with respect to child management, discipline and suspension/expulsion upon the child's entry into a special education program or at the annual IEP review.

(2) Authority of school personnel.

(a) School personnel may consider any unique circumstances on a case-by-case basis when determining whether a change in placement, consistent with the other requirements of this Rule, is appropriate for a child with a disability who violates a code of student conduct.

Administrative procedures related to suspension and expulsion

STATUTES

20-2-752. Establishment of disciplinary hearing officers, panels, or tribunals for imposition of suspension or expulsion; rules and regulations; appeals.

Local boards of education may establish by policy, rule, or regulation disciplinary hearing officers, panels, or tribunals of school officials to impose suspension or expulsion. If such hearing officers, panels, or tribunals are established, such rules and regulations must include the following:

(1) Provisions governing the manner of selecting the hearing officers or members of the panels or tribunals and the number of members thereof;

(2) Provisions governing procedures to be followed by such hearing officers, panels, or tribunals in fact-finding, hearings, and reporting recommendations to the local board;

(3) Provisions granting a right to appeal to the local board when the punishment imposed by hearing officers, panels, or tribunals is long-term suspension or expulsion; and

(4) Provisions whereby the local school superintendent may suspend enforcement of the suspension or expulsion ordered by the hearing officers, panels, or tribunals pending the outcome of any appeal to the local board.

20-2-754. Procedures to be followed by disciplinary officer, panel, or tribunal; review.

(a) The provisions of Code Section 20-2-1160 shall apply to disciplinary proceedings under this subpart.

(b) A disciplinary officer, panel, or tribunal of school officials appointed as required by Code Section 20-2-753 shall, in addition to any other requirements imposed by rules and regulations which may have been promulgated pursuant to Code Section 20-2-752, ensure that:

(1) All parties are afforded an opportunity for a hearing after reasonable notice served personally or by mail. This notice shall be given to all parties and to the parent or guardian of the student or students involved and shall include a statement of the time, place, and nature of the hearing; a short and plain

statement of the matters asserted; and a statement as to the right of all parties to present evidence and to be represented by legal counsel;

(2) The hearing is held no later than ten school days after the beginning of the suspension unless the school system and parents or guardians mutually agree to an extension;

(3) All parties are afforded an opportunity to present and respond to evidence and to examine and cross-examine witnesses on all issues unresolved;

(4) Any teacher who is called as a witness by the school system shall be given notice no later than three days prior to the hearing; and

(5) A verbatim electronic or written record of the hearing shall be made and shall be available to all parties.

(c) If appointed to review an instance pursuant to Code Section 20-2-753, the disciplinary officer, panel, or tribunal shall conduct the hearing and, after receiving all evidence, render its decision, which decision shall be based solely on the evidence received at the hearing. The decision shall be in writing and shall be given to all parties within ten days of the close of the record. Any decision by such disciplinary officer, panel, or tribunal may be appealed to the local board of education by filing a written notice of appeal within 20 days from the date the decision is rendered. Any disciplinary action imposed by such officer, panel, or tribunal may be suspended by the school superintendent pending the outcome of the appeal.

(d) The local board of education shall review the record and shall render a decision in writing. The decision shall be based solely on the record and shall be given to all parties within ten days, excluding weekends and public and legal holidays provided for in Code Section 1-4-1, from the date the local board of education receives the notice of appeal. The board may take any action it determines appropriate, and any decision of the board shall be final. All parties shall have the right to be represented by legal counsel at any such appeal and during all subsequent proceedings.

(e) Either or both parents or guardians or legal counsel of the student involved may obtain a copy of any documents relating to a disciplinary proceeding conducted pursuant to this Code section.

20-2-755. Authorization of disciplinary officer, panel, or tribunal to determine disciplinary action.

The disciplinary officer, panel, or tribunal of school officials, when appointed as required in Code Section 20-2-753, shall determine what, if any, disciplinary action shall be taken. Such action may include, but is not limited to, expulsion, long-term suspension, or short-term suspension. Any action taken by such officer, panel, or tribunal shall be subject to modification by the local school board on appeal.

20-2-751.6. Disciplinary policy for students committing acts of physical violence against teacher, school bus driver, or other school official or employee.

(a) As used in this Code section, the term "physical violence" means:

(1) Intentionally making physical contact of an insulting or provoking nature with the person of another; or

(2) Intentionally making physical contact which causes physical harm to another unless such physical contacts or physical harms were in defense of himself or herself, as provided in Code Section 16-3-21.

(b) Local board of education policies and student codes of conduct shall provide for the penalties to be assessed against a student found by a disciplinary hearing officer, panel, or tribunal pursuant to Code Section 20-2-752 to have committed any act of physical violence against a teacher, school bus driver, or other school official or employee. Such disciplinary hearing officer, panel, or tribunal shall hold any disciplinary hearing in accordance with the provisions of Code Section 20-2-754. Any student alleged to have committed an act of physical violence shall be suspended pending the hearing by the disciplinary hearing officer, panel, or tribunal. The decision of the disciplinary hearing officer, panel, or tribunal may be

appealed to the local school board pursuant to Code Section 20-2-754. If appropriate under paragraph (1) of subsection (c) of this Code section, the decision of the disciplinary hearing officer, panel, or tribunal shall include a recommendation as to whether a student may return to public school and, if return is recommended, a recommended time for the student's return to public school. The local school board may impose penalties not recommended by the disciplinary hearing officer, panel, or tribunal.

(c) (1) A student found by a disciplinary hearing officer, panel, or tribunal to have committed an act of physical violence as defined in paragraph (2) of subsection (a) of this Code section against a teacher, school bus driver, school official, or school employee shall be expelled from the public school system. The expulsion shall be for the remainder of the student's eligibility to attend public school pursuant to Code Section 20-2-150. The local school board at its discretion may permit the student to attend an alternative education program for the period of the student's expulsion. If the student who commits an act of physical violence is in kindergarten through grade eight, then the local school board at its discretion and on the recommendation of the disciplinary hearing officer, panel, or tribunal may permit such a student to reenroll in the regular public school program for grades nine through 12. If the local school board does not operate an alternative education program for students in kindergarten through grade six, the local school board at its discretion may permit a student in kindergarten through grade six who has committed an act of physical violence as defined in paragraph (2) of subsection (a) of this Code section to reenroll in the public school system;

(2) Any student who is found by a disciplinary hearing officer, panel, or tribunal to have committed an act of physical violence against a teacher, school bus driver, school official, or school employee as defined in paragraph (2) of subsection (a) of this Code section shall be referred to juvenile court with a request for a petition alleging delinquent behavior; and

(3) Any student who is found by a disciplinary hearing officer, panel, or tribunal to have committed an act of physical violence as defined in paragraph (1) of subsection (a) of this Code section against a teacher, school bus driver, school official, or school employee may be disciplined by expulsion, long-term suspension, or short-term suspension.

ADMINISTRATIVE CODE

160-4-7-.10. Discipline.

(2) Authority of school personnel.

(b) School personnel may remove a child with a disability who violates a code of student conduct from his or her current placement to an appropriate interim alternative educational setting, another setting or suspension, for not more than 10 consecutive school days (to the extent those alternatives are applied to children without disabilities), and for additional removals of not more than 10 consecutive school days in that same school year for separate incidents of misconduct (as long as those removals do not constitute a change of placement under this Rule).

(c) After a child with a disability has been removed from his or her current placement for 10 school days in the same school year, during any subsequent days of removal the LEA must provide services to the extent required under this Rule.

(d) For disciplinary changes in placement that would exceed 10 consecutive school days, if the behavior that gave rise to the violation of the school code is determined not to be a manifestation of the child's disability under this Rule, school personnel may apply the relevant disciplinary procedures to children with disabilities in the same manner and for the same duration as the procedures would be applied to children without disabilities except as provided in (e) of this Rule.

(e) Services. A child with a disability who is removed from his or her current placement for more than 10 consecutive school days must:

1. Continue to receive educational services, as provided in Rule 160-4-7- .02 Free and Appropriate Public Education, so as to enable the child to continue to participate in the general educational curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP ; and

2. Receive, as appropriate, a functional behavioral assessment and behavioral intervention services and modifications as set forth in the behavioral intervention plan and IEP, where appropriate, that are designed to address the behavior violation so it does not recur.

3. The LEA is only required to provide services during periods of removal to a child with a disability who has been removed from his or her current placement for 10 school days or less in that school year, if services are provided to a child without disabilities who has been similarly removed.

4. After a child with a disability has been removed from his or her current placement for 10 school days in the same school year, if the current removal is not for more than 10 consecutive school days and is not a change in placement because of disciplinary removals, school personnel, in consultation with at least one of the child's teachers, determine the extent to which services are needed in order to provide a free, appropriate public education, so as to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP.

5. If the removal is for more than 10 consecutive school days or is a change in placement because of disciplinary removals, the child's IEP Team determines appropriate services needed in order to provide a free, appropriate public education, so as to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP.

6. The services required in (e) may be provided in an interim alternative educational setting.

(3) Manifestation determination.

(a) Within 10 school days of any decision to change the placement of a child with a disability because of a violation of a code of student conduct, the LEA, the parent, and the relevant members of the child's IEP Team (as determined by the parent and the LEA) must review all relevant information in the child's file, including the child's IEP, any teacher observations, and any relevant information provided by the parents to determine:

1. If the conduct in question was caused by, or had a direct and substantial relationship t0, the Child's disability; or

2. If the conduct in question was the direct result of the LEA's failure to implement the IEP.

(b) The conduct must be determined to be a manifestation of the child's disability if the LEA , the parent and relevant members of the child's IEP Team determine that the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability; or the conduct in question was the direct result of the LEA's failure to implement the IEP.

(c) If the LEA, the parent and the relevant members of the child's IEP Team determines the conduct in question was a direct result of the failure of the LEA to implement the IEP, the LEA must take immediate steps to remedy those deficiencies.

(4) Determination that behavior was a manifestation.

(a) If the LEA, the parent and relevant members of the I E P Team make the determination that the conduct was a manifestation of the child's disability, the IEP Team must either:

1. Conduct a functional behavioral assessment, unless the LEA had conducted a functional behavioral assessment before the behavior that resulted in the change of placement occurred, and implement a behavioral intervention plan for the child; or

2. If a behavioral intervention plan already has been developed, review the behavioral intervention plan, and modify it, as necessary, to address the behavior, and except as provided in paragraph (5) below, return the child to the placement from which the child was removed, unless the parent and the LEA agree to a change of placement as part of the modification of the behavioral intervention plan.

(5) Special circumstances.

(a) School personnel may remove a child to an interim alternative educational setting for not more than 45 school days without regard to whether the behavior is determined to be a manifestation of the child's disability, if the child :

1. Carries a weapon to or possesses a weapon at school, on school premises, or at a school function under the jurisdiction of the State or the LEA;

2. Knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance, while at school, on school premises, or to a school function under the jurisdiction of the State or the LEA ; or

3. Has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of the State or the LEA.

(b) The interim alternative educational setting is determined by the IEP Team.

(6) Notification.

(a) On the date on which the decision is made to make a removal that constitutes a change of placement of a child with a disability because of a violation of a code of child conduct, the L EA must notify the parents of that decision, and provide the parents the procedural safeguards notice described in Rule 160-4-7- .09 Procedural Safeguards.

(7) Definitions.

For purpose of this section, the following definitions apply:

(a) Controlled substance - a drug or other substance identified under schedules I, 11, 111, IV , or V in section 202(c) of the Controlled Substances A ct (21 U .S .C . 812(c)).

(b) Illegal drug - a controlled substance ; but does not include a controlled substance that is legally possessed or used under the supervision of a licensed health-care professional or that is legally possessed or used under any other authority under that A ct or under any other provision of Federal law.

(c) Serious bodily injury - has the meaning given the term "serious bodily injury" under paragraph (3) of subsection (h) of section 1365 of title 18, United States Code.

(d) Weapon - has the meaning given the term "dangerous weapon" under paragraph (2) of the first subsection (g) of section 930 of title 18, United States Code.

(8) Appeal

(a) The parent of a child with a disability who disagrees with any decision regarding placement or the manifestation determination under this Rule, or an LEA that believes that maintaining the current placement of the child is substantially likely to result in injury to the child or others, may appeal the decision by requesting a hearing. The hearing is requested by filing a due process hearing request pursuant to Rule 160-4-7-.12 Dispute Resolution.

(b) Authority of administrative law judge or hearing officer. A n judge or hearing officer under Rule 160-4-7-.12 Dispute Resolution makes a determination regarding an appeal under the disagreement C .F .R. § 300 .531(b)(1)] administrative law hears the facts and in (8)(a) above.

1. In making a determination under this Rule, the administrative law judge or hearing officer may:

(i) Return the child with a disability to the placement from which the child was removed if the administrative law judge or hearing officer determines that the removal was a violation of this Rule or that the child's behavior was a manifestation of the child's disability; or

(ii) Order a change of placement of the child with a disability to an appropriate interim alternative educational setting for not more than 45 school days if the administrative law judge or hearing officer determines that maintaining the current placement of the child is substantially likely to result in injury to the child or to others.

(c) These appeal procedures may be repeated, if the LEA believes that returning the child to the original placement is substantially likely to result in injury to the child or to others.

(d) Expedited due process hearing. Whenever a hearing is requested under paragraph (8)(a) this Rule, the parents or the L EA involved in the dispute must have an opportunity for an impartial due process hearing consistent with Rule 160-4-7- .12 Dispute Resolution, except as provided in (d) 1 and 2 below.

1. The State is responsible for arranging the expedited due process hearing, which must occur within 20 school days of the date the complaint requesting the hearing is filed. The administrative law judge or hearing officer must make a determination within 10 school days after the hearing.

2. Unless the parents and LEA agree in writing to waive the resolution meeting described in Rule 160-4-7- .12 Dispute Resolution or agree to use the mediation process described in the same Rule:

(a) A resolution meeting must occur within seven days of receiving notice of the due process hearing request/complaint; and

(b) The due process hearing may proceed unless the matter has been resolved to the satisfaction of both parties within 15 days of the receipt of the due process hearing request/complaint.

(c) The decisions on expedited due process hearings are appealable consistent with Rule 160-4-7- .12 Dispute Resolution.

(9) Placement during appeals.

(a) When an appeal under this Rule has been made by either the parent or the L EA, the child must remain in the interim alternative educational setting pending the decision of the administrative law judge or hearing officer or until the expiration of the 45 school day time period provided for in this Rule, section 5, Special Circumstances, whichever comes first, unless the parent and the LEA agree otherwise.

(10) Protections for children not yet eligible for special education and related services.

(a) A child who has not been determined to be eligible for special education and related services and who has engaged in behavior that violated a code of student conduct, may assert any of the protections provided for in this Rule if the LEA had knowledge (as determined in accordance with this Rule) that the child was a child with a disability before the behavior that precipitated the disciplinary action occurred.

1. An LEA must be deemed to have knowledge that a child is a child with a disability if before the behavior that precipitated the disciplinary action occurred -

(i) The parent of the child expressed concern in writing to supervisory or administrative personnel of the appropriate educational agency or a teacher of the child, that the child is in need of special education and related services;

(ii) The parent of the child requested an evaluation of the child pursuant to Rule 160-4-7- .04 Eligibility Determinations and Criteria; or

(iii) The teacher of the child or other personnel of the LEA expressed specific concerns about a pattern of behavior demonstrated by the child directly to the director of special education of the LEA or to other supervisory personnel of the LEA.

2. A n LEA would not be deemed to have knowledge that a child is a child with a disability if the parent of the child has not allowed an evaluation of the child or has refused services or the child has been evaluated and determined not to be a child with a disability as described in Rule 160-4-7- .04 Eligibility Determinations and Criteria.

3. If an LEA does not have knowledge that a child is a child with a disability prior to taking disciplinary measures against the child, the child may be subjected to the disciplinary measures applied to children without disabilities who engaged in comparable behaviors.

4. If a request is made for an evaluation of a child during the time period in which the child is subjected to disciplinary measures, the evaluation must be conducted in an expedited manner. Until the evaluation is completed, the child remains in the educational placement determined by school authorities, which can include suspension or expulsion without educational services. If the child is determined to be a child with a disability, taking into consideration information from the evaluation conducted by the agency and the information provided by the parents, the agency must provide special education and related services.

(11) Referral to and action by law enforcement and judicial authorities.

(a) Nothing in this Rule prohibits a LEA from reporting a crime committed by a child with a disability to appropriate authorities or prevents State law enforcement or judicial authorities from exercising their responsibilities with regard to the application of Federal and State law to crimes committed by a child with a disability.

(b) A LEA reporting a crime committed by a child with a disability must ensure that copies of the special education and disciplinary records of the child are transmitted for consideration by the appropriate authorities to whom the agency reports the crime.

(c) A LEA reporting a crime under this Rule may transmit copies of the child's special education and disciplinary records only to the extent that the transmission is permitted by the Family Educational Rights and Privacy Act.

(12) Change of placement because of disciplinary removals.

(a) For purposes of removals of a child with a disability from the child’s current educational placement under this Rule, a change in placement occurs if:

1. The removal is for more than 10 consecutive school days, o r

2. The child has been subjected to a series of removals that constitute a pattern -

(i) Because the series of removals total more than 10 school days in a school year;

(ii) Because the child’s behavior is substantially similar to the child’s behavior in previous incidents that resulted in the series of removals, and;

(iii) Because of such additional factors as the length of each removal, the total amount of time the child has been removed, and the proximity of the removals to one another.

(b) The L EA determines on a case-by-case basis whether a pattern of removals constitutes a change of placement.

1. This determination is subject to review through due process hearings and judicial proceedings.

160-4-8-.15. Student discipline.

(2) Requirements.

(f) It is the preferred policy of the board that disruptive students are placed in alternative education settings in lieu of being suspended or expelled.

(g) Local board policies shall require the filing of a report by a teacher documenting a student's violation of the student code of conduct which repeatedly or substantially interferes with the teacher's ability to

communicate effectively with the students in his or her class or with the ability of such student's classmates to learn within one school day of the most recent occurrence of such behavior. The report shall be filed with the principal or principal's designee, shall not exceed one page, and shall describe the behavior. The principal or principal's designee shall, within one day of receiving such report, send to the student's parents or guardians a copy of the report, and information regarding how the principal or principal's designee may be contacted.

(h) The principal or the principal's designee shall send written notification to the teacher and to the student's parents or guardians of the student support services being utilized or the disciplinary action taken within one school day and shall make a reasonable attempt to confirm receipt of such written notification by the student's parents or guardians. Written notification shall include information regarding how student's parents or guardians may contact the principal or principal's designee.

(i) Each local board of education shall observe Georgia law in developing and implementing disciplinary hearings held by a disciplinary hearing officer, disciplinary panel, or disciplinary tribunal pursuant to O.C.G.A. § 20-2-751 through § 20-2-758 including the ability to honor disciplinary orders of private schools and other public schools/school systems pursuant to O.C.G.A. § 20-2-751.2.

1. Disciplinary hearings shall be held no later than ten school days after the beginning of the student's suspension unless the school system and parents or guardians mutually agree to an extension.
2. Any teacher who is called as a witness by the school system shall be given notice no later than three days prior to the hearing.

In-school suspension

ADMINISTRATIVE CODE

160-4-8-.12. Alternative/Non-traditional education programs.

(1) Definitions.

(j) In-School Suspension program – any program that serves the instructional needs of students who have been suspended from his/her regular classroom for a maximum of ten consecutive days.

Return to school following removal

STATUTES

20-2-738. Authority of teacher over classroom; procedures following removal of student from classroom; placement review committees.

(c) If a teacher removes a student from class pursuant to subsection (b) of this Code section, the principal or the principal's designee shall discuss the matter with the teacher and the student by the end of the school day on which such removal occurs or at the beginning of the next school day. The principal or the principal's designee shall give the student oral or written notice of the grounds for his or her removal from class and, if the student denies engaging in such conduct, the principal or the principal's designee shall explain the evidence which supports his or her removal from class and give the student an opportunity to present his or her explanation of the situation. If, after such discussions, the principal or the principal's designee seeks to return the student to the teacher's class and the teacher gives his or her consent, the student shall be returned to the class, and the principal or the principal's designee may take action to discipline the student, as may be warranted, pursuant to paragraph (1) of subsection (e) of this Code section. If, after such discussions, the principal or the principal's designee seeks to return the student to the teacher's class and the teacher withholds his or her consent to the student's return to his or her class, the principal or the principal's designee shall determine an appropriate temporary placement for the

student by the end of the first school day following such removal and shall also take steps to convene a meeting of a placement review committee. The placement review committee shall convene by the end of the second school day following such removal by the teacher and shall issue a decision by the end of the third school day following such removal by the teacher. An appropriate temporary placement for the student shall be a placement that, in the judgment of the principal or the principal's designee, provides the least interruption to the student's education and reflects other relevant factors, including, but not limited to, the severity of the behavior that was the basis for the removal, the student's behavioral history, the student's need for support services, and the available education settings; provided, however, that the student shall not be returned to the class of the teacher who removed him or her, as an appropriate temporary placement, unless the teacher gives his or her consent. The temporary placement shall be in effect from the time of removal until the decision of the placement review committee is issued or, if applicable, a placement determination is made pursuant to paragraph (2) of subsection (e) of this Code section.

(d) Local board policies adopted pursuant to Code Section 20-2-735 shall provide for the establishment at each school of one or more placement review committees, each of which is to be composed of three members, to determine the placement of a student when a teacher withholds his or her consent to the return of a student to the teacher's class. For each committee established, the faculty shall choose two teachers to serve as members and one teacher to serve as an alternate member, and the principal shall choose one member of the professional staff of the school to serve as a member. The teacher withholding consent to readmit the student may not serve on the committee. The placement review committee shall have the authority to:

(1) Return the student to the teacher's class upon determining that such placement is the best alternative or the only available alternative; or

(2) Refer the student to the principal or the principal's designee for appropriate action consistent with paragraph (2) of subsection (e) of this Code section.

The decision of the placement review committee shall be in writing and shall be made within three school days after the teacher withholds consent to the return of a student. Local boards of education shall provide training for members of placement review committees regarding the provisions of this subpart, including procedural requirements; local board policies relating to student discipline; and the student code of conduct that is applicable to the school.

(e) (1) If a placement review committee decides to return a student to a class from which he or she was removed, the principal or the principal's designee shall implement such decision of the placement review committee. In addition, the principal or the principal's designee may, consistent with any applicable procedural requirements of the Constitutions of the United States and this state and after considering the use of any appropriate student support services, take any of the following actions which are authorized as a response to the alleged violation of the student code of conduct by local board policies adopted pursuant to Code Section 20-2-735:

(A) Place the student in an alternative education program;

(B) Impose out-of-school suspension for not more than ten school days, including any time during which the student was subject to out-of-school suspension after his or her removal from class pursuant to subsection (b) of this Code section; or

(C) Make another disciplinary decision or recommendation consistent with local board policy.

20-2-766. Students returning from expulsion or suspension; notice to parents; conference with principal or teacher to devise disciplinary and behavioral correction plan.

Before any chronic disciplinary problem student is permitted to return from an expulsion or suspension, the school to which the student is to be readmitted shall request by telephone call and by either certified

mail or statutory overnight delivery with return receipt requested or first-class mail at least one parent or guardian to schedule and attend a conference with the principal or his or her designee to devise a disciplinary and behavioral correction plan. Failure of the parent or guardian to attend shall not preclude the student from being readmitted to the school. At the discretion of the principal, a teacher, counselor, or other person may attend the conference. The principal shall ensure that a notation of the conference is placed in the student's permanent file.

Use of restraint and seclusion

ADMINISTRATIVE CODE

160-5-1-.35 Seclusion and restraint for all students.

(1) Definitions

(a) Chemical restraint - any medication that is used to control behavior or restrict the student's freedom of movement that is not a prescribed treatment for the student's medical or psychiatric condition. Use of chemical restraint is prohibited in Georgia public schools and educational programs.

(b) Mechanical restraint - the use of any device or material attached to or adjacent to a student's body that is intended to restrict the normal freedom of movement and which cannot be easily removed by the student. The term does not include an adaptive or protective device recommended by a physician or therapist when used as recommended by the physician or therapist to promote normative body positioning and physical functioning, and/or to prevent self injurious behavior. The term also does not include seatbelts and other safety equipment when used to secure students during transportation. Use of Mechanical restraint is prohibited in Georgia public schools and educational programs.

(c) Physical restraint - direct physical contact from an adult that prevents or significantly restricts a student's movement. The term physical restraint does not include prone restraint, mechanical restraint, or chemical restraint. Additionally, physical restraint does not include: providing limited physical contact and/or redirection to promote student safety, providing physical guidance or prompting when teaching a skill, redirecting attention, providing guidance to a location, or providing comfort.

(d) Prone restraint - a specific type of restraint in which a student is intentionally placed face down on the floor or another surface, and physical pressure is applied to the student's body to keep the student in the prone position. Use of prone restraint is prohibited in Georgia public schools and educational programs.

(e) Seclusion - a procedure that isolates and confines the student in a separate area until he or she is no longer an immediate danger to himself/herself or others. The seclusion occurs in a specifically constructed or designated room or space that is physically isolated from common areas and from which the student is physically prevented from leaving. Seclusion may also be referred to as monitored seclusion, seclusion timeout, or isolated timeout. Seclusion does not include situations in which a staff member trained in the use of de-escalation techniques or restraint is physically present in the same unlocked room as the student, time-out as defined in paragraph (1)(g) of this rule, in-school suspension, detention, or a student-requested break in a different location in the room or in a separate room. Use of seclusion is prohibited in Georgia public schools and educational programs.

(g) Time-out – a behavioral intervention in which the student is temporarily removed from the learning activity but in which the student is not confined.

(2) Requirements.

(a) The use of seclusion is prohibited in Georgia public schools and educational programs.

(b) The use of prone restraint is prohibited in Georgia public schools and educational programs.

(c) The use of mechanical restraint is prohibited in Georgia public schools and educational programs.

(d) The use of chemical restraint is prohibited in Georgia public schools and educational programs.

(e) The use of physical restraint is prohibited in Georgia public schools and educational programs except in those situations in which the student is an immediate danger to himself or others and the student is not responsive to less intensive behavioral interventions including verbal directives or other de-escalation techniques.

1. Notwithstanding the foregoing, physical restraint is prohibited in Georgia public schools and educational programs:

   (i) as a form of discipline or punishment,

   (ii) when the student cannot be safely restrained, and

   (iii) when the use of the intervention would be contraindicated due to the student's psychiatric, medical, or physical conditions as described in the student's educational records.

(f) All physical restraint must be immediately terminated when the student is no longer an immediate danger to himself or others or if the student is observed to be in severe distress.

(g) Schools and programs that use physical restraint in accordance with paragraph (2)(e) of this rule must develop and implement written policies to govern the use of physical restraint. Parents must be provided information regarding the school or program's policies governing the use of physical restraint. The written policies must include the following provisions:

1. Staff and faculty training on the use of physical restraint and the school or programs policy and procedures,
2. Written parental notification when physical restraint is used to restrain their student within a reasonable time not to exceed one school day from the use of restraint,
3. Procedures for observing and monitoring the use of physical restraint.
4. The use of physical restraint to be documented by staff or faculty participating in or supervising the restraint for each student in each instance in which the student is restrained.
5. Procedures for the periodic review of the use of restraint and the documentation described in paragraph (2)(g)(4).

(h) Schools and programs that use physical restraints in accordance with paragraph (2)(e) of this rule, must ensure that staff and faculty are trained in the use of physical restraint. This training shall be provided as a part of a program which addresses a full continuum of positive behavioral intervention strategies as well as prevention and deescalation techniques. Schools and programs must maintain written or electronic documentation on training provided and the list of participants in each training. Records of such training must be made available to the Georgia Department of Education or any member of the public upon request.

(i) Nothing in this rule shall be construed to interfere with a school system, school or program, or school or program employee's authority to utilize time-out as defined in paragraph (1)(g) of this rule or any other classroom management technique or approach, including a student's removal from the classroom, that is not specifically addressed in this rule.

(j) Nothing in this rule shall be construed to prohibit a school system, school, or program employee from taking appropriate action to diffuse a student fight or altercation.

(k) Nothing in this rule shall be construed to eliminate or restrict the ability of an employee of a school system, school or program to use his or her discretion in the use of physical restraint to protect students or others from imminent harm or bodily injury. Nothing in this rule shall be construed to impose ministerial duties on individual employees of a school system, school or program when acting to protect students or others from imminent harm or bodily injury.

Alternative placements

STATUTES

20-2-738. Authority of teacher over classroom; procedures following removal of student from classroom; placement review committees.

(e) (1) If a placement review committee decides to return a student to a class from which he or she was removed, the principal or the principal's designee shall implement such decision of the placement review committee. In addition, the principal or the principal's designee may, consistent with any applicable procedural requirements of the Constitutions of the United States and this state and after considering the use of any appropriate student support services, take any of the following actions which are authorized as a response to the alleged violation of the student code of conduct by local board policies adopted pursuant to Code Section 20-2-735:

(A) Place the student in an alternative education program;

(2) If a placement review committee decides not to return a student to a class from which he or she was removed, the principal or the principal's designee shall implement such decision of the placement review committee. In addition, the principal or the principal's designee shall determine an appropriate placement for the student and may take action to discipline the student, in a manner consistent with any applicable procedural requirements of the Constitutions of the United States and this state and after considering the use of any appropriate student support services, as follows, provided that the placement or disciplinary action is authorized as a response to the alleged violation of the student code of conduct by local board policies adopted pursuant to Code Section 20-2-735:

(A) Place the student into another appropriate classroom or an alternative education program;

(C) Make another placement or disciplinary decision or recommendation consistent with local board policy; or

(D) Implement or recommend any appropriate combination of the above and return the student to the class from which he or she was removed upon the completion of any disciplinary or placement action taken pursuant to this paragraph.

20-2-751.1. Expulsion and disciplinary policy for students bringing weapons to school.

(c) A hearing officer, tribunal, panel, superintendent, or local board of education shall be authorized to place a student determined to have brought a weapon to school in an alternative educational setting.

20-2-751.4. Policies prohibiting bullying; assignment to alternative school; notice.

(b) No later than August 1, 2011:

(1) Each local board of education shall adopt a policy that prohibits bullying of a student by another student and shall require such prohibition to be included in the student code of conduct for schools in that school system;

(2) Each local board policy shall require that, upon a finding by the disciplinary hearing officer, panel, or tribunal of school officials provided for in this subpart that a student in grades six through 12 has committed the offense of bullying for the third time in a school year, such student shall be assigned to an alternative school;

20-2-768. Expulsion or suspension of students for felonies; alternative educational system; policy.

(a) Each local board of education is authorized to refuse to readmit or enroll any student who has been suspended or expelled for being convicted of, being adjudicated to have committed, being indicted for, or having information filed for the commission of any felony or any delinquent act under Code Section 15-11-

28 which would be a felony if committed by an adult. If refused readmission or enrollment, the student or the student's parent or legal guardian has the right to request a hearing pursuant to the procedures provided for in Code Section 20-2-754.

(b) A hearing officer, tribunal, panel, superintendent, or local board of education shall be authorized to place a student denied enrollment in a local school system under subsection (a) of this Code section in an alternative educational system as appropriate and in the best interest of the student and the education of other students within the school system.

(c) It is the policy of this state that it is preferable to reassign disruptive students to alternative educational settings rather than to suspend or expel such students from school.

ADMINISTRATIVE CODE

160-4-7-.10. Discipline.

(2) Authority of school personnel.

(b) School personnel may remove a child with a disability who violates a code of student conduct from his or her current placement to an appropriate interim alternative educational setting, another setting or suspension, for not more than 10 consecutive school days (to the extent those alternatives are applied to children without disabilities), and for additional removals of not more than 10 consecutive school days in that same school year for separate incidents of misconduct (as long as those removals do not constitute a change of placement under this Rule).

(c) After a child with a disability has been removed from his or her current placement for 10 school days in the same school year, during any subsequent days of removal the LEA must provide services to the extent required under this Rule.

(d) For disciplinary changes in placement that would exceed 10 consecutive school days, if the behavior that gave rise to the violation of the school code is determined not to be a manifestation of the child's disability under this Rule, school personnel may apply the relevant disciplinary procedures to children with disabilities in the same manner and for the same duration as the procedures would be applied to children without disabilities except as provided in (e) of this Rule.

(e) Services. A child with a disability who is removed from his or her current placement for more than 10 consecutive school days must:

1. Continue to receive educational services, as provided in Rule 160-4-7- .02 Free and Appropriate Public Education, so as to enable the child to continue to participate in the general educational curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP ; and

2. Receive, as appropriate, a functional behavioral assessment and behavioral intervention services and modifications as set forth in the behavioral intervention plan and IEP, where appropriate, that are designed to address the behavior violation so it does not recur.

3. The LEA is only required to provide services during periods of removal to a child with a disability who has been removed from his or her current placement for 10 school days or less in that school year, if services are provided to a child without disabilities who has been similarly removed.

4. After a child with a disability has been removed from his or her current placement for 10 school days in the same school year, if the current removal is not for more than 10 consecutive school days and is not a change in placement because of disciplinary removals, school personnel, in consultation with at least one of the child's teachers, determine the extent to which services are needed in order to provide a free, appropriate public education, so as to enable the child to continue to participate in the

general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP.

5. If the removal is for more than 10 consecutive school days or is a change in placement because of disciplinary removals, the child's IEP Team determines appropriate services needed in order to provide a free, appropriate public education, so as to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP.

6. The services required in (e) may be provided in an interim alternative educational setting.

(9) Placement during appeals.

(a) When an appeal under this Rule has been made by either the parent or the LEA, the child must remain in the interim alternative educational setting pending the decision of the administrative law judge or hearing officer or until the expiration of the 45 school day time period provided for in this Rule, section 5, Special Circumstances, whichever comes first, unless the parent and the LEA agree otherwise

160-4-8-.12. Alternative/Non-traditional education programs.

(1) Definitions.

(a) Alternative/ Non-traditional Education Program - an Alternative/Nontraditional Education Program that operates in affiliation with a school(s). A program does not report Full-Time Equivalent (FTE) or receive an Adequate Yearly Progress (AYP) designation. Achievement data for students enrolled in the program are reported back to the school where the student is reported for FTE. The program may be housed within a school, on the same site, or at a different location. Adherence to all requirements as stated in SBOE Rule 160-4-8-.17 Case management consultation for agency placed transfer students is required. Programs may include Attendance Recovery, Credit Recovery, Disciplinary Program, Early College, Evening School, and Open Campus.

(b) Alternative/Non-traditional Education School - an Alternative/Nontraditional Education School has an official school code and serves as the home school for students enrolled. The school receives an AYP designation; reports FTE counts for all enrolled students; and earns Quality Basic Education (QBE) formula funds directly. Adherence to all requirements as stated in SBOE Rule 160-4-8-.17 Case management consultation for agency placed transfer students is required.

(c) Attendance Recovery Program - a type of alternative/non-traditional program designed to allow students the opportunity to make-up an absence(s) by attending a program outside the normal school day (e.g., Saturday program) that provides the equivalent instructional time and curriculum for the time the student was absent within the current academic year.

(d) Community-based Alternative Education/Non-traditional Program - a type of Alternative Education /Non-traditional Program where students are engaged in educationally relevant and meaningful learning experiences in the school and larger community. The academic curriculum is integrated into work-based learning and structured work experiences utilizing partnerships among business, industry, government, community, and school, including Performance Learning Centers.

(e) Credit Recovery Program - a type of alternative/non-traditional program designed to allow students the opportunity to retake a course that he/she previously did not earn credits toward graduation.

(f) Educational Management Organization - any type of alternative/nontraditional program or school operated by a private vendor. The program or school may operate on or off campus.

(g) Facility and School Registry (FSR) – a database for the creation of all site, facility, school and program codes.

(h) Georgia Department of Education (GaDOE) – the state agency charged with the fiscal and administrative management of certain aspects of K-12 public education; including the implementation of federal and state mandates. Such management is subject to monitoring and oversight by the State Board of Education.

(i) Georgia Professional Standards Commission – a government agency, separate from the Georgia Department of Education, with the central responsibility for establishing a certification/licensure process for educational personnel in Georgia.

(j) In-School Suspension program – any program that serves the instructional needs of students who have been suspended from his/her regular classroom for a maximum of ten consecutive days.

(k) Local Educational Agency (LEA) – local school system pursuant to local board of education control and management.

(l) Sparsity Grant – grant provided to each LEA that is unable to offer its students or a portion of its students educational programs and services comparable to those which are typically being offered to students in this state. The inability to offer students comparable programs and services is attributable, at least in part, to the fact that the LEA has full-time equivalent counts less than base size specified in state law.

(2) Requirements.

(a) Each LEA shall provide an Alternative/Non-traditional Education Program/School to serve students in grades 6-12 with appropriate due process, who have been suspended from his or her regular classroom.

(b) Each LEA may provide an Alternative/Non-traditional Education Program/School to serve students who are eligible to remain in his or her regular classroom but are more likely to succeed in a non-traditional educational setting.

(c) Each LEA may provide an Alternative Education/Non-traditional Program/School jointly with one or more other LEAs.

(d) Each LEA may contract with Educational Management Organizations to provide a Non-traditional/Alternative Education Program/School. If contracting with an Educational Management Organization to provide Non-traditional/Alternative Education Program(s)/School(s), the LEA must:

1. Ensure that no federal or state funding of any kind disbursed by GaDOE is expended on any resources, educational or otherwise, for any student not pursuing a Georgia High School Diploma or Special Education Diploma as defined by SBOE Rules and state law.

2. Maintain and report to GaDOE annually by a date established by GaDOE the Georgia Testing Identifier (GTID) of each student served in Nontraditional/Alternative Education Programs and Schools operated by Educational Management Organizations.

3. Maintain and report to GaDOE annually by a date established by the department the GTID of each student who transferred from the Full-Time Equivalent (FTE) reporting school to the private school operated by the Educational Management Organization prior to receiving a Georgia high school diploma.

(e) A LEA may use Sparsity grant funds for all Alternative/Non-traditional Education Program(s)/School(s). Funds must be used exclusively for salaries and benefits for certified positions and assistants/paraprofessionals working in the Alternative/Non-traditional Education Program/School.

(f) Each LEA shall ensure that all Alternative/Non-traditional Education Program(s)/School(s) only provide curriculum aligned to Georgia Performance Standards (GPS). Curriculum may be delivered through Computer Assisted Instruction and On-line courses.

(g) Each LEA shall ensure that all Alternative/Non-traditional Education Programs/Schools provide standardized testing as specified in SBOE Rule 160-3-1-.07 Testing programs - student assessment.

(h) Each LEA shall ensure that all Alternative/Non-traditional Education Programs/Schools provide counseling services to enable the student to make academic progress.

(i) Each LEA shall ensure that all Alternative/Non-traditional Education Programs/Schools operate in full compliance with federal and state laws and State Board Rules governing special education students and students with special needs.

(j) Each LEA shall ensure that all Alternative/Non-traditional Education Programs/Schools provide teachers that meet the requirements of the Georgia Professional Standards Commission in all classes. Paraprofessionals may be used to staff In-school Suspension programs as provided by law or regulation.

(k) Each LEA shall ensure that all Alternative/Non-traditional Education Programs/Schools adhere to class size maximum as stated in SBOE Rule 160-5-1-.08 Class size.

(l) Each LEA shall ensure that all Alternative/Non-traditional Education Programs/Schools provide courses that will satisfy state and local requirements for meeting grade level requirements for obtaining a Georgia High School Diploma.

(m) Each LEA shall allocate to all Alternative/Non-traditional Education Programs/Schools the same expenditure per segment(s) based on what the student earns at his or her Full Time Equivalent reporting school. These funds include federal and state funds allocated to the LEA for the student.

(n) For students in grades 9-12, each LEA may award course credit based on the student's demonstrated competency on course examination(s) for course work completed while enrolled in the Alternative/Non-traditional Education Program/School in lieu of the 150/135 clock hours of instruction as required by SBOE rules. Each Alternative/Non-traditional Education Program/School shall adhere to all instructional time requirements for all other grades.

(o) For students in grades 9-12, each LEA may determine the length of time students will be in classes in the Alternative/Non-traditional Education Program(s)/School(s) in lieu of the requirement of as specified in SBOE Rule 160-5-1-.02. Each Alternative/ Non-traditional Education Program/School shall adhere to all instructional time requirements for all other grades.

(3) Reporting requirements.

(a) Each LEA shall adhere to all reporting requirements established by SBOE Rule 160-5-1-.07 Student data collection.

(b) Each LEA shall ensure that all Alternative/Non-traditional Education Program(s)/School(s) report to GaDOE both the number of actual absences (excused and unexcused) that students served by the Attendance Recovery Program incurred during the school year and the number of absences the students served by the Attendance Recovery Program recovered during the same school year.

(c) Each LEA shall submit official requests for state entity (facility/school/program codes for the Alternative/Non-traditional Education Program/School) through the Facility and School Registry (FSR).

(4) School improvement plan.

(a) Each LEA shall maintain and report to GaDOE a school improvement plan for each of its Alternative/Non-traditional Education Programs/Schools annually by a date established by GaDOE.

(b) Each Alternative/Non-traditional Education Program/School school improvement plan shall meet the requirements established by GaDOE and contained in the Alternative Education Program Standards.

(c) Each Alternative/Non-traditional Education Program/School school improvement plan must demonstrate how the Alternative /Non- traditional Education Program/School modified SBOE rules,

including, but not limited to, methods to measure competency as well as what is defined as a full school day.

(d) Each LEA should seek public and parental input on each Alternative/Nontraditional Education Program/School school improvement plan prior to submitting the plan to GaDOE.

(e) Alternative/Non-traditional Education Program/School school improvement plans shall be presented to the LEA's Local Board of Education at a regularly scheduled public meeting and published on the LEA's website for the duration of the plan. For those stakeholders that may not have access to the Internet, the LEA shall make copies available upon request in accordance with the state's Open Records law (O.C.G.A § 50-18-70).

(f) Each Alternative/Non-traditional Education Program/School school improvement plan will be evaluated by GaDOE based on demonstrated elements and requirements as specified by GaDOE in the Alternative Education Program Standards.

Disciplinary Approaches Addressing Specific Infractions and Conditions

Firearms (as required by the Guns-Free Schools Act)

STATUTES

20-2-751.1. Expulsion and disciplinary policy for students bringing weapons to school.

(a) Each local board of education shall establish a policy requiring the expulsion from school for a period of not less than one calendar year of any student who is determined, pursuant to this subpart, to have brought a weapon to school.

(b) The local board of education shall have the authority to modify such expulsion requirement as provided in subsection (a) of this Code section on a case-by-case basis.

(c) A hearing officer, tribunal, panel, superintendent, or local board of education shall be authorized to place a student determined to have brought a weapon to school in an alternative educational setting.

(d) Nothing in this Code section shall infringe on any right provided to students with Individualized Education Programs pursuant to the federal Individuals with Disabilities Education Act, Section 504 of the federal Rehabilitation Act of 1973, or the federal Americans with Disabilities Act.

Other weapons

STATUTES

16-11-127.1. Carrying weapons within school safety zones, at school functions, or on school property.

(a) As used in this Code section, the term:

(1) "School safety zone" means in or on any real property owned by or leased to any public or private elementary school, secondary school, or school board and used for elementary or secondary education and in or on the campus of any public or private technical school, vocational school, college, university, or institution of postsecondary education.

(2) "Weapon" means and includes any pistol, revolver, or any weapon designed or intended to propel a missile of any kind, or any dirk, bowie knife, switchblade knife, ballistic knife, any other knife having a blade of two or more inches, straight-edge razor, razor blade, spring stick, knuckles, whether made from metal, thermoplastic, wood, or other similar material, blackjack, any bat, club, or other bludgeon-type weapon, or any flailing instrument consisting of two or more rigid parts connected in such a manner as to allow them to swing freely, which may be known as a nun chahka, nun chuck, nunchaku, shuriken, or fighting chain, or any disc, of whatever configuration, having at least two points or pointed blades which is designed to be thrown or propelled and which may be known as a throwing star or oriental dart, or any weapon of like kind, and any stun gun or taser as defined in subsection (a) of Code Section 16-11-106. This paragraph excludes any of these instruments used for classroom work authorized by the teacher.

(b) (1) Except as otherwise provided in subsection (c) of this Code section, it shall be unlawful for any person to carry to or to possess or have under such person's control while within a school safety zone or at a school building, school function, or school property or on a bus or other transportation furnished

by the school any weapon or explosive compound, other than fireworks the possession of which is regulated by Chapter 10 of Title 25.

(2) Any license holder who violates this subsection shall be guilty of a misdemeanor. Any person who is not a license holder who violates this subsection shall be guilty of a felony and, upon conviction thereof, be punished by a fine of not more than $10,000.00, by imprisonment for not less than two nor more than ten years, or both.

(3) Any person convicted of a violation of this subsection involving a dangerous weapon or machine gun, as such terms are defined in Code Section 16-11-121, shall be punished by a fine of not more than $10,000.00 or by imprisonment for a period of not less than five nor more than ten years, or both.

(4) A child who violates this subsection may be subject to the provisions of Code Section 15-11-63.

(c) The provisions of this Code section shall not apply to:

(1) Baseball bats, hockey sticks, or other sports equipment possessed by competitors for legitimate athletic purposes;

(2) Participants in organized sport shooting events or firearm training courses;

(3) Persons participating in military training programs conducted by or on behalf of the armed forces of the United States or the Georgia Department of Defense;

(4) Persons participating in law enforcement training conducted by a police academy certified by the Georgia Peace Officer Standards and Training Council or by a law enforcement agency of the state or the United States or any political subdivision thereof;

(5) The following persons, when acting in the performance of their official duties or when en route to or from their official duties:

(A) A peace officer as defined by Code Section 35-8-2;

(B) A law enforcement officer of the United States government;

(C) A prosecuting attorney of this state or of the United States;

(D) An employee of the Georgia Department of Corrections or a correctional facility operated by a political subdivision of this state or the United States who is authorized by the head of such correctional agency or facility to carry a firearm;

(E) A person employed as a campus police officer or school security officer who is authorized to carry a weapon in accordance with Chapter 8 of Title 20; and

(F) Medical examiners, coroners, and their investigators who are employed by the state or any political subdivision thereof;

(6) A person who has been authorized in writing by a duly authorized official of the school to have in such person's possession or use as part of any activity being conducted at a school building, school property, or school function a weapon which would otherwise be prohibited by this Code section. Such authorization shall specify the weapon or weapons which have been authorized and the time period during which the authorization is valid;

(7) A person who is licensed in accordance with Code Section 16-11-129 or issued a permit pursuant to Code Section 43-38-10, when such person carries or picks up a student at a school building, school function, or school property or on a bus or other transportation furnished by the school or a person who is licensed in accordance with Code Section 16-11-129 or issued a permit pursuant to Code Section 43-38-10 when he or she has any weapon legally kept within a vehicle when such vehicle is parked at such school property or is in transit through a designated school zone;

(8) A weapon possessed by a license holder which is under the possessor's control in a motor vehicle or which is in a locked compartment of a motor vehicle or one which is in a locked container in or a locked firearms rack which is on a motor vehicle which is being used by an adult over 21 years of age

to bring to or pick up a student at a school building, school function, or school property or on a bus or other transportation furnished by the school, or when such vehicle is used to transport someone to an activity being conducted on school property which has been authorized by a duly authorized official of the school; provided, however, that this exception shall not apply to a student attending such school;

(9) Persons employed in fulfilling defense contracts with the government of the United States or agencies thereof when possession of the weapon is necessary for manufacture, transport, installation, and testing under the requirements of such contract;

(10) Those employees of the State Board of Pardons and Paroles when specifically designated and authorized in writing by the members of the State Board of Pardons and Paroles to carry a weapon;

(11) The Attorney General and those members of his or her staff whom he or she specifically authorizes in writing to carry a weapon;

(12) Probation supervisors employed by and under the authority of the Department of Corrections pursuant to Article 2 of Chapter 8 of Title 42, known as the "State-wide Probation Act," when specifically designated and authorized in writing by the director of the Division of Probation;

(13) Public safety directors of municipal corporations;

(14) State and federal trial and appellate judges;

(15) United States attorneys and assistant United States attorneys;

(16) Clerks of the superior courts;

(17) Teachers and other school personnel who are otherwise authorized to possess or carry weapons, provided that any such weapon is in a locked compartment of a motor vehicle or one which is in a locked container in or a locked firearms rack which is on a motor vehicle; or

(18) Constables of any county of this state.

(d) (1) This Code section shall not prohibit any person who resides or works in a business or is in the ordinary course transacting lawful business or any person who is a visitor of such resident located within a school safety zone from carrying, possessing, or having under such person's control a weapon within a school safety zone; provided, however, it shall be unlawful for any such person to carry, possess, or have under such person's control while at a school building or school function or on school property, a school bus, or other transportation furnished by the school any weapon or explosive compound, other than fireworks the possession of which is regulated by Chapter 10 of Title 25.

(2) Any person who violates this subsection shall be subject to the penalties specified in subsection (b) of this Code section.

(3) This subsection shall not be construed to waive or alter any legal requirement for possession of weapons or firearms otherwise required by law.

(e) It shall be no defense to a prosecution for a violation of this Code section that:

(1) School was or was not in session at the time of the offense;

(2) The real property was being used for other purposes besides school purposes at the time of the offense; or

(3) The offense took place on a school vehicle.

(f) In a prosecution under this Code section, a map produced or reproduced by any municipal or county agency or department for the purpose of depicting the location and boundaries of the area of the real property of a school board or a private or public elementary or secondary school that is used for school purposes or the area of any campus of any public or private technical school, vocational school, college, university, or institution of postsecondary education, or a true copy of the map, shall, if certified as a true copy by the custodian of the record, be admissible and shall constitute prima-facie evidence of the location and boundaries of the area, if the governing body of the municipality or county has approved the

map as an official record of the location and boundaries of the area. A map approved under this Code section may be revised from time to time by the governing body of the municipality or county. The original of every map approved or revised under this subsection or a true copy of such original map shall be filed with the municipality or county and shall be maintained as an official record of the municipality or county. This subsection shall not preclude the prosecution from introducing or relying upon any other evidence or testimony to establish any element of this offense. This subsection shall not preclude the use or admissibility of a map or diagram other than the one which has been approved by the municipality or county.

20-2-751.1. Expulsion and disciplinary policy for students bringing weapons to school.

(a) Each local board of education shall establish a policy requiring the expulsion from school for a period of not less than one calendar year of any student who is determined, pursuant to this subpart, to have brought a weapon to school.

(b) The local board of education shall have the authority to modify such expulsion requirement as provided in subsection (a) of this Code section on a case-by-case basis.

(c) A hearing officer, tribunal, panel, superintendent, or local board of education shall be authorized to place a student determined to have brought a weapon to school in an alternative educational setting.

(d) Nothing in this Code section shall infringe on any right provided to students with Individualized Education Programs pursuant to the federal Individuals with Disabilities Education Act, Section 504 of the federal Rehabilitation Act of 1973, or the federal Americans with Disabilities Act.

ADMINISTRATIVE CODE

160-4-7-.10. Discipline.

(5) Special circumstances.

(a) School personnel may remove a child to an interim alternative educational setting for not more than 45 school days without regard to whether the behavior is determined to be a manifestation of the child's disability, if the child :

1. Carries a weapon to or possesses a weapon at school, on school premises, or at a school function under the jurisdiction of the State or the LEA;

3. Has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of the State or the LEA.

(7) Definitions.

For purpose of this section, the following definitions apply:

(c) Serious bodily injury - has the meaning given the term "serious bodily injury" under paragraph (3) of subsection (h) of section 1365 of title 18, United States Code.

(d) Weapon - has the meaning given the term "dangerous weapon" under paragraph (2) of the first subsection (g) of section 930 of title 18, United States Code.

160-4-8-.15. Student discipline.

(2) Requirements.

11. Possession of a weapon, as provided for in O.C.G.A. § 16-11-127.1;

20. A statement that major offenses including, but not limited to, drug and weapon offenses can lead to schools being named as an Unsafe School according to the provisions of State Board of Education Rule 160-4-8-.16 Unsafe School Choice Option.

Students with chronic disciplinary issues

STATUTES

20-2-764. Definitions.

As used in this subpart, the term:

(1) "Chronic disciplinary problem student" means a student who exhibits a pattern of behavioral characteristics which interfere with the learning process of students around him or her and which are likely to recur.

(2) "Expulsion" means expulsion of a student from a public school beyond the current school quarter or semester.

(3) "Suspension" means the short-term suspension of a student from a public school for not more than ten days or long-term suspension for more than ten days pursuant to Code Section 20-2-751.

20-2-765. Notification of parent or guardian of chronic disciplinary problem student; observance of child by parent or guardian; attendance of conference with principal or teacher or both.

Any time a teacher or principal identifies a student as a chronic disciplinary problem student, the principal shall notify by telephone call and by either certified mail or statutory overnight delivery with return receipt requested or first-class mail the student's parent or guardian of the disciplinary problem, invite such parent or guardian to observe the student in a classroom situation, and request at least one parent or guardian to attend a conference with the principal or the teacher or both to devise a disciplinary and behavioral correction plan.

20-2-766. Students returning from expulsion or suspension; notice to parents; conference with principal or teacher to devise disciplinary and behavioral correction plan.

Before any chronic disciplinary problem student is permitted to return from an expulsion or suspension, the school to which the student is to be readmitted shall request by telephone call and by either certified mail or statutory overnight delivery with return receipt requested or first-class mail at least one parent or guardian to schedule and attend a conference with the principal or his or her designee to devise a disciplinary and behavioral correction plan. Failure of the parent or guardian to attend shall not preclude the student from being readmitted to the school. At the discretion of the principal, a teacher, counselor, or other person may attend the conference. The principal shall ensure that a notation of the conference is placed in the student's permanent file.

ADMINISTRATIVE CODE

160-4-7-.10. Discipline.

(12) Change of placement because of disciplinary removals.

(a) For purposes of removals of a child with a disability from the child’s current educational placement under this Rule, a change in placement occurs if:

1. The removal is for more than 10 consecutive school days, or
2. The child has been subjected to a series of removals that constitute a pattern -

(i) Because the series of removals total more than 10 school days in a school year;

(ii) Because the child’s behavior is substantially similar to the child’s behavior in previous incidents that resulted in the series of removals, and;

(iii) Because of such additional factors as the length of each removal, the total amount of time the child has been removed, and the proximity of the removals to one another.

160-4-8-.15. Student discipline.

(2) Requirements.

13. Willful and persistent violation of student codes of conduct;

Attendance and truancy

STATUTES

20-2-690.1. Mandatory education for children between ages 6 and 16.

(a) Mandatory attendance in a public school, private school, or home school program shall be required for children between their sixth and sixteenth birthdays. Such mandatory attendance shall not be required where the child has successfully completed all requirements for a high school diploma.

(b) Every parent, guardian, or other person residing within this state having control or charge of any child or children during the ages of mandatory attendance as required in subsection (a) of this Code section shall enroll and send such child or children to a public school, a private school, or a home study program that meets the requirements for a public school, a private school, or a home study program; and such child shall be responsible for enrolling in and attending a public school, a private school, or a home study program that meets the requirements for a public school, a private school, or a home study program under such penalty for noncompliance with this subsection as is provided in Chapter 11 of Title 15, unless the child's failure to enroll and attend is caused by the child's parent, guardian, or other person, in which case the parent, guardian, or other person alone shall be responsible; provided, however, that tests and physical exams for military service and the National Guard and such other approved absences shall be excused absences. The requirements of this subsection shall apply to a child during the ages of mandatory attendance as required in subsection (a) of this Code section who has been assigned by a local board of education or its delegate to attend an alternative public school program established by that local board of education, including an alternative public school program provided for in Code Section 20-2-154.1, regardless of whether such child has been suspended or expelled from another public school program by that local board of education or its delegate, and to the parent, guardian, or other person residing in this state who has control or charge of such child. Nothing in this Code section shall be construed to require a local board of education or its delegate to assign a child to attend an alternative public school program rather than suspending or expelling the child.

(c) Any parent, guardian, or other person residing in this state who has control or charge of a child or children and who violates this Code section shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to a fine of not less than $25.00 and not greater than $100.00, imprisonment not to exceed 30 days, community service, or any combination of such penalties, at the discretion of the court having jurisdiction. Each day's absence from school in violation of this part after the child's school system notifies the parent, guardian, or other person who has control or charge of a child of five unexcused days of absence for a child shall constitute a separate offense. After two reasonable attempts to notify the parent, guardian, or other person who has control or charge of a child of five unexcused days of absence without response, the school system shall send a notice to such parent, guardian, or other person by certified mail, return receipt requested, or first-class mail. Prior to any action to commence judicial proceedings to impose a penalty for violating this subsection on a parent, guardian, or other person residing in this state who has control or charge of a child or children, a school system shall send a notice to such parent, guardian, or other person by certified mail, return receipt requested. Public schools shall provide to the parent, guardian, or other person having control or charge of each child enrolled in public school a written summary of possible consequences and penalties for failing to comply with compulsory attendance under this Code section for children and their parents, guardians, or other persons having control or charge of children. The parent, guardian, or other person who has control or charge of a child

or children shall sign a statement indicating receipt of such written statement of possible consequences and penalties; children who are age ten years or older by September 1 shall sign a statement indicating receipt of such written statement of possible consequences and penalties. After two reasonable attempts by the school to secure such signature or signatures, the school shall be considered to be in compliance with this subsection if it sends a copy of the statement, via certified mail, return receipt requested, or first-class mail, to such parent, guardian, or other person who has control or charge of a child or children. Public schools shall retain signed copies of statements through the end of the school year.

(d) Local school superintendents in the case of private schools, the Department of Education in the case of home study programs, and visiting teachers and attendance officers in the case of public schools shall have authority and it shall be their duty to file proceedings in court to enforce this subpart. The Department of Education shall coordinate with local school superintendents with respect to attendance records and notification for students in home study programs.

(e) An unemancipated minor who is older than the age of mandatory attendance as required in subsection (a) of this Code section who has not completed all requirements for a high school diploma who wishes to withdraw from school shall have the written permission of his or her parent or legal guardian prior to withdrawing. Prior to accepting such permission, the school principal or designee shall convene a conference with the child and parent or legal guardian within two school days of receiving notice of the intent of the child to withdraw from school. The principal or designee shall make a reasonable attempt to share with the student and parent or guardian the educational options available, including the opportunity to pursue a general educational development (GED) diploma and the consequences of not having earned a high school diploma, including lower lifetime earnings, fewer jobs for which the student will be qualified, and the inability to avail oneself of higher educational opportunities. Every local board of education shall adopt a policy on the process of voluntary withdrawal of unemancipated minors who are older than the mandatory attendance age. The policy shall be filed with the Department of Education no later than January 1, 2007. The Department of Education shall provide annually to all local school superintendents model forms for the parent or guardian signature requirement contained in this subsection and updated information from reliable sources relating to the consequences of withdrawing from school without completing all requirements for a high school diploma. Such form shall include information relating to the opportunity to pursue a general educational development (GED) diploma and the consequences of not having earned a high school diploma, including lower lifetime earnings, fewer jobs for which the student will be qualified, and the inability to avail oneself of higher educational opportunities. Each local school superintendent shall provide such forms and information to all of its principals of schools serving grades six through twelve for the principals to use during the required conference with the child and parent or legal guardian.

20-2-690.2. Establishment of student attendance protocol committee; summary of penalties for failure to comply; reporting.

(a) The chief judge of the superior court of each county shall establish a student attendance protocol committee for its county. The purpose of the committee shall be to ensure coordination and cooperation among officials, agencies, and programs involved in compulsory attendance issues, to reduce the number of unexcused absences from school, and to increase the percentage of students present to take tests which are required to be administered under the laws of this state. The chief judge is responsible for ensuring that all members of the committee are notified of their responsibility to the committee and shall call the first meeting of the committee in each county. The committee shall elect a chairperson and may elect other officers.

(b) Each local board of education shall participate in, consider, and make publicly available, including but not limited to posting in a conspicuous location, its decision regarding the recommendations of the committee as provided in this Code section. Independent school systems may participate in the

committee in the county where the system is located. Independent school systems whose geographic area encompasses more than one county may select one of such counties in which to participate. An independent school system that elects not to participate in the committee of the county where it is located shall request that the chief judge of the superior court of a county encompassed by its geographic area to establish an independent student attendance protocol committee in the same manner as established for the county school system.

(c) Each of the following agencies, officials, or programs shall designate a representative to serve on the committee:

(1) The chief judge of the superior court;

(2) The juvenile court judge or judges of the county;

(3) The district attorney for the county;

(4) The solicitor-general of state court, if the county has a state court;

(5) The Department of Juvenile Justice, which may include representatives from area youth detention centers or regional youth detention centers;

(6) The superintendent, a certificated school employee, and a local school board member from each public school system in the county and a certificated school social worker from each public school system, if any are employed by the school system;

(7) The sheriff of the county;

(8) The chief of police of the county police department;

(9) The chief of police of each municipal police department in the county;

(10) The county department of family and children services;

(11) The county board of health;

(12) The county mental health organization;

(13) The county Family Connection commission, board, or authority, or other county agency, board, authority, or commission having the duty and authority to study problems of families, children, and youth and provide services to families, children, and youth; and

(14) The court approved community based risk reduction program established by the juvenile court in accordance with Code Section 15-11-10, if such a program has been established.

(d) The committee thus established may appoint such additional members as necessary and proper to accomplish the purposes of the committee.

(e) Each committee shall, by June 1, 2005, adopt a written student attendance protocol for its county school system and for each independent school system within its geographic boundaries which shall be filed with the Department of Education. The protocol shall outline in detail the procedures to be used in identifying, reporting, investigating, and prosecuting cases of alleged violations of Code Section 20-2-690.1, relating to mandatory school attendance. The protocol shall outline in detail methods for determining the causes of failing to comply with compulsory attendance and appropriately addressing the issue with children and their parents or guardians. The protocol shall also include recommendations for policies relating to tardiness. The Department of Education shall provide model school attendance protocols, if requested by the committee.

(f) A copy of the protocol shall be furnished to each agency, official, or program within the county that has any responsibility in assisting children and their parents or guardians in complying with Code Section 20-2-690.1.

(g) The committee shall write the summary of possible consequences and penalties for failing to comply with compulsory attendance under Code Section 20-2-690.1 for children and their parents, guardians, or

other persons who have control or charge of children for distribution by schools in accordance with Code Section 20-2-690.1. The summary of possible consequences for children shall include possible dispositions for unruly children and possible denial or suspension of a driver's license for a child in accordance with Code Section 40-5-22.

(h) The committee shall continue in existence after writing the student attendance protocol. The chief judge of the superior court of each county shall ensure that the committee meets at least quarterly during the first year, and twice annually thereafter, to evaluate compliance with the protocol, effectiveness of the protocol, and appropriate modifications.

(i) Each local board of education shall report student attendance rates to the committee and the State Board of Education at the end of each school year, according to a schedule established by the State Board of Education.

20-2-701. Responsibility for reporting truants to juvenile or other courts.

(a) Local school superintendents as applied to private schools, the Department of Education as applied to home study programs, or visiting teachers and attendance officers as applied to public schools, after written notice to the parent or guardian of a child, shall report to the juvenile or other court having jurisdiction under Chapter 11 of Title 15 any child who is absent from a public or private school or a home study program in violation of this subpart. If the judge of the court places such child in a home or in a public or private institution pursuant to Chapter 11 of Title 15, school shall be provided for such child. The Department of Education shall coordinate with local school superintendents with respect to attendance records and notification for students in home study programs.

(b) Local school superintendents or visiting teachers and attendance officers shall use their best efforts to notify any child 14 years of age or older who has only three absences remaining prior to violating the attendance requirements contained in subsection (a.1) of Code Section 40-5-22. Such notification shall be made via first-class mail.

(c) Local school superintendents or visiting teachers and attendance officers shall report to the State Board of Education, which shall, in turn, report to the Department of Driver Services any child 14 years of age or older who does not meet the attendance requirements contained in subsection (a.1) of Code Section 40-5-22. Such report shall include the child's name, current address, and social security number, if known.

ADMINISTRATIVE CODE

160-4-8-.12. Alternative/Non-traditional education programs.

(1) Definitions.

(c) Attendance Recovery Program - a type of alternative/non-traditional program designed to allow students the opportunity to make-up an absence(s) by attending a program outside the normal school day (e.g., Saturday program) that provides the equivalent instructional time and curriculum for the time the student was absent within the current academic year.

(3) Reporting requirements.

(b) Each LEA shall ensure that all Alternative/Non-traditional Education Program(s)/School(s) report to GaDOE both the number of actual absences (excused and unexcused) that students served by the Attendance Recovery Program incurred during the school year and the number of absences the students served by the Attendance Recovery Program recovered during the same school year.

160-4-8-.15. Student discipline.

(2) Requirements.

(a) Each local board of education shall adopt policies designed to improve the student learning environment by improving student behavior and discipline. These policies shall provide for the development of age appropriate student codes of conduct that contain the following, at a minimum:

7. Guidelines and consequences resulting from failure to comply with compulsory attendance as required under O .C.G.A § 20-2-690.1;

160-5-1-.10. Student attendance.

(1) Definitions.

(a) Foster Care Student – a student who is in a foster home or otherwise in the foster care system under the Division of Family and Children Services of the Department of Human Services.

(b) Student Attendance Protocol – procedures to be used in identifying, reporting, investigating and prosecuting cases of alleged violations of O.C.G.A. § 20-2-690.1, relating to mandatory school attendance and appropriately addressing the issue with parents and guardians. The protocol shall also include recommendations for policies relating to tardiness.

(c) Student Attendance Protocol Committee – a committee established, pursuant to O.C.G.A. § 20-2-690.2, by the chief judge of the superior court of each county for the purpose of ensuring coordination and cooperation among officials, agencies and programs involved in compulsory attendance issues, to reduce the number of unexcused absences from school, and to increase the percentage of students present to take tests which are required to be administered under the laws of this state.

(d) Student Teen Election Participant (STEP) – a program designed to permit fulltime public, private, and home schooled high school students the opportunity to volunteer to work as poll officers during any primary, special, or general election according to the provisions set forth in O.C.G.A. § 21-2-92.

(e) Truant – any child subject to compulsory attendance who during the school calendar year has more than five days of unexcused absences.

(2) Requirements.

(a) School days missed as a result of an out of school suspension shall not count as unexcused days for the purpose of determining student truancy.

(b) Local boards of education shall adopt policies and procedures excusing students from school under the following circumstances, as a minimum. Policies may require submission of appropriate documentation.

1. Personal illness or when attendance in school endangers the student's health or the health of others.

(i) Local boards of education may require students to present appropriate medical documentation upon return to school for the purpose of validating that the absence is an excused absence. With proper verification a student may be eligible for hospital/homebound instruction as outlined in State Board of Education Rule 160-4-2-.31 Hospital/Homebound (HHB) Services.

2. A serious illness or death in a student's immediate family necessitating absence from school.

(i) In the event of a serious illness in a student's immediate family, local boards of education may require students to present appropriate medical documentation regarding the family member upon return to school for the purpose of validating that the absence is an excused absence.

3. A court order or an order by a government agency, including preinduction physical examinations for service in the armed forces, mandating absence from school.

4. The observation of religious holidays, necessitating absence from school.

5. Conditions rendering attendance impossible or hazardous to student health or safety.

6. Registering to vote or voting in a public election, which shall not exceed one day.

7. A student whose parent or legal guardian is in military service in the armed forces of the United States or the National Guard, and such parent or legal guardian has been called to duty for or is on leave from overseas deployment to a combat zone or combat support posting, shall be granted excused absences, up to a maximum of five school days per school year, for the day or days missed from school to visit with his or her parent or legal guardian prior to such parent's or legal guardian's deployment or during such parent's or legal guardian's leave. Nothing in this Code section shall be construed to require a local school system to revise any policies relating to maximum number of excused and unexcused absences for any purposes. (O.C.G.A. § 20-2-692.1)

(c) Local boards of education shall count students present when they are serving as pages of the Georgia General Assembly as set forth in O.C.G.A. § 20-2-692.

(d) A foster care student who attends court proceedings relating to the student's foster care shall be credited as present by the school and shall not be counted as an absence, either excused or unexcused, for any day, portion of a day, or days missed from school as set forth in O.C.G.A. § 20-2-692.2

(e) A student who successfully participates in the Student Teen Election Participant (STEP) program shall be counted as present and given full credit for the school day during which he or she served in the STEP program. No student shall be permitted to be absent from school or participate in the STEP program for more than two school days per school year.

(f) Final course grades of students shall not be penalized because of absences if the following conditions are met:

1. Absences are justified and validated for excusable reasons.

2. Make up work for excused absences was completed satisfactorily.

(g) Local boards of education are not required to provide make-up work for unexcused absences.

(h) Nothing in this rule should be construed to encourage student absences or as an approval of excessive unexcused absences.

(i) To reduce unexcused absences, each local board of education shall adopt policies and procedures that shall include but are not limited to:

1. Requiring the school system to notify the parent, guardian or other person who has control or charge of the student when such student has five unexcused absences. The notice shall outline the penalty and consequences of such absences and that each subsequent absence shall constitute a separate offense. After two reasonable attempts to notify the parent, guardian or other person who has charge of the student, the school system shall send written notice via certified mail with return receipt requested, or first-class mail; and

2. Prior to any action to commence judicial proceedings to impose a penalty on a parent, guardian, or other person residing in this state who has control or charge of the school aged child for failing to comply with compulsory attendance, a school system shall send a notice to such parent, guardian, or other person by certified mail, return receipt requested; and

3. Requiring public schools to provide to the parent, guardian, or other person having control or charge of each student enrolled in public school a written summary of possible consequences and penalties for failing to comply with compulsory attendance. By September 1 of each school year or within 30 school days of a student's enrollment in the school system, the parent, guardian, or other person having control or charge of such student shall sign a statement indicating receipt of such written statement of possible consequences and penalties. After two reasonable attempts by the school to secure such signature or signatures, the school shall be considered to be in compliance with this subsection if it sends a copy of the statement, via certified mail, return receipt requested, or first-class mail, to such parent, guardian, or other person who has control or charge of a child, or

children. In addition, students age ten or older by September 1 shall sign a statement indicating receipt of written statement of possible consequences for noncompliance to the local system's policy.

(j) Each local board of education shall implement a progressive discipline process and a parental involvement process for truant students before referring the students to the juvenile or other court having jurisdiction.

(k) Each local board of education shall adopt policies requiring the local school superintendent or the superintendent's designee to use his or her best efforts including first class mail to notify a student age 14 and older when the student has only three absences remaining before violating the state's attendance requirements pursuant to O.C.G.A. § 40-5-22 regarding the denial of driver's permits and licenses.

(l) Each local board of education shall adopt as a part of the student codes of conduct developed pursuant to O.C.G.A. § 20-2-735 a definition of truancy that contains the minimum standards established by State Board of Education Rule 160-5-1-.10 Student Attendance and a summary of possible consequences and penalties for truancy. The summary of possible consequences for students shall include possible dispositions for unruly children in accordance with O.C.G.A. § 15-11-67, including the possible denial or suspension of a driver's license for a child.

(m) Pursuant to O.C.G.A. § 20-2-690.2, each local school system shall participate in a student attendance protocol committee. Independent school systems may participate in the committee in the county where the system is located. Independent school systems whose geographic area encompasses more than one county may select one of such counties in which to participate. An independent school system that elects not to participate in the committee of the county where it is located shall request the chief judge of the superior court of a county encompassed by its geographic area to establish an independent student attendance protocol committee.

1. The superintendent or the superintendent's designee of the local school system shall fully and actively assist in the planning, implementation, and evaluation activities of the local school system student attendance protocol committee.
2. The superintendent, a certificated school employee, a local school board member from each public school system in the county, and a certificated school social worker from each public school system, if any are employed by the school system, shall serve on the student attendance protocol committee.
3. Each local board of education shall consider and publicly announce its decisions regarding the recommendations of the student attendance protocol committee.
4. Each local board of education shall report annual student attendance rates to the student attendance protocol committee and the State Board of Education by September 1 following each school year.
5. The local school system shall be responsible for providing a copy of the written student attendance protocol to the Department by July 1, 2005, and upon any subsequent revisions or amendments.
6. The Department shall develop and disseminate exemplary model protocols that may be implemented by local boards of education.

Substance use

STATUTES

16-13-32.4. Manufacturing, distributing, dispensing, or possessing controlled substances in,on,or near public or private schools.

(a) It shall be unlawful for any person to manufacture, distribute, dispense, or possess with intent to distribute a controlled substance or marijuana in, on, or within 1,000 feet of any real property owned by or leased to any public or private elementary school, secondary school, or school board used for elementary or secondary education.

(b) Any person who violates or conspires to violate subsection (a) of this Code section shall be guilty of a felony and upon conviction shall receive the following punishment:

(1) Upon a first conviction, imprisonment for not more than 20 years or a fine of not more than $20,000.00, or both; or

(2) Upon a second or subsequent conviction, imprisonment for not less than five years nor more than 40 years or a fine of not more than $40,000.00, or both. It shall be mandatory for the court to impose a minimum sentence of five years which may not be suspended unless otherwise provided by law.

A sentence imposed under this Code section shall be served consecutively to any other sentence imposed.

(c) A conviction arising under this Code section shall not merge with a conviction arising under any other provision of this article.

(d) It shall be no defense to a prosecution for a violation of this Code section that:

(1) School was or was not in session at the time of the offense;

(2) The real property was being used for other purposes besides school purposes at the time of the offense; or

(3) The offense took place on a school vehicle.

(e) In a prosecution under this Code section, a map produced or reproduced by any municipal or county agency or department for the purpose of depicting the location and boundaries of the area on or within 1,000 feet of the real property of a school board or a private or public elementary or secondary school that is used for school purposes, or a true copy of the map, shall, if certified as a true copy by the custodian of the record, be admissible and shall constitute prima-facie evidence of the location and boundaries of the area, if the governing body of the municipality or county has approved the map as an official record of the location and boundaries of the area. A map approved under this Code section may be revised from time to time by the governing body of the municipality or county. The original of every map approved or revised under this subsection or a true copy of such original map shall be filed with the municipality or county and shall be maintained as an official record of the municipality or county. This subsection shall not preclude the prosecution from introducing or relying upon any other evidence or testimony to establish any element of this offense. This subsection shall not preclude the use or admissibility of a map or diagram other than the one which has been approved by the municipality or county.

(f) A county school board may adopt regulations requiring the posting of signs designating the areas within 1,000 feet of school boards and private or public elementary and secondary schools as "Drug-free School Zones."

(g) It is an affirmative defense to prosecution for a violation of this Code section that the prohibited conduct took place entirely within a private residence, that no person 17 years of age or younger was present in such private residence at any time during the commission of the offense, and that the

prohibited conduct was not carried on for purposes of financial gain. Nothing in this subsection shall be construed to establish an affirmative defense with respect to any offense under this chapter other than the offense provided for in subsection (a) of this Code section.

20-2-142. Prescribed courses.

(b) (1) The State Board of Education and the Board of Driver Services shall jointly establish an alcohol and drug course for the purpose of informing the young people of this state of the dangers involved in consuming alcohol or certain drugs in connection with the operation of a motor vehicle. The course shall be designed to generate greater interest in highway safety and accident prevention. The state board and the Board of Driver Services shall jointly, by rules or regulations, determine the contents of the course and its duration. The commissioner of driver services shall make available officers, employees, officials, agents, contractors, or other appropriate representatives as determined by the commissioner of driver services to teach the alcohol and drug course. The alcohol and drug course shall be offered periodically but not less than once annually in the public schools of this state to students in grades nine and above in the manner prescribed by the state board.

(2) The alcohol and drug course required by this subsection shall make available as a part of such course a voluntary parent or guardian participation component which substantially complies with the following requirements:

(A) A joint session with the parent or guardian and child which provides opportunities for parents or guardians to voluntarily participate in the guidance and delivery of the antidrug and antialcohol instruction; and

(B) A separate voluntary component solely for parental or guardian instruction that provides drug prevention strategies, legal accountability information, an opportunity for parent or guardian questions, and any other information that would offer parents or guardians a framework for the protection of their children from alcohol and other drug use.

(3) All schools with grade nine or above which receive funds in any manner from the state shall make available to eligible students and their parents or guardians the alcohol and drug course provided in this subsection.

(4) The commissioner of driver services shall make the alcohol and drug course, and instructors where necessary, available to the private schools in this state. In addition, the commissioner of driver services shall offer the alcohol and drug course periodically at various locations in this state in the manner provided by the Board of Driver Services. The commissioner shall also be authorized to offer such course electronically online or in such other manner as determined appropriate by the commissioner.

(c) The State Board of Education shall prescribe a course of study in health and physical education for all grades and grade levels in the public schools and shall establish minimum time requirements and standards for its administration. The course shall include instruction concerning the impact of alcohol, tobacco, and drug use upon health. A manual setting out the details of such courses of study shall be prepared or approved by the State School Superintendent in cooperation with the Department of Public Health, the state board, and such expert advisers as they may choose. The Department of Education is directed to assemble or develop instructional resources and materials concerning alcohol and drug abuse, taking into consideration technological enhancements available for utilization of such instructional resources.

(d) The funds allocated under Code Section 20-2-13 shall be used for the purpose of creating and maintaining state educational research services for purposes which shall include, but shall not be limited to, the following:

(1) For the development, production, and procurement of curriculum materials and units of instruction on the scientific facts in regard to the influence and effect of alcohol on human health and behavior and

on social and economic conditions, including suggested methods of instruction in ways of working with boys and girls and young people in the various age groups and grade levels of the public schools of the state, as aids to classroom teachers and others responsible for the conduct of the educational program in the public schools;

(2) For the publication, procurement, and dissemination of curriculum materials, units of instruction, and suggested methods of instruction relating to the influence and effect of alcohol on human health and behavior and on social and economic conditions for the school teachers and educational officials in the various local school systems of the state, the Department of Education, and the various educational institutions of the state which are engaged in the education and training of teachers; and

(3) For cooperative work, by and between the state educational research service and the local school systems of the state, the Department of Education, and the educational institutions of the state which are engaged in the education and training of teachers, through conferences, study groups, demonstrations of methods and materials of instruction, and other means.

(e) The state board is authorized to expend such amounts as may be necessary of the moneys allocated to it under Code Section 20-2-13 for the employment of a specialist or specialists or for contracting for the services of specialists in research and in development and production of curriculum materials and units of instruction on the scientific facts in regard to the influence of alcohol on human health and behavior and on social and economic conditions, including methods of instruction; for the employment of secretarial and clerical assistants and other office expenses; for expenses of conferences, study groups, and demonstrations; and for all other expenses necessary in carrying out the purposes of this Code section.

(f) The state board shall make available uniformly to the public schools of the state and the educational institutions of the state engaged in the education and training of teachers the curriculum materials, the units of instruction, and the suggested methods of instruction which are developed under this Code section.

ADMINISTRATIVE CODE

160-4-2-.12. Comprehensive health and physical education program plan.

(1) Definitions.

(a) Alcohol and other drug use education – a planned program of instruction that provides information about the use, misuse and abuse of alcohol, tobacco, legal and illegal drugs.

(2) Requirements.

(a) The local board of education shall develop and implement an accurate, comprehensive health and physical education program that shall include information and concepts in the following areas.

1. Alcohol and other drug use

(d) Each school containing any grade K-12 shall provide alcohol and other drug use education on an annual basis at each grade level.

160-4-7-.10. Discipline.

(5) Special circumstances.

(a) School personnel may remove a child to an interim alternative educational setting for not more than 45 school days without regard to whether the behavior is determined to be a manifestation of the child's disability, if the child :

2. Knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance, while at school, on school premises, or to a school function under the jurisdiction of the State or the LEA ; or

(7) Definitions.

For purpose of this section, the following definitions apply:

(a) Controlled substance - a drug or other substance identified under schedules I, 11, 111, IV , or V in section 202(c) of the Controlled Substances A ct (21 U .S .C . 812(c)).

(b) Illegal drug - a controlled substance ; but does not include a controlled substance that is legally possessed or used under the supervision of a licensed health-care professional or that is legally possessed or used under any other authority under that A ct or under any other provision of Federal law.

160-4-8-.15. Student discipline.

(2) Requirements.

12. Unlawful use or possession of illegal drugs or alcohol;

Bullying, harassment, or hazing

STATUTES

20-2-751.4. Policies prohibiting bullying; assignment to alternative school; notice.

(a) As used in this Code section, the term "bullying" means an act which occurs on school property, on school vehicles, at designated school bus stops, or at school related functions or activities, or by use of data or software that is accessed through a computer, computer system, computer network, or other electronic technology of a local school system, that is:

(1) Any willful attempt or threat to inflict injury on another person, when accompanied by an apparent present ability to do so;

(2) Any intentional display of force such as would give the victim reason to fear or expect immediate bodily harm; or

(3) Any intentional written, verbal, or physical act which a reasonable person would perceive as being intended to threaten, harass, or intimidate, that:

(A) Causes another person substantial physical harm within the meaning of Code Section 16-5-23.1 or visible bodily harm as such term is defined in Code Section 16-5-23.1;

(B) Has the effect of substantially interfering with a student's education;

(C) Is so severe, persistent, or pervasive that it creates an intimidating or threatening educational environment; or

(D) Has the effect of substantially disrupting the orderly operation of the school.

(b) No later than August 1, 2011:

(1) Each local board of education shall adopt a policy that prohibits bullying of a student by another student and shall require such prohibition to be included in the student code of conduct for schools in that school system;

(2) Each local board policy shall require that, upon a finding by the disciplinary hearing officer, panel, or tribunal of school officials provided for in this subpart that a student in grades six through 12 has committed the offense of bullying for the third time in a school year, such student shall be assigned to an alternative school;

(3) Each local board of education shall establish and publish in its local board policy a method to notify the parent, guardian, or other person who has control or charge of a student upon a finding by a school administrator that such student has committed an offense of bullying or is a victim of bullying; and

(4) Each local board of education shall ensure that students and parents of students are notified of the prohibition against bullying, and the penalties for violating the prohibition, by posting such information at each school and by including such information in student and parent handbooks.

(c) No later than January 1, 2011, the Department of Education shall develop a model policy regarding bullying, that may be revised from time to time, and shall post such policy on its website in order to assist local school systems. Such model policy shall include:

(1) A statement prohibiting bullying;

(2) A requirement that any teacher or other school employee who has reliable information that would lead a reasonable person to suspect that someone is a target of bullying shall immediately report it to the school principal;

(3) A requirement that each school have a procedure for the school administration to promptly investigate in a timely manner and determine whether bullying has occurred;

(4) An age-appropriate range of consequences for bullying which shall include, at minimum and without limitation, disciplinary action or counseling as appropriate under the circumstances;

(5) A procedure for a teacher or other school employee, student, parent, guardian, or other person who has control or charge of a student, either anonymously or in such person's name, at such person's option, to report or otherwise provide information on bullying activity;

(6) A statement prohibiting retaliation following a report of bullying; and

(7) Provisions consistent with the requirements of subsection (b) of this Code section.

(d) The Department of Education shall develop and post on its website a list of entities and their contact information which produce antibullying training programs and materials deemed appropriate by the department for use in local school systems.

(e) Any person who reports an incident of bullying in good faith shall be immune from civil liability for any damages caused by such reporting.

(f) Nothing in this Code section or in the model policy promulgated by the Department of Education shall be construed to require a local board of education to provide transportation to a student transferred to another school as a result of a bullying incident.

(g) Any school system which is not in compliance with the requirements of subsection (b) of this Code section shall be ineligible to receive state funding pursuant to Code Sections 20-2-161 and 20-2-260.

ADMINISTRATIVE CODE

160-4-8-.15. Student discipline.

(2) Requirements.

(a) Each local board of education shall adopt policies designed to improve the student learning environment by improving student behavior and discipline. These policies shall provide for the development of age appropriate student codes of conduct that contain the following, at a minimum:

14. Bullying as defined in O.C.G.A. § 20-2-751.4;

16. Each local board of education shall adopt policies, applicable to students in grades 6 through 12 that prohibit bullying of a student by another student and shall require such prohibition to be included in the student code of conduct in that school system. Local board policies shall require that, upon a finding that a student in grades 6 through 12 has committed the offense of bullying for the third time in a school year, such student shall be assigned to an alternative school.

Other special infractions or conditions

STATUTES

20-2-751.5. Student codes of conduct; safety rules on school buses; distribution.

(a) Each student code of conduct shall contain provisions that address the following conduct of students during school hours, at school related functions, and on the school bus in a manner that is appropriate to the age of the student:

(1) Verbal assault, including threatened violence, of teachers, administrators, and other school personnel;

(2) Physical assault or battery of teachers, administrators, and other school personnel;

(3) Disrespectful conduct toward teachers, administrators, and other school personnel, including use of vulgar or profane language;

(4) Verbal assault of other students, including threatened violence or sexual harassment as defined pursuant to Title IX of the Education Amendments of 1972;

(5) Physical assault or battery of other students, including sexual harassment as defined pursuant to Title IX of the Education Amendments of 1972;

(6) Disrespectful conduct toward other students, including use of vulgar or profane language;

(7) Verbal assault of, physical assault or battery of, and disrespectful conduct, including use of vulgar or profane language, toward persons attending school related functions;

(8) Failure to comply with compulsory attendance as required under Code Section 20-2-690.1;

(9) Willful or malicious damage to real or personal property of the school or to personal property of any person legitimately at the school;

(10) Inciting, advising, or counseling of others to engage in prohibited acts;

(11) Marking, defacing, or destroying school property;

(12) Possession of a weapon, as provided for in Code Section 16-11-127.1;

(13) Unlawful use or possession of illegal drugs or alcohol;

(14) Willful and persistent violation of the student code of conduct;

(15) Bullying as defined by Code Section 20-2-751.4;

(16) Marking, defacing, or destroying the property of another student; and

(17) Falsifying, misrepresenting, omitting, or erroneously reporting information regarding instances of alleged inappropriate behavior by a teacher, administrator, or other school employee toward a student.

With regard to paragraphs (9), (11), and (17) of this subsection, each student code of conduct shall also contain provisions that address conduct of students during off-school hours.

ADMINISTRATIVE CODE

160-4-8-.15. Student discipline.

(2) Requirements.

(a) Each local board of education shall adopt policies designed to improve the student learning environment by improving student behavior and discipline. These policies shall provide for the development of age appropriate student codes of conduct that contain the following, at a minimum:

1. Standards for student behavior during school hours, at school-related functions, on school buses, and at school bus stops designed to create the expectation that students will behave themselves in

such a way so as to facilitate a learning environment for themselves and other students, respect each other and school district employees, obey student behavior policies adopted by the local board of education, and obey student behavior rules established by individual schools;

2. Verbal assault, including threatening violence, of teachers, administrators, and other school personnel;

3. Physical assault or battery of teachers, administrators or other school personnel;

4. Disrespectful conduct toward teachers, administrators, other school personnel, persons attending school related functions or other students, including use of vulgar or profane language;

5. Verbal assault of other students, including threatening violence or sexual harassment as defined pursuant to Title IX of the Education Amendments of 1972;

6. Sexual harassment as defined pursuant to Title IX of the Education Amendments of 1972 or physical assault or battery of other students.

7. Guidelines and consequences resulting from failure to comply with compulsory attendance as required under O .C.G.A § 20-2-690.1;

8. Willful or malicious damage to real or personal property of the school or to personal property of any person legitimately at the school;

9. Inciting, advising, or counseling of others to engage in prohibited acts;

10. Marking, defacing or destroying school property or the property of another student;

11. Possession of a weapon, as provided for in O.C.G.A. § 16-11-127.1;

12. Unlawful use or possession of illegal drugs or alcohol;

13. Willful and persistent violation of student codes of conduct;

14. Bullying as defined in O.C.G.A. § 20-2-751.4;

15. Any off-campus behavior of a student which could result in the student being criminally charged with a felony and which makes the student's continued presence at school a potential danger to persons or property at the school or which disrupts the educational process;

Prevention and Behavioral Interventions (Non-Punitive)

Prevention

STATUTES

20-2-142. Prescribed courses.

(b) (1) The State Board of Education and the Board of Driver Services shall jointly establish an alcohol and drug course for the purpose of informing the young people of this state of the dangers involved in consuming alcohol or certain drugs in connection with the operation of a motor vehicle. The course shall be designed to generate greater interest in highway safety and accident prevention. The state board and the Board of Driver Services shall jointly, by rules or regulations, determine the contents of the course and its duration. The commissioner of driver services shall make available officers, employees, officials, agents, contractors, or other appropriate representatives as determined by the commissioner of driver services to teach the alcohol and drug course. The alcohol and drug course shall be offered periodically but not less than once annually in the public schools of this state to students in grades nine and above in the manner prescribed by the state board.

(2) The alcohol and drug course required by this subsection shall make available as a part of such course a voluntary parent or guardian participation component which substantially complies with the following requirements:

(A) A joint session with the parent or guardian and child which provides opportunities for parents or guardians to voluntarily participate in the guidance and delivery of the antidrug and antialcohol instruction; and

(B) A separate voluntary component solely for parental or guardian instruction that provides drug prevention strategies, legal accountability information, an opportunity for parent or guardian questions, and any other information that would offer parents or guardians a framework for the protection of their children from alcohol and other drug use.

(3) All schools with grade nine or above which receive funds in any manner from the state shall make available to eligible students and their parents or guardians the alcohol and drug course provided in this subsection.

(4) The commissioner of driver services shall make the alcohol and drug course, and instructors where necessary, available to the private schools in this state. In addition, the commissioner of driver services shall offer the alcohol and drug course periodically at various locations in this state in the manner provided by the Board of Driver Services. The commissioner shall also be authorized to offer such course electronically online or in such other manner as determined appropriate by the commissioner.

(c) The State Board of Education shall prescribe a course of study in health and physical education for all grades and grade levels in the public schools and shall establish minimum time requirements and standards for its administration. The course shall include instruction concerning the impact of alcohol, tobacco, and drug use upon health. A manual setting out the details of such courses of study shall be prepared or approved by the State School Superintendent in cooperation with the Department of Public Health, the state board, and such expert advisers as they may choose. The Department of Education is directed to assemble or develop instructional resources and materials concerning alcohol and drug abuse, taking into consideration technological enhancements available for utilization of such instructional resources.

(d) The funds allocated under Code Section 20-2-13 shall be used for the purpose of creating and maintaining state educational research services for purposes which shall include, but shall not be limited to, the following:

(1) For the development, production, and procurement of curriculum materials and units of instruction on the scientific facts in regard to the influence and effect of alcohol on human health and behavior and on social and economic conditions, including suggested methods of instruction in ways of working with boys and girls and young people in the various age groups and grade levels of the public schools of the state, as aids to classroom teachers and others responsible for the conduct of the educational program in the public schools;

(2) For the publication, procurement, and dissemination of curriculum materials, units of instruction, and suggested methods of instruction relating to the influence and effect of alcohol on human health and behavior and on social and economic conditions for the school teachers and educational officials in the various local school systems of the state, the Department of Education, and the various educational institutions of the state which are engaged in the education and training of teachers; and

(3) For cooperative work, by and between the state educational research service and the local school systems of the state, the Department of Education, and the educational institutions of the state which are engaged in the education and training of teachers, through conferences, study groups, demonstrations of methods and materials of instruction, and other means.

(e) The state board is authorized to expend such amounts as may be necessary of the moneys allocated to it under Code Section 20-2-13 for the employment of a specialist or specialists or for contracting for the services of specialists in research and in development and production of curriculum materials and units of instruction on the scientific facts in regard to the influence of alcohol on human health and behavior and on social and economic conditions, including methods of instruction; for the employment of secretarial and clerical assistants and other office expenses; for expenses of conferences, study groups, and demonstrations; and for all other expenses necessary in carrying out the purposes of this Code section.

(f) The state board shall make available uniformly to the public schools of the state and the educational institutions of the state engaged in the education and training of teachers the curriculum materials, the units of instruction, and the suggested methods of instruction which are developed under this Code section.

20-2-145. Comprehensive character education program.

(a) The State Board of Education shall develop by the start of the 1997-1998 school year a comprehensive character education program for levels K-12. This comprehensive character education program shall be known as the "character curriculum" and shall focus on the students' development of the following character traits: courage, patriotism, citizenship, honesty, fairness, respect for others, kindness, cooperation, self-respect, self-control, courtesy, compassion, tolerance, diligence, generosity, punctuality, cleanliness, cheerfulness, school pride, respect for the environment, respect for the creator, patience, creativity, sportsmanship, loyalty, perseverance, and virtue. Such program shall also address, by the start of the 1999-2000 school year, methods of discouraging bullying and violent acts against fellow students. Local boards shall implement such a program in all grade levels at the beginning of the 2000-2001 school year and shall provide opportunities for parental involvement in establishing expected outcomes of the character education program.

(b) The Department of Education shall develop character education program workshops designed for employees of local school systems.

20-2-155. School climate management program; model codes of behavior and discipline.

The State Board of Education shall establish a state-wide school climate management program to help local schools and systems requesting assistance in developing school climate improvement and management processes. Such projects will be designed to optimize local resources through voluntary community, student, teacher, administrator, and other school personnel participation. These processes will be designed for, but will not be limited to, promoting positive gains in student achievement scores, student and teacher morale, community support, and student and teacher attendance, while decreasing student suspensions, expulsions, dropouts, and other negative aspects of the total school environment. The state board upon request of a local school system is authorized to provide the necessary on-site technical assistance to local schools and systems and to offer other assistance through regional and state-wide conferences and workshops, printed material, and such other assistance as may be deemed appropriate under this Code section. The state board shall, upon request of a local school system, produce model codes of behavior and discipline and shall produce guidelines for application and administration of such codes. The results of this program shall be annually presented to the General Assembly for review in determining future appropriations for state-level technical assistance necessary to perform the duties assigned to the state board under this Code section.

20-2-314. Development of rape prevention, personal safety education, and teen dating violence prevention programs.

The State Board of Education shall develop, with input from appropriate experts, such as rape crisis centers and family violence shelters, a rape prevention and personal safety education program and a program for preventing teen dating violence for grade eight through grade 12 which are consistent with the core curriculum provided for in Code Section 20-2-140. Local boards may implement such programs at any time and for any grade level local boards find appropriate, and the state board shall encourage the implementation of such programs. In addition, the state board shall make information regarding such programs available to the Board of Regents of the University System of Georgia.

20-2-739. Conflict management resolution; cultural diversity training program.

On and after July 1, 2000, the Department of Education shall provide training programs in conflict management and resolution and in cultural diversity for voluntary implementation by local boards of education for school employees, parents and guardians, and students.

ADMINISTRATIVE CODE

160-4-2-.12. Comprehensive health and physical education program plan.

(1) Definitions.

(a) Alcohol and other drug use education – a planned program of instruction that provides information about the use, misuse and abuse of alcohol, tobacco, legal and illegal drugs.

(2) Requirements.

(a) The local board of education shall develop and implement an accurate, comprehensive health and physical education program that shall include information and concepts in the following areas.

1. Alcohol and other drug use

(d) Each school containing any grade K-12 shall provide alcohol and other drug use education on an annual basis at each grade level.

Behavioral interventions and student support services

STATUTES

20-2-735. Adoption of policies by local boards to improve student learning environment.

(c) Student support processes developed pursuant to this subpart shall be designed to create the expectation that the process of disciplining students will include due consideration, as appropriate in light of the severity of the behavioral problem, of student support services that may help the student address behavioral problems and that may be available through the school, the school system, other public entities, or community organizations.

ADMINISTRATIVE CODE

160-4-8-.O1. Student support services.

(1) Definitions.

(a) Alternative Education Program (AEP) - an educational program that serves students who are eligible to remain in the regular classroom but are more likely to succeed in a nontraditional setting such as that provided in an alternative education program, as well as students who are excluded from the regular classroom because of disciplinary reasons.

(b) Counseling - a process where some students receive assistance from professionals who assist them to overcome emotional and social problems or concerns which may interfere with learning.

(c) Guidance - a process of regular assistance that all students receive from parents, teachers, school counselors, and others to assist them in making appropriate educational and career choices.

(d) School Climate Management -systematic plan for addressing the factors that affect school climate including a consistent management style and leadership by the principal, a code of expected behavior, a code of disciplinary responses, a code of ethics for educators, a Student Support Team, delivery of counseling and psychological mental health services, methods to reduce absences and increase attendance, physical health support services, efforts to enlist parent and community support, utilization of volunteers, support by and for the parent teacher organization, a preventive safety pl an and a crisis response plan, staff development, and the maintenance program for the school 's physical plant.

(e) School Counseling and Guidance Services - guidance program planning, implementation and evaluation; individual and group counseling; classroom and smallgroup guidance; career and educational development; parent and teacher consultation; and referral.

(f) School Health Services - a process to address medically related health and safety issues and address requests by parents and physicians that the school provide appropriate health procedures to allow students to remain in school and increase opportunities for academic success.

(g) School Psychological Services - psychoeducational evaluation; crisis intervention; case study; consultation to student support teams, parents, teachers, and administrators; behavioral observations and analysis; and psychological counseling.

(h) School Social Work/Visiting Teacher Services - technical assistance on school climate issues; assessment and intervention, including written social histories; individual, group, and family counseling; and networking of appropriate home, school, and community services to address identified student problems.

(i) Student Support Services (SSS) - integrated and collaborative programs of school counseling and guidance services, school climate management and student discipline, school health services, school psychology services, alternative education programs, and school social work/visiting teacher services, provided individually or through a team approach, to all students at all grade levels.

(2) Requirements.

(a) Each local school system shall develop a Student Services Plan that prescribes and identifies programs and services that incorporate school climate improvement and management processes.

(b) Each Student Services Plan must minimally include guidelines for the systematic provision of the following components:

1. Alternative education programs
2. School psychological services
3. School climate management
4. School counseling and guidance services
5. School health services
6. School social work/visiting teacher services

(c) The local board of education (LBOE) shall provide for a School Climate Management Process to include improved student behavior and discipline in accordance with state and federal laws and State Board of Education rules regarding the Improved Student Learning Environment and Discipline Act of 1999.

(d) The LBOE shall provide for School Guidance and Counseling Services in accordance with state and federal laws, State Board of Education rules, and department guidelines.

(e) The LBOE shall provide School Social Work/Visiting Teacher Services by promoting home, school, and community cooperation to address the needs of the at-risk student population characterized by poverty, high absenteeism, academic failure, pregnancy, disruptive behavior or other student dysfunctions.

(f) The LBOE shall provide for School Psychological Services sufficient to satisfy federal and state regulations and additional legal obligations incurred through court agreement.

(g) The LBOE shall provide an Alternative Education Program in accordance with state and federal laws, State Board of Education rules, and department guidelines.

(h) The LBOE shall provide for a School Health Nurse Program and must establish policies and procedures regarding a School Health Nurse Program in accordance with state and federal laws.

160-4-8-.15. Student discipline.

(2) Requirements.

17. Behavior support processes designed to consider, as appropriate in light of the severity of the behavioral problem, support services that may be available through the school, school system, other public entities, or community organizations that may help the student address behavioral problems; This rule neither mandates nor prohibits the use of student support teams as part of the student support process;

Professional development

STATUTES

20-2-145. Comprehensive character education program.

(a) The State Board of Education shall develop by the start of the 1997-1998 school year a comprehensive character education program for levels K-12. This comprehensive character education program shall be known as the "character curriculum" and shall focus on the students' development of the following character traits: courage, patriotism, citizenship, honesty, fairness, respect for others, kindness,

cooperation, self-respect, self-control, courtesy, compassion, tolerance, diligence, generosity, punctuality, cleanliness, cheerfulness, school pride, respect for the environment, respect for the creator, patience, creativity, sportsmanship, loyalty, perseverance, and virtue. Such program shall also address, by the start of the 1999-2000 school year, methods of discouraging bullying and violent acts against fellow students. Local boards shall implement such a program in all grade levels at the beginning of the 2000-2001 school year and shall provide opportunities for parental involvement in establishing expected outcomes of the character education program.

(b) The Department of Education shall develop character education program workshops designed for employees of local school systems.

20-2-155. School climate management program; model codes of behavior and discipline.

The State Board of Education shall establish a state-wide school climate management program to help local schools and systems requesting assistance in developing school climate improvement and management processes. Such projects will be designed to optimize local resources through voluntary community, student, teacher, administrator, and other school personnel participation. These processes will be designed for, but will not be limited to, promoting positive gains in student achievement scores, student and teacher morale, community support, and student and teacher attendance, while decreasing student suspensions, expulsions, dropouts, and other negative aspects of the total school environment. The state board upon request of a local school system is authorized to provide the necessary on-site technical assistance to local schools and systems and to offer other assistance through regional and state-wide conferences and workshops, printed material, and such other assistance as may be deemed appropriate under this Code section. The state board shall, upon request of a local school system, produce model codes of behavior and discipline and shall produce guidelines for application and administration of such codes. The results of this program shall be annually presented to the General Assembly for review in determining future appropriations for state-level technical assistance necessary to perform the duties assigned to the state board under this Code section.

20-2-739. Conflict management resolution; cultural diversity training program.

On and after July 1, 2000, the Department of Education shall provide training programs in conflict management and resolution and in cultural diversity for voluntary implementation by local boards of education for school employees, parents and guardians, and students.

ADMINISTRATIVE CODE

160-5-1-.35 Seclusion and restraint for all students.

(2) Requirements. The written policies must include the following provisions:

(g) 1. Staff and faculty training on the use of physical restraint and the school or programs policy and procedures,

(h) Schools and programs that use physical restraints in accordance with paragraph (2)(e) of this rule, must ensure that staff and faculty are trained in the use of physical restraint. This training shall be provided as a part of a program which addresses a full continuum of positive behavioral intervention strategies as well as prevention and deescalation techniques. Schools and programs must maintain written or electronic documentation on training provided and the list of participants in each training. Records of such training must be made available to the Georgia Department of Education or any member of the public upon request.

Monitoring and Accountability

Formal incident reporting of conduct violations

STATUTES

20-2-737. Reports by teacher of violations of student code of conduct; notification to parents of support services or disciplinary action.

(a) Local board policies adopted pursuant to Code Section 20-2-735 shall require the filing of a report by a teacher who has knowledge that a student has exhibited behavior that repeatedly or substantially interferes with the teacher's ability to communicate effectively with the students in his or her class or with the ability of such student's classmates to learn, where such behavior is in violation of the student code of conduct. Such report shall be filed with the principal or the principal's designee within one school day of the most recent occurrence of such behavior, shall not exceed one page, and shall describe the behavior. The principal or the principal's designee shall, within one school day after receiving such a report from a teacher, send to the student's parents or guardian a copy of the report and information regarding how the student's parents or guardians may contact the principal or the principal's designee.

(b) If student support services are utilized or if disciplinary action is taken in response to such a report by the principal or the principal's designee, the principal or the principal's designee shall send written notification to the teacher and the student's parents or guardians of the student support services being utilized or the disciplinary action taken within one school day after such utilization or action and shall make a reasonable attempt to confirm that such written notification has been received by the student's parents or guardians. Such written notification shall include information regarding how the student's parents or guardians may contact the principal or the principal's designee.

20-2-1184. Reporting of students committing prohibited acts.

(a) Any teacher or other person employed at any public or private elementary or secondary school or any dean or public safety officer employed by a college or university who has reasonable cause to believe that a student at that school has committed any act upon school property or at any school function, which act is prohibited by any of the following:

(1) Code Section 16-5-21, relating to aggravated assault if a firearm is involved;

(2) Code Section 16-5-24, relating to aggravated battery;

(3) Chapter 6 of Title 16, relating to sexual offenses;

(4) Code Section 16-11-127, relating to carrying a weapon or long gun in an unauthorized location;

(5) Code Section 16-11-127.1, relating to carrying weapons at school functions or on school property or within school safety zones;

(6) Code Section 16-11-132, relating to the illegal possession of a handgun by a person under 18 years of age; or

(7) Code Section 16-13-30, relating to possession and other activities regarding marijuana and controlled substances, shall immediately report the act and the name of the student to the principal or president of that school or the principal's or president's designee.

(b) The principal or designee who receives a report made pursuant to subsection (a) of this Code section who has reasonable cause to believe that the report is valid shall make an oral report thereof immediately by telephone or otherwise to the appropriate school system superintendent and to the appropriate police authority and district attorney.

(c) Any person participating in the making of a report or causing a report to be made as authorized or required pursuant to this Code section or participating in any judicial proceeding or any other proceeding resulting there from shall in so doing be immune from any civil or criminal liability that might otherwise be incurred or imposed, providing such participation pursuant to this Code section is made in good faith.

(d) Any person required to make a report pursuant to this Code section who knowingly and willfully fails to do so shall be guilty of a misdemeanor.

ADMINISTRATIVE CODE

160-4-8-.15. Student discipline.

(2) Requirements.

(g) Local board policies shall require the filing of a report by a teacher documenting a student's violation of the student code of conduct which repeatedly or substantially interferes with the teacher's ability to communicate effectively with the students in his or her class or with the ability of such student's classmates to learn within one school day of the most recent occurrence of such behavior. The report shall be filed with the principal or principal's designee, shall not exceed one page, and shall describe the behavior. The principal or principal's designee shall, within one day of receiving such report, send to the student's parents or guardians a copy of the report, and information regarding how the principal or principal's designee may be contacted.

Parental notification

STATUTES

20-2-701. Responsibility for reporting truants to juvenile or other courts.

(a) Local school superintendents as applied to private schools, the Department of Education as applied to home study programs, or visiting teachers and attendance officers as applied to public schools, after written notice to the parent or guardian of a child, shall report to the juvenile or other court having jurisdiction under Chapter 11 of Title 15 any child who is absent from a public or private school or a home study program in violation of this subpart. If the judge of the court places such child in a home or in a public or private institution pursuant to Chapter 11 of Title 15, school shall be provided for such child. The Department of Education shall coordinate with local school superintendents with respect to attendance records and notification for students in home study programs.

(b) Local school superintendents or visiting teachers and attendance officers shall use their best efforts to notify any child 14 years of age or older who has only three absences remaining prior to violating the attendance requirements contained in subsection (a.1) of Code Section 40-5-22. Such notification shall be made via first-class mail.

20-2-731. When and how corporal punishment may be administered.

(4) The principal or teacher who administered corporal punishment must provide the child's parent, upon request, a written explanation of the reasons for the punishment and the name of the principal or assistant principal, or designee of the principal or assistant principal, who was present; provided, however, that such an explanation shall not be used as evidence in any subsequent civil action brought as a result of the corporal punishment;

20-2-737. Reports by teacher of violations of student code of conduct; notification to parents of support services or disciplinary action.

(a) Local board policies adopted pursuant to Code Section 20-2-735 shall require the filing of a report by a teacher who has knowledge that a student has exhibited behavior that repeatedly or substantially interferes with the teacher's ability to communicate effectively with the students in his or her class or with the ability of such student's classmates to learn, where such behavior is in violation of the student code of conduct. Such report shall be filed with the principal or the principal's designee within one school day of the most recent occurrence of such behavior, shall not exceed one page, and shall describe the behavior. The principal or the principal's designee shall, within one school day after receiving such a report from a teacher, send to the student's parents or guardian a copy of the report and information regarding how the student's parents or guardians may contact the principal or the principal's designee.

(b) If student support services are utilized or if disciplinary action is taken in response to such a report by the principal or the principal's designee, the principal or the principal's designee shall send written notification to the teacher and the student's parents or guardians of the student support services being utilized or the disciplinary action taken within one school day after such utilization or action and shall make a reasonable attempt to confirm that such written notification has been received by the student's parents or guardians. Such written notification shall include information regarding how the student's parents or guardians may contact the principal or the principal's designee.

20-2-738. Authority of teacher over classroom; procedures following removal of student from classroom; placement review committees.

(f) Within one school day of taking action pursuant to subsection (e) of this Code section, the principal or the principal's designee shall send written notification of such action to the teacher and the parents or guardians of the student and shall make a reasonable attempt to confirm that such written notification has been received by the student's parents or guardians.

(g) Parents or guardians of a student who has been removed from class pursuant to subsection (b) of this Code section may be required to participate in conferences that may be requested by the principal or the principal's designee; provided, however, that a student may not be penalized for the failure of his or her parent or guardian to attend such a conference.

(h) The procedures contained in this Code section relating to student conferences and notification of parents or guardians are minimum requirements. Nothing in this Code section shall be construed to limit the authority of a local board of education to establish additional requirements relating to student conferences, notification of parents or guardians, conferences with parents or guardians, or other procedures required by the Constitutions of the United States or this state.

20-2-751.4. Policies prohibiting bullying; assignment to alternative school; notice.

(3) Each local board of education shall establish and publish in its local board policy a method to notify the parent, guardian, or other person who has control or charge of a student upon a finding by a school administrator that such student has committed an offense of bullying or is a victim of bullying; and

20-2-765. Notification of parent or guardian of chronic disciplinary problem student; observance of child by parent or guardian; attendance of conference with principal or teacher or both.

Any time a teacher or principal identifies a student as a chronic disciplinary problem student, the principal shall notify by telephone call and by either certified mail or statutory overnight delivery with return receipt requested or first-class mail the student's parent or guardian of the disciplinary problem, invite such parent or guardian to observe the student in a classroom situation, and request at least one parent or guardian to attend a conference with the principal or the teacher or both to devise a disciplinary and behavioral correction plan.

ADMINISTRATIVE CODE

160-4-7-.10. Discipline.

(6) Notification.

(a) On the date on which the decision is made to make a removal that constitutes a change of placement of a child with a disability because of a violation of a code of child conduct, the LEA must notify the parents of that decision, and provide the parents the procedural safeguards notice described in Rule 160-4-7- .09 Procedural Safeguards.

160-4-8-.15. Student discipline.

(2) Requirements.

(g) Local board policies shall require the filing of a report by a teacher documenting a student's violation of the student code of conduct which repeatedly or substantially interferes with the teacher's ability to communicate effectively with the students in his or her class or with the ability of such student's classmates to learn within one school day of the most recent occurrence of such behavior. The report shall be filed with the principal or principal's designee, shall not exceed one page, and shall describe the behavior. The principal or principal's designee shall, within one day of receiving such report, send to the student's parents or guardians a copy of the report, and information regarding how the principal or principal's designee may be contacted.

(h) The principal or the principal's designee shall send written notification to the teacher and to the student's parents or guardians of the student support services being utilized or the disciplinary action taken within one school day and shall make a reasonable attempt to confirm receipt of such written notification by the student's parents or guardians. Written notification shall include information regarding how student's parents or guardians may contact the principal or principal's designee.

160-5-1-.10. Student attendance.

(2) Requirements.

(i) To reduce unexcused absences, each local board of education shall adopt policies and procedures that shall include but are not limited to:

1. Requiring the school system to notify the parent, guardian or other person who has control or charge of the student when such student has five unexcused absences. The notice shall outline the penalty and consequences of such absences and that each subsequent absence shall constitute a separate offense. After two reasonable attempts to notify the parent, guardian or other person who has charge of the student, the school system shall send written notice via certified mail with return receipt requested, or first-class mail; and

2. Prior to any action to commence judicial proceedings to impose a penalty on a parent, guardian, or other person residing in this state who has control or charge of the school aged child for failing to comply with compulsory attendance, a school system shall send a notice to such parent, guardian, or other person by certified mail, return receipt requested; and

3. Requiring public schools to provide to the parent, guardian, or other person having control or charge of each student enrolled in public school a written summary of possible consequences and penalties for failing to comply with compulsory attendance. By September 1 of each school year or within 30 school days of a student’s enrollment in the school system, the parent, guardian, or other person having control or charge of such student shall sign a statement indicating receipt of such written statement of possible consequences and penalties. After two reasonable attempts by the school to secure such signature or signatures, the school shall be considered to be in compliance with this subsection if it sends a copy of the statement, via certified mail, return receipt requested, or

first-class mail, to such parent, guardian, or other person who has control or charge of a child, or children. In addition, students age ten or older by September 1 shall sign a statement indicating receipt of written statement of possible consequences for noncompliance to the local system's policy.

(j) Each local board of education shall implement a progressive discipline process and a parental involvement process for truant students before referring the students to the juvenile or other court having jurisdiction.

160-5-1-.35 Seclusion and restraint for all students.

(2) Requirements.

(g) Schools and programs that use physical restraint in accordance with paragraph (2)(e) of this rule must develop and implement written policies to govern the use of physical restraint. Parents must be provided information regarding the school or program's policies governing the use of physical restraint. The written policies must include the following provisions:

2. Written parental notification when physical restraint is used to restrain their student within a reasonable time not to exceed one school day from the use of restraint,

Reporting and referrals between schools and law enforcement

STATUTES

15-11-80. Notice to school officials.

Within 30 days of any proceeding in which a child is adjudicated delinquent for a second or subsequent time or any adjudicatory proceeding involving a designated felony, the court shall provide written notice to the school superintendent or his or her designee of the school in which such child is enrolled or, if the information is known, of the school in which such child plans to be enrolled at a future date. Such notice shall include the specific delinquent act or designated felony act that such child committed.

15-11-84. Name and addresses of children fingerprinted and offenses.

(a) As used in this Code section, the term "governmental entity" shall mean the court, superior court, the Department of Juvenile Justice, the Department of Behavioral Health and Developmental Disabilities, the Division of Family and Children Services of the Department of Human Services, county departments of family and children services, or public school, as such term is defined in Code Section 16-11-35.

(b) Governmental entities and state, county, municipal, or consolidated government departments, boards, or agencies shall exchange with each other all information not held as confidential pursuant to federal law and relating to a child which may aid a governmental entity in the assessment, treatment, intervention, or rehabilitation of a child, notwithstanding Code Section 15-1-15 or 15-11-9.1, subsection (d) of Code Section 15-11-10, or Code Section 15-11-66.1, 15-11-75, 15-11-81, 15-11-82, 15-11-174, 20-2-751.2, 20-14-40, 24-12-10, 24-12-11, 24-12-20, 26-4-5, 26-4-80, 26-5-17, 31-5-5, 31-33-6, 37-1-53, 37-2-9.1, 42-5-36, 42-8-40, 42-8-106, 49-5-40, 49-5-41, 49-5-41.1, 49-5-44, 49-5-45, 49-5-183, 49-5-184, 49-5-185, or 49-5-186, in order to serve the best interest of the child. Information which is shared pursuant to this subsection shall not be utilized to assist in the prosecution of the child in juvenile court or superior court or utilized to the detriment of the child.

(c) Information released pursuant to this Code section shall not change or rescind the confidential nature of such information and such information shall not be subject to public disclosure or inspection unless otherwise provided by law.

20-2-756. Reports to law enforcement officials.

(a) The school administration, disciplinary hearing officer, panel, tribunal of school officials, or the local board of education may, when any alleged criminal action by a student occurs, report the incident to the appropriate law enforcement agency or officer for investigation to determine if criminal charges or delinquent proceedings should be initiated.

(b) No individual reporting any incident under this subpart to a law enforcement agency or officer shall be subject to any action for malicious prosecution, malicious abuse of process, or malicious use of process.

ADMINISTRATIVE CODE

160-4-7-.10. Discipline.

(11) Referral to and action by law enforcement and judicial authorities.

(a) Nothing in this Rule prohibits a LEA from reporting a crime committed by a child with a disability to appropriate authorities or prevents State law enforcement or judicial authorities from exercising their responsibilities with regard to the application of Federal and State law to crimes committed by a child with a disability.

(b) A LEA reporting a crime committed by a child with a disability must ensure that copies of the special education and disciplinary records of the child are transmitted for consideration by the appropriate authorities to whom the agency reports the crime.

(c) A LEA reporting a crime under this Rule may transmit copies of the child's special education and disciplinary records only to the extent that the transmission is permitted by the Family Educational Rights and Privacy Act.

Disclosure of school records

STATUTES

20-2-751.2. Students subject to disciplinary orders of other school systems.

(a) As used in this Code section, the term "disciplinary order" means any order of a local school system in this state, a private school in this state, or a public school outside of this state which imposes short-term suspension, long-term suspension, or expulsion upon a student in such system or school.

(b) A local board of education which has a student who attempts to enroll or who is enrolled in any school in its school system during the time in which that student is subject to a disciplinary order is authorized to refuse to enroll or subject that student to short-term suspension, long-term suspension, or expulsion for any time remaining in that other school system's or school's disciplinary order upon receiving a certified copy of such order if the offense which led to such suspension or expulsion in the other school system or school was an offense for which suspension or expulsion could be imposed in the enrolling school.

(c) A local school system or school may request of another school system or school whether any disciplinary order has been imposed by the other school system or school upon a student who is seeking to enroll or is enrolled in the requesting system or school. If such an order has been imposed and is still in effect for such student, the requested school system or private school in this state shall so inform the requesting system or school and shall provide a certified copy of the order to the requesting system or school.

(d) If any school administrator determines from the information obtained pursuant to this Code section or from Code Section 15-11-28 or 15-11-80 that a student has been convicted of or has been adjudicated to have committed an offense which is a designated felony act under Code Section 15-11-63, such administrator shall so inform all teachers to whom the student is assigned and other school personnel to

whom the student is assigned. Such teachers and other certificated professional personnel as the administrator deems appropriate may review the information in the student's file provided pursuant to this Code section that has been received from other schools or from the juvenile courts or superior courts. Such information shall be kept confidential.

Data collection, review, and reporting of disciplinary policies and actions

STATUTES

20-2-740. Annual report by local boards of education regarding disciplinary and placement actions; annual study by Department of Education.

(a) Each local board of education shall file an annual report, by August 1 of each year, with the Department of Education regarding disciplinary and placement actions taken during the prior school year. Such report shall classify the types of actions into the following categories:

(1) Actions in which a student was assigned to in-school suspension;

(2) Actions in which a student was suspended for a period of ten days or less;

(3) Actions in which a student was suspended for a period of more than ten days but not beyond the current school quarter or semester;

(4) Actions in which a student was expelled beyond the current school quarter or semester but not permanently expelled;

(5) Actions in which a student was permanently expelled;

(6) Actions in which a student was placed in an alternative educational setting;

(7) Actions in which a student was suspended from riding the bus;

(8) Actions in which corporal punishment was administered; and

(9) Actions in which a student was removed from class pursuant to subsection (b) of Code Section 20-2-738.

(b) For each category of disciplinary or placement action listed in paragraphs (1) through (9) of subsection (a) of this Code section, the local board shall provide the following information: the number of students subject to the type of disciplinary or placement action; the age and grade level of such students; such students' race and gender; and the number of students subject to the type of disciplinary action who were eligible for free or reduced price lunches under federal guidelines. For each action listed in paragraph (9) of subsection (a) of this Code section, the local board shall also provide information regarding the decisions of placement review committees and the disciplinary and placement decisions made by principals or their designees. The data required by this Code section shall be reported separately for each school within the local school system and collected and reported in compliance with the requirements of 20 U.S.C. Sections 1232g and 1232h.

(c) The Department of Education shall conduct a study for each school year based upon the statistical data filed by local boards pursuant to this Code section for the purpose of determining trends in discipline. The department shall also utilize existing demographic data on school personnel as needed to establish trends in discipline. Nothing in this Code section shall be construed to authorize the public release of personally identifiable information regarding students or school personnel. The department shall prepare a report for the General Assembly on the study annually and notify the members of the General Assembly of the availability of the report in the manner which it deems to be most effective and efficient.

School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers

Authority and power to implement school arrest

STATUTES

20-8-2. Law enforcement powers.

On the campus of an educational facility, a campus policeman employed by such educational facility who is certified in accordance with Code Section 20-8-3 and when authorized by the governing body or authority of such educational facility shall have the same law enforcement powers, including the power of arrest, as a law enforcement officer of the local government with police jurisdiction over such campus.

20-8-4. Exemption of University System campus policemen.

A campus policeman exercising the power of arrest pursuant to Code Section 20-3-72 providing campus policemen and other security personnel of the University System of Georgia with arrest powers for offenses committed upon university system property shall be exempt from this chapter.

Certification or training

STATUTES

20-8-3. Certification required.

As a condition precedent to the exercise of law enforcement powers pursuant to Code Section 20-8-2, a campus policeman must be certified by the Georgia Peace Officer Standards and Training Council as having met the qualifications and having completed the basic training requirements for a peace officer under Article 2 of Chapter 2 of Title 35. All costs incurred in such certification and training shall be paid by the educational facility employing the campus policeman. This chapter is permissive and shall not require the certification of campus policemen by the Georgia Peace Officer Standards and Training Council. The certification of a campus policeman by the Georgia Peace Officer Standards and Training Council does not require that the campus policeman so certified exercise the powers provided in Code Section 20-8-2.

MOUs, authorization, and/or funding

STATUTES

20-8-1. Definitions.

As used in this chapter, the term:

(1) "Campus" means the grounds and buildings owned or occupied by a college or university or the grounds and buildings of a school or training facility operated by or under the authority of the State Board of Education. The term "campus" shall also include any public or private property within 500 yards of the property of an educational facility and one-quarter mile of any public street or public sidewalk connecting different buildings of the same educational facility when the property or buildings of the educational facility are located within any county in this state having a population of 400,000 or more according to the United States decennial census of 1970 or any future such census.

(2) "Campus policeman" means an employee of an educational facility whose duties include the enforcement of the laws of this state; the preservation of public order; the protection of life and property; the prevention, detection, or investigation of crime; or any combination thereof.

(3) "College or university" means an accredited, nonproprietary, public or private educational institution of higher learning located in this state.

(4) "Educational facility" means a college or university or a school or training facility operated by or under the authority of the State Board of Education.

20-8-2. Law enforcement powers.

On the campus of an educational facility, a campus policeman employed by such educational facility who is certified in accordance with Code Section 20-8-3 and when authorized by the governing body or authority of such educational facility shall have the same law enforcement powers, including the power of arrest, as a law enforcement officer of the local government with police jurisdiction over such campus.

20-8-5. Law enforcement powers of school security personnel in each public school system of the state; certification; carrying of firearms or weapons.

(a) In each public school system in this state, school security personnel employed by the board of education of a county or an independent board of education of a municipality for the various public schools thereof who are certified pursuant to subsection (b) of this Code section and who are authorized by the board of education of that county or the independent board of education of that municipality shall have the same law enforcement powers on school property, including the power of arrest, as law enforcement officers of that respective county or municipality.

(b) As a condition precedent to the exercise of law enforcement powers pursuant to subsection (a) of this Code section, school security personnel must be certified by the Georgia Peace Officer Standards and Training Council as having met the qualifications and having completed the basic training requirements for a peace officer under Chapter 8 of Title 35. The certification of school security personnel by the Georgia Peace Officer Standards and Training Council does not require that such security personnel exercise the powers provided in subsection (a) of this Code section.

(c) The provisions of this Code section shall not prohibit a board of education of a county or an independent board of education of a municipality from employing school security personnel without law enforcement powers.

(d) School security personnel who are certified by the Georgia Peace Officer Standards and Training Council may be authorized by a local board of education to carry a standard issue firearm or weapon generally used for law enforcement purposes for the purpose of carrying out law enforcement duties.

20-8-6. Reports of criminal gang activity on or adjacent to campus.

Each educational facility which employs campus policemen, including institutions of the University System of Georgia, shall report to the Georgia Bureau of Investigation and to the local law enforcement agency incidents of criminal gang activity as defined by Code Section 16-15-3 which occur on or adjacent to the campus of such educational facility.

20-8-7. Public disclosure of campus police records.

Law enforcement records created, received, or maintained by campus policemen that relate to the investigation of criminal conduct and crimes as defined under Georgia law and which are not subject to protection from disclosure by any other Georgia law shall be made available within a reasonable time after request for public inspection and copying.

State Education Agency Support

State model policies and implementation support

STATUTES

20-2-155. School climate management program; model codes of behavior and discipline.

The State Board of Education shall establish a state-wide school climate management program to help local schools and systems requesting assistance in developing school climate improvement and management processes. Such projects will be designed to optimize local resources through voluntary community, student, teacher, administrator, and other school personnel participation. These processes will be designed for, but will not be limited to, promoting positive gains in student achievement scores, student and teacher morale, community support, and student and teacher attendance, while decreasing student suspensions, expulsions, dropouts, and other negative aspects of the total school environment. The state board upon request of a local school system is authorized to provide the necessary on-site technical assistance to local schools and systems and to offer other assistance through regional and state-wide conferences and workshops, printed material, and such other assistance as may be deemed appropriate under this Code section. The state board shall, upon request of a local school system, produce model codes of behavior and discipline and shall produce guidelines for application and administration of such codes. The results of this program shall be annually presented to the General Assembly for review in determining future appropriations for state-level technical assistance necessary to perform the duties assigned to the state board under this Code section.

20-2-735. Adoption of policies by local boards to improve student learning environment.

(a) No later than July 1, 2000, each local board of education shall adopt policies designed to improve the student learning environment by improving student behavior and discipline. These policies shall provide for the development of age-appropriate student codes of conduct containing standards of behavior, a student support process, a progressive discipline process, and a parental involvement process. The State Board of Education shall establish minimum standards for such local board policies. The Department of Education shall make available for utilization by each local board of education model student codes of conduct, a model student support process, a model progressive discipline process, and a model parental involvement process.

20-2-751.4. Policies prohibiting bullying; assignment to alternative school; notice.

(c) No later than January 1, 2011, the Department of Education shall develop a model policy regarding bullying, that may be revised from time to time, and shall post such policy on its website in order to assist local school systems. Such model policy shall include:

(1) A statement prohibiting bullying;

(2) A requirement that any teacher or other school employee who has reliable information that would lead a reasonable person to suspect that someone is a target of bullying shall immediately report it to the school principal;

(3) A requirement that each school have a procedure for the school administration to promptly investigate in a timely manner and determine whether bullying has occurred;

(4) An age-appropriate range of consequences for bullying which shall include, at minimum and without limitation, disciplinary action or counseling as appropriate under the circumstances;

(5) A procedure for a teacher or other school employee, student, parent, guardian, or other person who has control or charge of a student, either anonymously or in such person's name, at such person's option, to report or otherwise provide information on bullying activity;

(6) A statement prohibiting retaliation following a report of bullying; and

(7) Provisions consistent with the requirements of subsection (b) of this Code section.

(d) The Department of Education shall develop and post on its website a list of entities and their contact information which produce antibullying training programs and materials deemed appropriate by the department for use in local school systems.

Funding appropriations

STATUTES

20-2-751.4. Policies prohibiting bullying; assignment to alternative school; notice.

(g) Any school system which is not in compliance with the requirements of subsection (b) of this Code section shall be ineligible to receive state funding pursuant to Code Sections 20-2-161 and 20-2-260.

Other/Uncategorized

Professional immunity or liability

STATUTES

20-2-1000. Limitation on civil damages for disciplining student; "educator" defined; frivolous or nonmeritorious actions; legal counsel for the educator.

(a) As used in this Code section, the term "educator" means any principal, school administrator, teacher, guidance counselor, paraprofessional, school bus driver, volunteer assisting teachers in the classroom, tribunal members, or certificated professional personnel.

(b) No educator shall be liable for any civil damages for, or arising out of, any act or omission concerning, relating to, or resulting from the discipline of any student or the reporting of any student for misconduct, except for acts or omissions of willful or wanton misconduct.

(c) If a judgment or finding is rendered in favor of a defendant educator in any action, complaint, disciplinary proceeding, or other administrative proceeding brought by a student, a parent or guardian of a student, or any other person on behalf of a student and arising out of or resulting from the discipline of such student or if the complaint is found to be nonmeritorious, frivolous, or without just cause, all reasonable court costs, reasonable attorneys' fees, and reasonable expenses incurred by the defendant educator in defending such action or complaint shall be assessed by the court, agency, or other tribunal against the plaintiff and shall be paid by the plaintiff. Any educator shall have a right to bring an action or a counterclaim against the plaintiff in any such action or proceeding for any damages suffered by the educator as a result of the actions of the student or the filing of any frivolous or nonmeritorious action, complaint, or report. Nothing in this subsection shall be construed to apply to any educator filing a complaint as required by the rules, regulations, or code of ethics of the Professional Standards Commission; any child abuse reporting statute; any applicable local board of education rule, regulation, or policy; or any State Board of Education rule, regulation, or policy.

(d) If any civil action is brought against any educator or any report or complaint is made or filed against any educator with the county or local board of education, the Department of Education, the Professional Standards Commission, or any other regulatory agency or tribunal by a student, a parent or guardian of a student, or any other person on behalf of a student and arising out of or relating to the discipline of such student, it shall be the duty of the county or local board of education employing such educator to provide counsel for the educator, if requested by the educator, unless such board of education determines, after an independent investigation of the report or complaint, that the act or omission of the educator constituted willful or wanton misconduct or constituted gross misconduct in violation of the express written policies of the board of education. Neither testimony given in such independent investigation nor the results of any such independent investigation by the board of education shall be admissible in any other proceeding. The provision of counsel to such educator shall be for an educational purpose and any funds available to the board of education may be expended for such purpose. Any attorneys' fees recovered pursuant to subsection (c) of this Code section attributable to the services furnished by any counsel provided to an educator by his or her employer shall be paid to the employer.

20-2-1001. Limited immunity from criminal liability.

(a) As used in this Code section, the term "educator" means any principal, school administrator, teacher, guidance counselor, paraprofessional, school bus driver, volunteer assisting teachers in the classroom, tribunal members, or certificated professional personnel.

(b) An educator shall be immune from criminal liability for any act or omission concerning, relating to, or resulting from the discipline of any student or the reporting of any student for misconduct, provided that the educator acted in good faith.

20-2-732. When principal or teacher not liable for administering corporal punishment.

No principal or teacher who shall administer corporal punishment to a pupil or pupils under his care and supervision in conformity with the policies and regulations of the area, county, or independent board of education employing him and in accordance also with this subpart shall be held accountable or liable in any criminal or civil action based upon the administering of corporal punishment where the corporal punishment is administered in good faith and is not excessive or unduly severe.

20-2-751.4. Policies prohibiting bullying; assignment to alternative school; notice.

(e) Any person who reports an incident of bullying in good faith shall be immune from civil liability for any damages caused by such reporting.

20-2-756. Reports to law enforcement officials.

(a) The school administration, disciplinary hearing officer, panel, tribunal of school officials, or the local board of education may, when any alleged criminal action by a student occurs, report the incident to the appropriate law enforcement agency or officer for investigation to determine if criminal charges or delinquent proceedings should be initiated.

(b) No individual reporting any incident under this subpart to a law enforcement agency or officer shall be subject to any action for malicious prosecution, malicious abuse of process, or malicious use of process.

Community input or involvement

STATUTES

20-2-735. Adoption of policies by local boards to improve student learning environment.

(e) Parental involvement processes developed pursuant to this subpart shall be designed to create the expectation that parents and guardians, teachers, and school administrators will work together to improve and enhance student behavior and academic performance and will communicate freely their concerns about and actions in response to student behavior that detracts from the learning environment. The student code of conduct developed pursuant to this Code section shall encourage parents and guardians to inform their children of the consequences, including potential criminal penalties, of underage sexual conduct and crimes for which a minor can be tried as an adult.

20-2-736. Student codes of conduct; distribution; disciplinary action for violations; parental involvement.

(c) Local boards of education shall provide opportunities for parental involvement in developing and updating student codes of conduct.

20-2-85. Legislative findings; role of local boards of education and school councils.

(a) The General Assembly recognizes the need to improve communication and participation of parents and the community in the management and operation of local schools. The General Assembly believes that parent and community support is critical to the success of students and schools. The intent of this article is to bring communities and schools closer together in a spirit of cooperation to solve difficult education problems, improve academic achievement, provide support for teachers and administrators, and bring parents into the school-based decision-making process. The establishment of school councils is

intended to help local boards of education develop and nurture participation, bring parents and the community together with teachers and school administrators to create a better understanding of and mutual respect for each other's concerns, and share ideas for school improvement. School councils shall be reflective of the school community.

(b) The management and control of public schools shall be the responsibility of local boards of education, and the school leader shall be the principal. School councils shall provide advice, recommendations, and assistance and represent the community of parents and businesses. Each member of the council, as a community representative, shall be accorded the respect and attention deserving of such election.

ADMINISTRATIVE CODE

160-4-8-.O1. Student support services.

(1) Definitions.

(h) School Social Work/Visiting Teacher Services - technical assistance on school climate issues; assessment and intervention, including written social histories; individual, group, and family counseling; and networking of appropriate home, school, and community services to address identified student problems.

(2) Requirements.

(a) Each local school system shall develop a Student Services Plan that prescribes and identifies programs and services that incorporate school climate improvement and management processes.

(b) Each Student Services Plan must minimally include guidelines for the systematic provision of the following components:

6. School social work/visiting teacher services

(e) The LBOE shall provide School Social Work/Visiting Teacher Services by promoting home, school, and community cooperation to address the needs of the at-risk student population characterized by poverty, high absenteeism, academic failure, pregnancy, disruptive behavior or other student dysfunctions.

160-4-8-.15. Student discipline.

(2) Requirements.

19. Parental involvement processes designed to create the expectation that parents, guardians, teachers and school administrators will work together to improve and enhance student behavior and academic performance and will communicate freely their concerns about, and actions in response to, student behavior that detracts from the learning environment. Local boards of education shall provide opportunities for parental involvement in developing and updating student codes of conduct.

Other/Uncategorized

STATUTES

20-2-1185. School safety plans.

(a) Every public school shall prepare a school safety plan to help curb the growing incidence of violence in schools, to respond effectively to such incidents, and to provide a safe learning environment for Georgia's children, teachers, and other school personnel. Such plan shall also address preparedness for natural disasters, hazardous materials or radiological accidents, acts of violence, and acts of terrorism. School safety plans of public schools shall be prepared with input from students enrolled in that school, parents or legal guardians of such students, teachers in that school, community leaders, other school

employees and school district employees, and local law enforcement, fire service, public safety, and emergency management agencies. School safety plans of private schools may be prepared with input from students enrolled in that school, parents or legal guardians of such students, teachers in that school, other school employees, and local law enforcement, fire service, public safety, and emergency management agencies. Such plans shall be reviewed and, if necessary, updated annually. Such plans of public schools shall be submitted to the local emergency management agency.

(b) A public school may request funding assistance from the state for the installation of safety equipment including, but not limited to, video surveillance cameras, metal detectors, and other similar security devices. Funding may be provided to a public school in accordance with a school safety plan prepared by the school and approved by the local board of education, the Department of Education, and the Georgia Emergency Management Agency.

(c) School safety plans prepared by public schools shall address security issues in school safety zones as defined in paragraph (1) of subsection (a) of Code Section 16-11-127.1. School safety plans should also address security issues involving the transportation of pupils to and from school and school functions when such transportation is furnished by the school or school system and school functions held during noninstructional hours.

(d) The Georgia Emergency Management Agency shall provide training and technical assistance to public school systems, and may provide this same training and technical assistance to private school systems, and independent private schools throughout this state in the area of emergency management and safe school operations. This training and technical assistance shall include, but not be limited to, crisis response team development, site surveys and safety audits, crisis management planning, exercise design, safe school planning, emergency operations planning, search and seizure, bomb threat management, and model school safety plans.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by Georgia provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
Website		
No relevant resources found		
Documents		
Board of Education Rule 160—4-7-.10 Discipline	Georgia State Board of Education rules on student discipline	http://www.doe.k12.ga.us/External-Affairs-and-Policy/State-Board-of-Education/SBOE%20Rules/160-4-7-.10.pdf
State of Georgia Department of Education, Guidelines for Developing Model Codes of Conduct, Model Behavior Support Process, Model Progressive Discipline Process, and Model Parental Involvement Process	Provides guidelines and models to assist schools in developing codes of conduct, behavior support processes, progressive discipline, and parental involvement processes in compliance with state law.	http://www.doe.k12.ga.us/Curriculum-Instruction-and-Assessment/Curriculum-and-Instruction/Documents/Model%20Code%20of%20Conduct.pdf
Other Resources		
No relevant resources found		

Hawaii
Compilation of School Discipline Laws and Regulations

Prepared: August 12, 2013

Introduction

This compilation presents school discipline-related state statutes, school discipline-related regulations, and, where available, links to state-sponsored websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSLE). For example, one major category encompasses all state laws or regulations mandating specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of state legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in each state.

Discipline categories were not mutually exclusive. Statutes and regulations often appeared across multiple categories. For states with more extensive statutes covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. State laws, ordered by chapter and section number, appear first within each category followed by state regulations. All statutes and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists statutes by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to state-sponsored websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of May 2013, with the exception of the state laws related to seclusion and restraint, which are complete and current as of December 2012. Readers should also note that the information in this document was compiled from individual state sources that are created by each state and which are maintained and updated with varying frequencies. Readers should consult the source information provided for each state directly in order to check for updates to this state's laws and regulations or conduct further research.

For further information, including definitions of the different policy categories, please refer to the Discipline Laws and Regulations Compendium posted on the Center's website.

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Safe Supportive Learning
Engagement | Safety | Environment

Table of Contents

Hawaii State Codes Cited **1**

General Provisions **2**

Authority to develop and establish rules of conduct 2
Scope 2
Communication of policy 3

In-School Discipline **4**

Use of multi-tiered discipline approaches 4
Teacher authority to remove students from classrooms 4
Alternatives to suspension 4
Use of corporal punishment 5
Use of student and locker searches 5
Other in-school disciplinary approaches 6

Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements **7**

Grounds for possible suspension or expulsion 7
Grounds for mandatory suspension or expulsion 7
Limitations, conditions or exclusions for use of suspension or expulsion 8
Administrative procedures related to suspension and expulsion 8
In school suspension 10
Return to school following removal 10
Use of restraint and seclusion 10
Alternative placements 11

Disciplinary Approaches Addressing Specific Infractions and Conditions **12**

Firearms (as required by the Guns-Free Schools Act) 12
Other weapons 12
Students with chronic disciplinary issues 13
Attendance and truancy 13
Substance use 14
Bullying, harassment, or hazing 15
Other special infractions or conditions 17

Prevention and Behavioral Interventions (Non-Punitive) **20**

Prevention 20
Behavioral interventions and student support services 20
Professional development 21

Monitoring and Accountability **22**

Formal incident reporting of conduct violations 22
Parental notification 23
Reporting and referrals between schools and law enforcement 25
Disclosure of school records 26
Data collection, review, and reporting of disciplinary policies and actions 26

School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers 27
Authority and power to implement school arrest 27
Certification or training 27
MOUs, authorization, and/or funding 27
State Education Agency Support 28
State model policies and implementation support 28
Funding appropriations 28
Other/Uncategorized 29
Professional immunity or liability 29
Community input or involvement 29
Other/Uncategorized 29
State-Sponsored, Publicly Available Websites or Other Resources on School Discipline 30

Hawaii State Codes Cited

Hawaii Revised Statutes

Chapter 302A

Hawaii Administrative Code

Title 8, Subtitle 2, Part 1, Chapter 19. Department of Education, Education, Public schools: Student misconduct, discipline, school searches and Seizures, reporting offenses, police interviews and arrests, and restitution for vandalism

The following information was obtained via Center communication with a Hawaii DOE representative. The exact contents of this rule are available to Hawaii state personnel only. The Sections noted below are summarized in this compilation, with the approval of Hawaii DOE.

Hawaii Administrative Rules 8-19 (Jan 2013)

Section 3. Establishing Schoolwide Positive Behavioral Interventions & Supports (SWPBIS)
Section 7. Determining appropriate disciplinary actions

General Provisions

Authority to develop and establish rules of conduct

ADMINISTRATIVE CODE

§8-19-1. Philosophy.

(b) It is the responsibility of every student to demonstrate respectful, responsible, safe and ethical behaviors on department of education transportation, or during a department of education sponsored activity on or off school property. The department supports this through the establishment of a proactive systems approach to schoolwide discipline.

(c) "...when a student's behavior violates established policies, rules, or regulations of the department, state or local laws, the department may take appropriate disciplinary action in accordance with this chapter. The purpose of school-administered discipline is to:

(1) Promote and maintain a safe and secure educational environment;

(2) Teach and acknowledge proper behavior which is beneficial to the educational process and self-development;

(3) Deter students from acts which interfere with the purpose of education or which are self-destructive, self-defeating or anti-social; and

(4) Maintain proper student conduct to ensure that educational activities and responsibilities remain uninterrupted."

Scope

ADMINISTRATIVE CODE

§8-19-3. Applicability.

(a) The provisions of this chapter shall apply to all students enrolled in a public school during the regular school year, summer session, or intersessions regardless of age with the addition that, outside of the hours when school is in session, boarding students are subject to the dormitory rules developed by the school and agreed upon through written consent by the parent(s) or legal guardian(s) of boarding students.

(b) The Hawaii administrative rules for students with disabilities shall apply in the discipline of students who are eligible to receive special education or other services under those chapters.

(c) References to principal or designee in subchapter 2 shall be construed to include summer school director for purposes of discipline in summer school. References to school year in this chapter shall be construed to mean summer session whenever summer school applies.

(d) Discipline during intersessions and in summer school shall be governed by subchapter 3. Discipline of students who receive special education services during an extension of the student's school year shall be governed by subchapter 2 and the guidelines and requirements of the Hawaii administrative rules for students with disabilities.

(e) In all cases of student-related administrative actions and reporting, chapter 8-34 shall apply. In addition, for students who receive special education services, the Hawaii administrative rules for students with disabilities shall prevail.

(f) No action relating to suspension, serious discipline, or restitution for vandalism or negligence shall be taken except in accordance with this chapter.

(g) All matters relating to police interviews or arrests, or both, of students shall be administered in accordance with this chapter.

§8-19-6. Prohibited student conduct; class offenses.

(h) The disciplinary action options of subsections (c) and (d) shall be construed as disciplinary actions within a school year.

(i) Disciplinary actions may be carried over to the following school year if the offense is committed within twenty school days from the last instructional day for students in that school year.

§8-19-10. Duration of disciplinary actions.

(a) If the disciplinary action could not be imposed as result of the appeal process, the disciplinary action may be carried over to the next school year at any public school and does not include summer school.

(b) If the acts, which resulted in disciplinary action, was committed within twenty days from the last instructional day for students in the school year the disciplinary action may be carried over to the next school year at any public school and does not include summer school.

(c) This section shall not apply to firearm violations. Disciplinary action for firearm violations is a mandatory not less than one calendar year.

(d) Other than as described in subsections (a) and (b), no disciplinary action shall continue beyond the school year in which the action was committed.

§8-19-12. Disciplinary actions; authority.

The summer school director or designee shall impose disciplinary action against any student attending summer school.

Communication of policy

STATUTES

§302A-1133.5. Parent and guardian accountability for compliance with student code of conduct.

(a) The department shall inform all parents and guardians of the student code of conduct and of their responsibilities with respect to ensuring that their children comply with the code. The department also shall provide assistance and advice to parents and guardians in meeting their responsibilities under the code.

(Per written communication from Hawaii DOE personnel, the State of Hawaii requires annual dissemination of Chapter 19: Student Misconduct, Discipline, School Searchers and Seizures, Reporting Offenses, Police Interviews and Arrests, and Restitution for Vandalism.)

ADMINISTRATIVE CODE

§8-19-21. Failure to report class A or class B offenses occurring in school; consequences.

(a) The superintendent of education shall furnish an annual written notice to all schools and offices that failure to report class A or class B offenses occurring on campus, or other department of education premises, on department of education transportation, or during a department of education sponsored activity or event on or off school property may result in disciplinary actions against responsible teachers, officials, or other employees of the department.

In-School Discipline

Use of multi-tiered discipline approaches

No relevant statutes found.

Teacher authority to remove students from classrooms

ADMINISTRATIVE CODE

§8-19-2. Definitions.

"Crisis removal" means the immediate exclusion of a student from school in an emergency, because the conduct of the student presents a clear, immediate threat to the physical safety of self or others, or the student is so extremely disruptive as to make the immediate removal of the student necessary to preserve the right of other students to pursue their education free from undue disruption…

"Truancy" means a student is absent from class(es) or the school campus without authorization from the principal or designee.

§8-19-7. Crisis removal.

(a) A principal or designee, in an emergency, may crisis remove a student immediately based upon preliminary inquiry and findings that the student's conduct presents a clear immediate threat to the physical safety of self or others or is so extremely disruptive as to make the student's immediate removal necessary to preserve the right of other students to pursue an education free from undue disruption.

Alternatives to suspension

ADMINISTRATIVE CODE

Implementation Guidelines for Hawaii Administrative Rules 8-19 (January 2013)
Hawaii Administrative Rules 8-19 (Jan 2013), Section 7: Determining Appropriate Disciplinary Actions.

This rule refers to how principals or other administrators should decide upon an appropriate disciplinary action in relation to §8-19-5 and §8-19-6 of Hawaii Administrative Rules, Title 8, Subtitle 2, Part 1, Chapter 19, specifically stating the facts that should be taken into account. It provides additional guidance to administrators, including a list of possible disciplinary actions, and factors to consider when deciding appropriate action. Additionally, it includes language restricting and/or requiring additional steps following disciplinary action. Finally, there are examples of forms staff should use to report behavior problems, analyze problem behaviors, make referrals, and file incident reports, (Information obtained via Center communication with Hawaii DOE representative. The exact contents of this rule are available to Hawaii state personnel only.)

Use of corporal punishment

STATUTES

§302A-1141. Punishment of pupils limited.

No physical punishment of any kind may be inflicted upon any pupil, but reasonable force may be used by a teacher in order to restrain a pupil in attendance at school from hurting oneself or any other person or property, and reasonable force may be used as defined in section 703-309(2) by a principal or the principal's agent only with another teacher present and out of the presence of any other student but only for the purposes outlined in section 703-309(2)(a).

Use of student and locker searches

ADMINISTRATIVE CODE

§8-19-2. Definitions.

"Search" means if after requesting the student to voluntarily relinquish the contraband item(s) and the student refuses and there are reasonable grounds to believe that the student has violated the law or provisions prohibited under this chapter, or if there is a health or safety issue with illicit drugs, dangerous weapons, dangerous instruments or firearms, or a combination of the foregoing, the school official may examine the contents and belongings which may include but are not limited to purses, fanny packs, backpacks, jackets, shoes, socks, or any other outer clothing.

"Seizure" means to take possession of the contraband item(s) that is or are uncovered during a search.

§8-19-14. Policy on opening and inspection of student lockers.

School lockers provided to the students on campus are subject to opening and inspection (and external dog sniffs) by school officials at any time with or without cause, provided that the searches are not because of the student's race, color, national origin, ancestry, sex, gender identity and expression, religion, disability, or sexual orientation. Section 8-19-15 shall have no applicability to the opening and inspection (and external dog sniffs) of student lockers. None of the restrictions in sections 8-19-15 through 8-19-18 or related to general school searches and seizures shall in any way be construed to create an expectation of privacy in student §8-19-16 19-30 lockers. Students should assume that their lockers are subject to opening and inspection (and external dog sniffs) any time with or without cause.

§8-19-15. Policy on general school searches and seizures.

Except as provided in section 8-19-14 regarding student lockers, students have a reasonable expectation of privacy in their persons on campus, or other department of education premises, on department of education transportation, or during a department of education sponsored activity or event on or off school property. Schools have an equally legitimate need to maintain order and an environment where learning can take place. In fulfilling this legitimate need, school officials may on occasions need to carry out searches and seizures on campus, or other department of education premises, on department of education transportation, or during a department of education sponsored activity or event on or off school property. As a general policy, except as provided in section 8-19-14 regarding student lockers, the searches and seizures are permissible if there are reasonable grounds to suspect, based on the attendant circumstances that the search will turn up evidence that the student or students have violated or are violating either the law or the student conduct prohibited under this chapter. Searches and seizures conducted by school officials shall abide by the provisions of this subchapter.

Other in-school disciplinary approaches

No relevant statutes found.

Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements

Grounds for possible suspension or expulsion

STATUTES

§302A-1134.6. Zero tolerance policy.

(a) Any child who possesses, sells, or uses a dangerous weapon or switchblade knife, while attending school or while attending department-supervised activities held on or off school property, may be excluded from attending school for up to ninety-two school days, as determined by the principal and approved by the superintendent or other individuals designated pursuant to rules adopted by the board.

(b) Except as provided in subsection (f), any child who possesses, sells, consumes, or uses intoxicating liquor or illegal drugs, while attending school or while attending department-supervised activities held on or off school property, may be excluded from attending school for up to ninety-two school days, as determined by the principal and approved by the superintendent or other individuals designated pursuant to rules adopted by the board.

(c) Except as provided in subsection (f), any child who reasonably appears to have consumed or used intoxicating liquor or illegal drugs prior to attending school or attending department-supervised activities held on or off school property, may be excluded from attending school for up to ninety-two school days, as determined by the principal and approved by the superintendent or other individuals designated pursuant to rules adopted by the board.

ADMINISTRATIVE CODE

§8-19-6. Prohibited student conduct; class offenses.

(c) Any student who possesses, sells, or uses a dangerous weapon, switchblade knife or any improperly used knife, intoxicating substance(s), or illicit drug(s) while attending school may be excluded from attending school for up to ninety-two school days. Any student who reasonably appears to be under the influence of, have consumed or used intoxicating substance(s) or illicit drug(s) prior to attending school or attending department-supervised activities held on campus, or other department of education premises, on department of education transportation, or during a department of education sponsored activity or event on or off school property may be excluded from attending school for up to ninety-two school days and the school shall administer a substance use screening tool to determine whether there is a need for the student to be referred for a substance abuse assessment pursuant to section 302A-1134.6(f), Hawaii Revised Statutes.

Grounds for mandatory suspension or expulsion

STATUTES

§302A-1134. Exclusion from school.

(b) Any child who, while attending school, is found to be in possession of a firearm, shall be excluded from attending school for not less than one year. The due process procedures of chapter 19 of the Department of Education, Hawaii Administrative Rules, shall apply to any child who, while attending school, is alleged to be in possession of a firearm. The superintendent, on a case-by-case basis, may

modify the exclusion of a child found to be in possession of a firearm while attending school. If a child is excluded from attending school, the superintendent shall ensure that substitute educational activities or other appropriate assistance shall be provided. The superintendent shall submit to the United States Department of Education, the state board of education, and the legislature an annual report indicating the number of students excluded, the types of firearms found in their possession, and the schools from which they were excluded.

Limitations, conditions or exclusions for use of suspension or expulsion

ADMINISTRATIVE CODE

§8-19-5. Disciplinary actions; authority.

(c) In determining disciplinary actions, the principal or designee shall consider the intention of the offender, the nature and severity of the offense, the impact of the offense on others including whether the action was committed by an individual or a group of individuals such as a gang, the age of the offender, and if the offender was a repeat offender.

§8-19-6. Prohibited student conduct; class offenses.

(b) The superintendent or designee, on a case-by-case basis, may modify the dismissal of a student found to be in possession of a firearm.

(c) For "any student who possesses, sells, or uses a dangerous weapon, switchblade knife or any improperly used knife, intoxicating substance(s), or illicit drug(s) while attending school..." ...The principal or designee can approve suspensions of one to ten school days. The complex area superintendent shall approve suspensions exceeding ten school days. In exercising this discretion and determining disciplinary actions, the principal or designee shall consider, the nature and severity of the offense, the impact of the offense on others, the age of the offender, and if the offender is a repeat offender.

(f) No action amounting to serious discipline shall be imposed on students for committing class D offenses.

(g) No suspension or serious discipline shall be imposed on any student because of class cutting or truancy.

§8-19-7. Crisis removal.

(e) A crisis removal shall not continue for more than ten school days, except when approved by the complex area superintendent during an appeal.

Administrative procedures related to suspension and expulsion

STATUES

§302A-1134. Exclusion from school.

(a) If for any reason a child becomes a detriment to the morals or discipline of any school, the child may be precluded from attending school by the principal, with the approval of the complex area superintendent. The department shall seek the active participation of other public and private agencies in providing help to these children before and after they have left school. An appeal may be taken on behalf of the child to the superintendent of education within ten days from the date of such action.

ADMINISTRATIVE CODE

§8-19-5. Disciplinary actions; authority.

(a) Suspensions exceeding ten school days or suspensions that will result in the student being suspended more than a total of ten school days in any single semester, disciplinary transfers, dismissals, and extension of crisis removals shall be approved by complex area superintendent.

(b) Crisis removals and suspensions of ten school days or less may be approved by the principal or designee.

(c) In determining disciplinary actions, the principal or designee shall consider the intention of the offender, the nature and severity of the offense, the impact of the offense on others including whether the action was committed by an individual or a group of individuals such as a gang, the age of the offender, and if the offender was a repeat offender.

§8-19-7.1. Investigation.

(a) Immediately after making a crisis removal or whenever the principal or designee has reason to believe that a student has engaged in an activity warranting the imposition of a suspension, the principal or designee shall initiate a thorough investigation.

(b) When conducting an investigation, the principal or designee shall make a good faith effort at the earliest point possible to inform the parent about the school's investigation. If after making reasonable attempts, the principal or designee is unable to contact the parent, the school may engage in and complete the investigation. The investigation shall be completed as quickly as possible. If the principal or designee elects to initiate proceedings for the imposition of serious discipline other than crisis removal, the principal or designee upon completion of the investigation, shall make a written report containing a brief summary of the testimony of witnesses interviewed, any other evidence, and the principal or designee's reason(s) for the initiation of disciplinary proceedings.

§8-19-8. Suspension.

(a) Whenever a principal or designee has reason to believe that a student has engaged in activity warranting the imposition of suspension, the principal or designee shall immediately conduct an investigation of the incident. Upon completion of the investigation and findings, the student may be suspended if the principal or designee finds that the findings are sustained. …

(c) If the total number of days in any single semester for suspensions exceeds ten school days, the due process procedures of this chapter shall apply unless otherwise indicated by law.

§8-19-9. Due process for suspensions exceeding ten days, disciplinary transfers, and dismissal.

(a) If, based upon the investigation, the principal or designee believes that a student engaged in an activity which constitutes a violation of this chapter, and if the principal or designee recommends that serious discipline other than crisis removal be imposed, the principal or designee shall immediately notify the complex area superintendent to initiate disciplinary proceedings by obtaining verbal authorization from the complex area superintendent.

(b) Upon obtaining verbal authorization from the complex area superintendent, the principal or the designee will make a good faith effort to inform the parent of:

(1) The serious discipline incident,

(2) The opportunity to appeal, and

(3) That the disciplinary action will be implemented immediately.

(c) Within three school days of the verbal authorization from the complex area superintendent, the principal or designee shall mail a written notice of the serious discipline incident with the appeal form to

the parent. A facsimile signature of or an electronic approval confirmation of the complex area superintendent on the serious discipline incident form is sufficient. The written notice of serious discipline shall contain the following statements:

(1) Allegations of the specific acts committed by the student that form the basis of the serious discipline;

(2) The allegations of the specific acts that were substantiated;

(3) A statement of the disciplinary action(s); and

(4) A statement that the parent has a right to an appeal to the complex area superintendent at which time the parent may present evidence, call and cross-examine witnesses, and be represented by legal counsel and to the extent the parent provides a written notice of legal representation at least ten calendar days prior to the appeal.

(5) If the student or parent would like to file an appeal, the appeal must be submitted in writing and received by the complex area superintendent by the close of business of the seventh school day from the date of the issued serious discipline notice. The student shall be permitted to attend the school of the student pending the appeal unless the principal finds the continued presence of the student creates a substantial risk to self or others or to the rights of other students to pursue their education free from disruption. However, the student shall not participate in any extracurricular activities, including but are not limited to athletics, trips, or clubs.

For more information on appeal procedures, refer to §8-19-9 (d), (e) and (f)

In school suspension

ADMINISTRATIVE CODE

§8-19-6. Prohibited student conduct; class offenses.

(d) Disciplinary action shall be taken for all class offenses in grades kindergarten through twelve in accordance with procedures established under this chapter and within the following options as determined by the authorities designated in section 8-19-5. Interventions to teach students appropriate behaviors must be instituted when disciplinary actions are imposed. Disciplinary action options may include the following:

(5) In-school suspension;

Return to school following removal

ADMINISTRATIVE CODE

§8-19-7. Crisis removal.

(d) A student who is the subject of a crisis removal shall be permitted to resume attendance at school as soon as the crisis no longer exists.

(e) A crisis removal shall not continue for more than ten school days, except when approved by the complex area superintendent during an appeal.

Use of restraint and seclusion

No relevant statutes found.

Alternative placements

STATUTES

§302A-1134. Exclusion from school.

(b) Any child who, while attending school, is found to be in possession of a firearm, shall be excluded from attending school for not less than one year…If a child is excluded from attending school, the superintendent shall ensure that substitute educational activities or other appropriate assistance shall be provided.

ADMINISTRATIVE CODE

§8-19-6. Prohibited student conduct; class offenses.

(b) If a student is dismissed from school, that student shall be provided alternate educational activities or other appropriate assistance as provided in section 8-19-11.

(c) For "any student who possesses, sells, or uses a dangerous weapon, switchblade knife or any improperly used knife, intoxicating substance(s), or illicit drug(s) while attending school..." ...If the student is excluded from attending school, the principal or designee shall ensure that alternate educational activities or other appropriate student support assistance shall be provided, and that the student is referred for appropriate intervention or treatment services, or both, as determined by the principal or designee in consultation with the appropriate school staff or in accordance with the Hawaii administrative rules for students with disabilities, if applicable.

§8-19-11. Alternate educational activities and other assistance when students are found to be in violation of this chapter.

(a) The complex area superintendent shall ensure that alternate educational activities or active participation of the public or private agencies are provided as appropriate for all students who are crisis removed for a period exceeding ten school days or suspended for a period exceeding ten school days.

(b) For all students who are suspended for one to ten school days, the principal or designee may consider providing alternate educational activities based on student's need.

(c) The Hawaii administrative rules for students with disabilities shall apply for students eligible under this chapter.

Disciplinary Approaches Addressing Specific Infractions and Conditions

Firearms (as required by the Guns-Free Schools Act)

STATUTES

§302A-1134. Exclusion from school.

(b) Any child who, while attending school, is found to be in possession of a firearm, shall be excluded from attending school for not less than one year. The due process procedures of chapter 19 of the Department of Education, Hawaii Administrative Rules, shall apply to any child who, while attending school, is alleged to be in possession of a firearm. The superintendent, on a case-by-case basis, may modify the exclusion of a child found to be in possession of a firearm while attending school. If a child is excluded from attending school, the superintendent shall ensure that substitute educational activities or other appropriate assistance shall be provided. The superintendent shall submit to the United States Department of Education, the state board of education, and the legislature an annual report indicating the number of students excluded, the types of firearms found in their possession, and the schools from which they were excluded.

ADMINISTRATIVE CODE

§8-19-6. Prohibited student conduct; class offenses.

(b) Any student who possesses a firearm shall be dismissed from school for not less than one calendar year period. The possession or use of a firearm is prohibited on campus, or other department of education premises, on department of education transportation, or during a department of education sponsored activity or event on or off school property except for participation in athletic teams, clubs and/or Junior Reserve Officer Training Corp (JROTC) shooting sports programs and marksmanship training, education, and competitions. [The superintendent or designee, on a case-by-case basis, may modify the dismissal of a student found to be in possession of a firearm. If a student is dismissed from school, that student shall be provided alternate educational activities or other appropriate assistance as provided in section 8-19-11.] [Bracketed info was also copied to Authority and Alternative Placements sections]

Other weapons

STATUTES

§302A-1134.6. Zero tolerance policy.

(a) Any child who possesses, sells, or uses a dangerous weapon or switchblade knife, while attending school or while attending department-supervised activities held on or off school property, may be excluded from attending school for up to ninety-two school days, as determined by the principal and approved by the superintendent or other individuals designated pursuant to rules adopted by the board.

(d) In any case of exclusion from school, the due process procedures as set forth in the provisions of Hawaii administrative rules relating to student discipline shall apply.

(e) If a child is excluded from attending school for more than ten days, the superintendent or the superintendent's designee shall ensure that substitute educational activities or other appropriate

assistance are provided, such as referral for appropriate intervention and treatment services, as determined by the principal in consultation with the appropriate school staff.

(g) For purposes of this section:

"Dangerous weapon" means a dirk, dagger, butterfly knife, blackjack, slug shot, billy, metal knuckles, or other instrument whose sole design and purpose is to inflict bodily injury or death; provided that firearms are excluded from this definition…

"Switchblade knife" is as defined in section 134-52.

(h) The board of education shall adopt rules in accordance with chapter 91 to implement this section.

ADMINISTRATIVE CODE

§8-19-6. Prohibited student conduct; class offenses.

(c) Any student who possesses, sells, or uses a dangerous weapon, switchblade knife or any improperly used knife, intoxicating substance(s), or illicit drug(s) while attending school may be excluded from attending school for up to ninety-two school days.

Students with chronic disciplinary issues

No relevant statutes found.

Attendance and truancy

STATUTES

§302A-1132. Attendance compulsory; exceptions.

(a) Unless excluded from school or excepted from attendance, all children who will have arrived at the age of at least six years, and who will not have arrived at the age of eighteen years, by January 1 of any school year, shall attend either a public or private school for, and during, the school year, and any parent, guardian, or other person having the responsibility for, or care of, a child whose attendance at school is obligatory shall send the child to either a public or private school. Attendance at a public or private school shall not be compulsory in the following cases:

(1) Where the child is physically or mentally unable to attend school (deafness and blindness excepted), of which fact the certificate of a duly licensed physician shall be sufficient evidence;

(2) Where the child, who has reached the fifteenth anniversary of birth, is suitably employed and has been excused from school attendance by the superintendent or the superintendent's authorized representative, or by a family court judge;

(3) Where, upon investigation by the family court, it has been shown that for any other reason the child may properly remain away from school;

(4) Where the child has graduated from high school;

(5) Where the child is enrolled in an appropriate alternative educational program as approved by the superintendent or the superintendent's authorized representative in accordance with the plans and policies of the department, or notification of intent to home school has been submitted to the principal of the public school that the child would otherwise be required to attend in accordance with department rules adopted to achieve this result; or

(6) Where:

(A) The child has attained the age of sixteen years;

(B) The principal has determined that:

(i) The child has engaged in behavior which is disruptive to other students, teachers, or staff; or

(ii) The child's non-attendance is chronic and has become a significant factor that hinders the child's learning; and

(C) The principal of the child's school, and the child's teacher or counselor, in consultation with the child and the child's parent, guardian, or other adult having legal responsibility for or care of the child, develops an alternative educational plan for the child. The alternative educational plan shall include a process that shall permit the child to resume school.

The principal of the child's school shall file the plan made pursuant to subparagraph (C) with the child's school record. If the adult having legal responsibility for or care of the child disagrees with the plan, then the adult shall be responsible for obtaining appropriate educational services for the child.

(b) Any employer who employs a child who is excused from school attendance in accordance with subsection (a)(2) shall notify the child's school within three days upon termination of the child's employment.

Substance use

STATUTES

§302A-1134.6. Zero tolerance policy.

(b) Except as provided in subsection (f), any child who possesses, sells, consumes, or uses intoxicating liquor or illegal drugs, while attending school or while attending department-supervised activities held on or off school property, may be excluded from attending school for up to ninety-two school days, as determined by the principal and approved by the superintendent or other individuals designated pursuant to rules adopted by the board.

(c) Except as provided in subsection (f), any child who reasonably appears to have consumed or used intoxicating liquor or illegal drugs prior to attending school or attending department-supervised activities held on or off school property, may be excluded from attending school for up to ninety-two school days, as determined by the principal and approved by the superintendent or other individuals designated pursuant to rules adopted by the board.

(d) In any case of exclusion from school, the due process procedures as set forth in the provisions of Hawaii administrative rules relating to student discipline shall apply.

(e) If a child is excluded from attending school for more than ten days, the superintendent or the superintendent's designee shall ensure that substitute educational activities or other appropriate assistance are provided, such as referral for appropriate intervention and treatment services, as determined by the principal in consultation with the appropriate school staff.

(f) A child determined to be in violation of subsection (b) or (c) shall be subject to the department's disciplinary rules; provided that:

(1) The school shall administer a screening tool approved by the department to determine whether there is a need for the child to be referred for a substance abuse assessment;

(2) The child shall be allowed to return to school earlier than the department's original disciplinary determination; provided that the child gives the school evidence of the following:

(A) A substance abuse assessment has been completed; and

(B) The child is progressing toward clinical discharge from any substance abuse treatment or substance abuse counseling recommended by the substance abuse assessment;

(3) If the substance abuse assessment finds that the child does not need substance abuse treatment or substance abuse counseling, the school may allow the child to return to school earlier than originally indicated; provided that:

(A) The child provides a certified copy of the assessment; and

(B) The child's parent or legal guardian consents to the child and the child's family receiving follow-up counseling or other student support services to be provided by the department.

In determining whether to allow the child to return to school early, the school administrator shall review and determine the nature and severity of the offense, the impact of the offense on others, the age of the offender, and whether the offender is a repeat offender; and

(4) For the child's first violation of subsection (b) or (c), if the child provides evidence of clinical discharge from the substance abuse treatment program or substance abuse counseling, all records of disciplinary action relating to the original offense shall be expunged. For the purposes of this paragraph, "expunged" means the records of substance abuse assessment shall be segregated and kept confidential but shall be destroyed upon graduation of the child.

(g) For purposes of this section:

"Illegal drugs" means the possession, distribution, ingestion, manufacture, sale, or delivery of substances which are prohibited under chapter 329 and chapter 712, part IV.

(h) The board of education shall adopt rules in accordance with chapter 91 to implement this section.

ADMINISTRATIVE CODE

§8-19-6. Prohibited student conduct; class offenses.

(c) Any student who possesses, sells, or uses a dangerous weapon, switchblade knife or any improperly used knife, intoxicating substance(s), or illicit drug(s) while attending school may be excluded from attending school for up to ninety-two school days. Any student who reasonably appears to be under the influence of, have consumed or used intoxicating substance(s) or illicit drug(s) prior to attending school or attending department-supervised activities held on campus, or other department of education premises, on department of education transportation, or during a department of education sponsored activity or event on or off school property may be excluded from attending school for up to ninety-two school days and the school shall administer a substance use screening tool to determine whether there is a need for the student to be referred for a substance abuse assessment pursuant to section 302A-1134.6(f), Hawaii Revised Statutes.

Bullying, harassment, or hazing

ADMINISTRATIVE CODE

§8-19-2. Definitions.

"Bullying" means any written, verbal, graphic, or physical act that a student or group of students exhibits toward other particular student(s) and the behavior causes mental or physical harm to the other student(s); and is sufficiently severe, persistent, or pervasive that it creates an intimidating, threatening, or abusive educational environment for the other student(s)…

"Cyberbullying" means electronically transmitted acts, i.e., Internet, cell phone, personal digital assistance (PDA), or wireless hand-held device that a student has exhibited toward another student or employee of the department which causes mental or physical harm to the other student(s) or school personnel and is sufficiently severe, persistent or pervasive that it creates an intimidating, threatening, or abusive educational environment:

(1) On campus, or other department of education premises, on department of education transportation, or during a department of education sponsored activity or event on or off school property;

(2) Through a department of education data system without department of education authorized communication; or

(3) Through an off campus computer network that is sufficiently severe, persistent, or pervasive that it creates an intimidating, threatening, or abusive educational environment for the other student or school personnel, or both […]

In evaluating whether conduct constitutes harassment, intimidation or bullying, special attention should be paid to the words chosen or the actions, taken, whether the conduct occurred in front of others or was communicated to others, how the perpetrator interacted with the victim, and the motivation, either admitted or appropriately inferred. Electronic transmissions include but are not limited to the use of data, computer software that is accessed through a computer, a computer network system, other computerized systems, cellular phones or other similar electronic devices that display e-mail, text messaging, blogs, photos, drawings, video clips, on-line community websites, or faxes, or a combination of the foregoing […]

"Harassment" means a student who is harassing, bullying, including cyberbullying, annoying, or alarming another person by engaging in the following conduct that includes but is not limited to:

(1) Striking, shoving, kicking, or otherwise touching a person in an offensive manner or subjecting such person to offensive physical contact;

(2) Insulting, taunting, or challenging another person in a manner likely to provoke a violent response;

(3) Making verbal or non-verbal expressions that causes others to feel uncomfortable, pressured, threatened, or in danger because of reasons that include but are not limited to the person's race, color, national origin, ancestry, sex, including gender identity and expression, religion, disability, or sexual orientation that creates an intimidating, hostile, or offensive educational environment, or interferes with the education of a student, or otherwise adversely affects the educational opportunity of a student or students;

(4) Name calling, making rude gestures, insulting, or teasing another person who feels humiliated, intimidated, threatened, or embarrassed;

(5) Making a telephone call without purpose of legitimate communication;

(6) Making repeated communications anonymously, or at extremely inconvenient hours, or in offensively coarse language on campus or, other department of education premises, on department of education transportation, or during a department of education sponsored activity or event on or off school property;

(7) Causing fear as to prevent others from gaining legitimate access to or use of school buildings, facilities, services, or grounds such as, but is not limited to, restroom facilities; or

(8) Physically harming, physically restraining, threatening, or stalking, or a combination of the foregoing.

"Hazing" means any conduct or method of initiation into any student organization or activity, whether on campus or other department of education premises, on department of education transportation, or during a department of education sponsored activity or event on or off school property, which willfully or recklessly endangers the physical or mental health of any student. Such conduct shall include, but is not limited to whipping, beating, branding, forced calisthenics, exposure to weather, forced consumption of any food, liquor, beverage, drug or other substance, indecent exposure, or any other treatment or forced physical activity which is likely to adversely affect the physical or mental health, or both, or safety of any student, or which subjects any student to extreme mental stress, including deprivation of sleep or rest, extended isolation, or personal humiliation.

§8-19-6. Prohibited student conduct; class offenses.

(a) The following prohibited conduct applies to all students in the public school system, on campus, or other department of education premises, on department of education transportation, or during a department of education sponsored activity or event on or off school property.(2) Class B offenses:

(A) Bullying;

(B) Cyberbullying;

(G) Harassment;

(H) Hazing;

Other special infractions or conditions

ADMINISTRATIVE CODE

§8-19-6. Prohibited student conduct; class offenses.

(a) The following prohibited conduct applies to all students in the public school system, on campus, or other department of education premises, on department of education transportation, or during a department of education sponsored activity or event on or off school property.

(1) Class A offenses:

(A) Assault;

(B) Burglary;

(C) Dangerous instrument, or substance; possession or use of;

(D) Dangerous weapons; possession, or use of;

(E) Drug paraphernalia; possession, use, or sale of;

(F) Extortion;

(G) Fighting;

(H) Firearms; possession or use of;

(I) Homicide;

(J) Illicit drugs; possession, use, or sale of;

(K) Intoxicating substances; possession, use, or sale of;

(L) Property damage or vandalism;

(M) Robbery;

(N) Sexual offenses; or

(O) Terroristic threatening.

(2) Class B offenses:

(A) Bullying;

(B) Cyberbullying;

(C) Disorderly conduct;

(D) False alarm;

(E) Forgery;

(F) Gambling;

(G) Harassment;

(H) Hazing;

(I) Inappropriate or questionable uses, or both of internet materials or equipment, or both;

(J) Theft; or

(K) Trespassing.

(3) Class C offenses:

(A) Abusive language;

(B) Class cutting;

(C) Insubordination;

(D) Laser pen/laser pointer; possession or use of;

(E) Leaving campus without consent;

(F) Smoking or use of tobacco substances; or

(G) Truancy.

(4) Class D offenses:

(A) Contraband; possession or use of;

(B) Minor problem behaviors; or

(C) Other school rules.

(i) Any other conduct as may be prescribed and prohibited by school rules. Individual school rules shall be published or made available for inspection at the school office and shall inform students, school staff, and parents of the prohibited conduct under class A through D of this section.

(ii) No disciplinary action amounting to serious discipline shall be imposed for violation of any individual school rule as a class D offense.

§8-19-13. Prohibited student conduct; class offenses.

(a) The following prohibited conduct applies to all students in summer school during summer school hours, on campus, or other department of education premises, on department of education transportation, or during a department of education sponsored activity or event on or off school property.

(1) Class A offenses:

(A) Assault;

(B) Burglary;

(C) Dangerous instrument, or substance; possession or use of;

(D) Dangerous weapons; possession or use of;

(E) Drug paraphernalia; possession, use, or sale of;

(F) Extortion;

(G) Fighting;

(H) Firearms; possession or use of;

(I) Homicide;

(J) Illicit drugs; possession, use, or sale of;

(K) Intoxicating substances; possession, use, or sale of;

(L) Property damage or vandalism;

(M) Robbery;

(N) Sexual offenses; or

(O) Terroristic threatening.

(2) Class B offenses:

(A) Bullying;

(B) Cyberbullying;

(C) Disorderly conduct;

(D) False alarm;

(E) Forgery;

(F) Gambling;

(G) Harassment;

(H) Hazing;

(I) Inappropriate or questionable uses, or both of internet materials or equipment, or both;

(J) Theft; or

(K) Trespassing.

(3) Class C offenses:

(A) Abusive language;

(B) Class cutting;

(C) Insubordination;

(D) Laser pen/laser pointer; possession or use of;

(E) Leaving campus without consent;

(F) Smoking or use of tobacco substances; or

(G) Truancy.

(4) Class D offenses:

(A) Contraband; possession or use of;

(B) Minor problem behaviors; or

(C) Other school rules.

(b) Class C and D offenses: A summer school student who commits two of any class C or D offense as defined in section 8-19-6 in the course of summer school shall receive a warning for the first offense and may be released from summer school for the second offense.

(c) Any student who commits a class A or class B offense shall be dismissed from summer school. The summer school director or designee shall notify and meet with the student and parent prior to dismissal from summer school. The summer school director shall file a report with the complex area superintendent and shall provide a copy to the parent.

(d) A summer school director or designee, in an emergency, may impose a crisis removal of a student immediately after finding that the student's conduct presents an immediate clear threat to the physical safety of self or others or is so extremely disruptive as to make the student's immediate removal necessary to preserve the right of other students to pursue an education free from undue disruption. The summer school director or designee shall inform and meet with the student and parent prior to the student's reinstatement in summer school. No student shall be reinstated without the meeting. The summer school director or designee shall file a report with the complex area superintendent and shall provide a copy to the parent.

Prevention and Behavioral Interventions (Non-Punitive)

Prevention

ADMINISTRATIVE CODE

Implementation Guidelines for Hawaii Administrative Rules 8-19 (January 2013)
Hawaii Administrative Rules 8-19 (Jan 2013), Section 3: Establishing Schoolwide Positive Behavioral Interventions & Supports (SWPBIS).

In relation to §8-19-1 of Hawaii Administrative Rules, Title 8, Subtitle 2, Part 1, Chapter 19, this rule requires schools to provide a positive environment for students specifically referring to the type of learning environment that should be cultivated. The rule explains how SWPBIS assists schools in establishing and maintaining a compassionate, positive, and safe school culture. Additionally it states the role that students must play in creating and maintaining this positive environment. (Information obtained via Center communication with Hawaii DOE representative. The exact contents of this rule are available to Hawaii state personnel only.)

Behavioral interventions and student support services

ADMINISTRATIVE CODE

§8-19-6. Prohibited student conduct; class offenses.

(d) Disciplinary action shall be taken for all class offenses in grades kindergarten through twelve in accordance with procedures established under this chapter and within the following options as determined by the authorities designated in section 8-19-5. Interventions to teach students appropriate behaviors must be instituted when disciplinary actions are imposed. Disciplinary action options may include the following:

(1) Correction and conference with student;

(2) Detention;

(3) Crisis removal;

(4) Individualized instruction related to student's problem behaviors;

(5) In-school suspension;

(6) Interim alternate education setting;

(7) Loss of privileges;

(8) Parent conferences;

(9) Time in office;

(10) Suspension of one to ten school days;

(11) Suspension of eleven or more school days;

(12) Saturday school;

(13) Disciplinary transfer;

(14) Referral to alternative education programs;

(15) Dismissal; or

(16) Restitution.

(e) Students shall be counseled in addition to any disciplinary action taken under subsections (c) and (d).

(c) For "any student who possesses, sells, or uses a dangerous weapon, switchblade knife or any improperly used knife, intoxicating substance(s), or illicit drug(s) while attending school..." ...If the student is excluded from attending school, the principal or designee shall ensure that alternate educational activities or other appropriate student support assistance shall be provided, and that the student is referred for appropriate intervention or treatment services, or both, as determined by the principal or designee in consultation with the appropriate school staff or in accordance with the Hawaii administrative rules for students with disabilities, if applicable.

Professional development

No relevant statutes found.

Monitoring and Accountability

Formal incident reporting of conduct violations

STATUTES

§302A-1002. Reporting of crime-related incidents.

The board shall adopt rules pursuant to chapter 91 to:

(1) Require a report to appropriate authorities from a teacher, official, or other employee of the department who knows or has reason to believe that an act has been committed or will be committed, which:

(A) Occurred or will occur on school property during school hours or during activities supervised by the school; and,

(B) Involves crimes relating to arson, assault, burglary, disorderly conduct, dangerous weapons, dangerous drugs, harmful drugs, extortion, firearms, gambling, harassment, intoxicating drugs, marijuana or marijuana concentrate, murder, attempted murder, sexual offenses, rendering a false alarm, criminal property damage, robbery, terroristic threatening, theft, or trespass;

(2) Establish procedures for disposing of any incident reported; and

(3) Impose, in addition to any other powers or authority the department may have to discipline school officials, appropriate disciplinary action for failure to report these incidents, including probation, suspension, demotion, and discharge of school officials.

§302A-1134. Exclusion from school.

(b) Any child who, while attending school, is found to be in possession of a firearm, shall be excluded from attending school for not less than one year…The superintendent shall submit to the United States Department of Education, the state board of education, and the legislature an annual report indicating the number of students excluded, the types of firearms found in their possession, and the schools from which they were excluded.

ADMINISTRATIVE CODE

§8-19-7.1. Investigation.

(b) The investigation shall be completed as quickly as possible. If the principal or designee elects to initiate proceedings for the imposition of serious discipline other than crisis removal, the principal or designee upon completion of the investigation, shall make a written report containing a brief summary of the testimony of witnesses interviewed, any other evidence, and the principal or designee's reason(s) for the initiation of disciplinary proceedings.

§8-19-8. Suspension.

(d) A copy of the [parental suspension] notice shall be mailed to the complex area superintendent.

§8-19-9. Due process for suspensions exceeding ten days, disciplinary transfers, and dismissal.

(a) If, based upon the investigation, the principal or designee believes that a student engaged in an activity which constitutes a violation of this chapter, and if the principal or designee recommends that serious discipline other than crisis removal be imposed, the principal or designee shall immediately notify

the complex area superintendent to initiate disciplinary proceedings by obtaining verbal authorization from the complex area superintendent.

§8-19-19. Reporting class A and class B offenses occurring in school.

(a) Any teacher, official, or other employee of the department who is a witness to a class A or class B offense as defined in this chapter, or who has reasonable cause to believe that a class A or class B offense has been committed or will be committed, against a student, teacher, official, or other employee of the department, or involving school property, shall promptly report the incident to the principal or designee. Nothing in this subsection shall be construed to prohibit or prevent a teacher, official, or other employee of the department from reporting class C or class D offenses to the principal or designee.

(b) Upon receiving a class A or class B offense report, the principal or designee shall conduct an investigation to determine whether the behavior requires a direct call to the police or whether the behavior can be handled through school disciplinary procedures. The principal or designee shall call the police whenever there is perceived danger and the behavior cannot be handled by the school staff.

(c) The principal or designee shall record the incident information into the department's electronic database system within five school days of the reported offense.

(d) The principal or designee shall notify the reporting teacher, official, or other employee, of the disciplinary action, if any, taken on the class offense(s) within five school days after the incident is reported in accordance with subsection (c).

Parental notification

ADMINISTRATIVE CODE

§8-19-6. Prohibited student conduct; class offenses.

(c) For "any student who possesses, sells, or uses ... intoxicating substance(s), or illicit drug(s) while attending school... [or]... who reasonably appears to be under the influence of, have consumed or used intoxicating substance(s) or illicit drug(s) prior to attending school or attending department-supervised activities held on campus, or other department of education premises, on department of education transportation, or during a department of education sponsored activity or event on or off school property, ... the school administrator shall comply with the provisions of this chapter by conducting an investigation of the reported incident and inform the parent of the disciplinary action. In addition, the school administrator shall arrange for the student to be screened by a trained screener. The designated screener will summarize the results with the student, and inform the school administrator of the results. The school administrator shall then inform the family of the screening results, the early return provisions of the law, and provide a contact list of medical insurance agencies that conduct substance abuse assessments."

§8-19-7. Crisis removal.

(b) Upon imposition of a crisis removal, schools shall make a good faith effort to inform the parent immediately by telephone.

(c) A follow-up written notice of the crisis removal shall be personally delivered or mailed to the parent. The notice of the crisis removal shall contain the following written statements:

(1) Allegations of the specific acts committed by the student that form the basis of the crisis removal;

(2) The allegations of the specific acts that were substantiated;

(3) A statement of the disciplinary action(s); and

(4) A statement of a conference date, time, and place offered by the school administration to meet with the parent.

§8-19-7.1. Investigation.

(b) When conducting an investigation, the principal or designee shall make a good faith effort at the earliest point possible to inform the parent about the school's investigation. If after making reasonable attempts, the principal or designee is unable to contact the parent, the school may engage in and complete the investigation.

(c) The principal or designee shall give to the parent notice of the findings against the student. If the student or parent denies the charge(s), the principal or designee shall indicate to the parent and the student the evidence to support the findings of the school official. The student or parent shall be given an opportunity to present the student's version of the incident.

§8-19-8. Suspension.

(a) Whenever a principal or designee has reason to believe that a student has engaged in activity warranting the imposition of suspension, the principal or designee shall immediately conduct an investigation of the incident. Upon completion of the investigation and findings, the … principal or designee shall inform the parent in writing of the findings and the disciplinary actions.

(b) If the student or parent denies the charge(s), the principal or designee shall indicate to the student and parent what evidence school authorities have to support the findings of the school official. The student or parent, or both shall be given an opportunity to present the student's version of the incident. However, where the student is unable to understand the seriousness of the charges, the nature of the proceedings, and consequences thereof, or is of such age, intelligence or experience as to make meaningful discussion difficult, the principal or designee shall request that the parent be present to participate in the discussion.

(d) The parent shall be given verbal notice of any suspension regardless of its length. Prior notice for suspension shall be by telephone, if feasible, and the written notice personally delivered or mailed to the parent upon completion of the investigation. The suspension notice shall contain the following written statements:

(1) Allegations of the specific acts committed by the student that form the basis of the suspension;

(2) The allegations of the specific acts that were substantiated;

(3) A statement of the disciplinary action(s); and

(4) A statement of a conference date, time, and place offered by the school administration to meet with the parent.

In addition to the notice required by this subsection, the principal shall attempt to confirm the notice by telephoning the parent.

§8-19-9. Due process for suspensions exceeding ten days, disciplinary transfers, and dismissal.

(a) If, based upon the investigation, the principal or designee believes that a student engaged in an activity which constitutes a violation of this chapter, and if the principal or designee recommends that serious discipline other than crisis removal be imposed, the principal or designee shall immediately notify the complex area superintendent to initiate disciplinary proceedings by obtaining verbal authorization from the complex area superintendent.

(b) Upon obtaining verbal authorization from the complex area superintendent, the principal or the designee will make a good faith effort to inform the parent of:

(1) The serious discipline incident,

(2) The opportunity to appeal, and

(3) That the disciplinary action will be implemented immediately.

(c) Within three school days of the verbal authorization from the complex area superintendent, the principal or designee shall mail a written notice of the serious discipline incident with the appeal form to the parent. A facsimile signature of or an electronic approval confirmation of the complex area superintendent on the serious discipline incident form is sufficient. The written notice of serious discipline shall contain the following statements:

(1) Allegations of the specific acts committed by the student that form the basis of the serious discipline;

(2) The allegations of the specific acts that were substantiated;

(3) A statement of the disciplinary action(s); and

(4) A statement that the parent has a right to an appeal to the complex area superintendent at which time the parent may present evidence, call and cross-examine witnesses, and be represented by legal counsel and to the extent the parent provides a written notice of legal representation at least ten calendar days prior to the appeal.

(5) If the student or parent would like to file an appeal, the appeal must be submitted in writing and received by the complex area superintendent by the close of business of the seventh school day from the date of the issued serious discipline notice. The student shall be permitted to attend the school of the student pending the appeal unless the principal finds the continued presence of the student creates a substantial risk to self or others or to the rights of other students to pursue their education free from disruption. However, the student shall not participate in any extracurricular activities, including but are not limited to athletics, trips, or clubs.

For more information on appeal procedures, refer to §8-19-9 (d), (e) and (f)

§8-19-22. Police interviews in school for school-related offenses.

(a) Police officers may appear at a school to question a student. Upon arrival at the school, the police officer shall be directed to the principal or designee to request permission to interview a student. If permission to interview a student is to be granted, the principal or designee shall make an effort to inform the parent of the police interview and the right to be present when the interview is conducted. The interview may be conducted if the principal or designee is unable to inform the parent or if the parent is informed and declines to be present, or if after a reasonable period of time after the notice is given the parent fails to appear at school for the police interview.

(b) The principal or designee shall be present during a police interview unless excluded by the police officer.

(c) If a student is arrested, the principal or designee shall follow the procedures prescribed in section 8-19-24.

Reporting and referrals between schools and law enforcement

STATUTES

§302A-1137. Attendance records; availability to authorized police officers.

Dates of attendance of a student shall be made available to authorized police officers upon request.

ADMINISTRATIVE CODE

§8-19-19. Reporting class A and class B offenses occurring in school.

(b) … The principal or designee shall call the police whenever there is perceived danger and the behavior cannot be handled by the school staff.

§8-19-22. Police interviews in school for school-related offenses.

(a) Police officers may appear at a school to question a student. Upon arrival at the school, the police officer shall be directed to the principal or designee to request permission to interview a student. If permission to interview a student is to be granted, the principal or designee shall make an effort to inform the parent of the police interview and the right to be present when the interview is conducted. The interview may be conducted if the principal or designee is unable to inform the parent or if the parent is informed and declines to be present, or if after a reasonable period of time after the notice is given the parent fails to appear at school for the police interview.

(b) The principal or designee shall be present during a police interview unless excluded by the police officer.

(c) If a student is arrested, the principal or designee shall follow the procedures prescribed in section 8-19-24.

§8-19-24. Police arrests in school.

Police shall be directed to the principal or designee. Whenever possible the student shall be sent to the principal's office for the police officer to effect the pending arrest. Upon police arrival to arrest a student, the principal or designee shall make a good faith effort to inform the parent.

Disclosure of school records

STATUTES

§302A-1137. Attendance records; availability to authorized police officers.

Dates of attendance of a student shall be made available to authorized police officers upon request.

Data collection, review, and reporting of disciplinary policies and actions

No relevant statutes found.

School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers

Authority and power to implement school arrest

No relevant statutes found.

Certification or training

No relevant statutes found.

MOUs, authorization, and/or funding

No relevant statutes found.

State Education Agency Support

State model policies and implementation support

No relevant statutes found.

Funding appropriations

No relevant statutes found.

Other/Uncategorized

Professional immunity or liability

ADMINISTRATIVE CODE

§8-19-25. Liability for Vandalism.

(a) When any student is found to be responsible for an act of vandalism against any public school building, facility, or ground, restitution shall be made by the student or parent. There shall be no restitution when vandalism cannot be proved to have been committed by the student.

Community input or involvement

No relevant statutes found.

Other/Uncategorized

ADMINISTRATIVE CODE

§8-19-26. Procedures applicable to Vandalism.

(a) Whenever a principal or designee has reason to believe that a student may be responsible for an act of vandalism against any public school building, facility or ground, the principal or designee shall immediately initiate an investigation.

(b) If the vandalism is an act which subjects the student to disciplinary action under this chapter, the principal or designee shall include as part of the investigation required under sections 8-19-7, 8-19-8, 8-19-9, and 8-19-10, a determination of the facts and circumstances that support restitution under this subchapter. Further action related to restitution shall be held in abeyance until disciplinary action has been determined and appeal procedures have been exhausted.

(c) If after the investigation, the principal or designee has reason to believe that a student is responsible for the vandalism, the principal or designee shall schedule a conference with the student and parent. Attendance at the conference shall be limited to the principal or designee, student, and parent.

(d) Advance written notice of the conference shall be made on departmental forms, which shall be delivered by mail to the parent. No student or parent shall be required to make restitution in any manner unless the parent has been notified and has been given an opportunity to be heard. The notice shall inform the parent of the findings and the date, time, and location of the conference. The notice shall be mailed at least fifteen calendar days before the date of the conference. When necessary to achieve effective communication the notice shall be provided in the native language of the parent. The school may use other means of communication, such as the telephone, to augment the written communication between the school and the parent. […]

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by Hawaii provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
Website		
State DOE website on student behavior.	Includes: Student Bill of Rights and Responsibilities, Student Code of Conduct, Bullying	http://doe.k12.hi.us/student/behavior/index.htm
State resources on bullying.	Defines bullying and describes initiatives and actions to prevent bullying and harassment in schools.	http://www.doe.k12.hi.us/bullying/index.htm
Documents		
No relevant resources found		
Other Resources		
"Safe Schools Act" House Bill 688 (2011)	This House Bill was proposed but has not yet been approved.	http://www.capitol.hawaii.gov/session2011/bills/HB688_HD1_.pdf

Idaho
Compilation of School Discipline Laws and Regulations

Prepared: August 12, 2013

Introduction

This compilation presents school discipline-related state statutes, school discipline-related regulations, and, where available, links to state-sponsored websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSLE). For example, one major category encompasses all state laws or regulations mandating specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of state legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in each state.

Discipline categories were not mutually exclusive. Statutes and regulations often appeared across multiple categories. For states with more extensive statutes covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. State laws, ordered by chapter and section number, appear first within each category followed by state regulations. All statutes and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists statutes by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to state-sponsored websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of May 2013, with the exception of the state laws related to seclusion and restraint, which are complete and current as of December 2012. Readers should also note that the information in this document was compiled from individual state sources that are created by each state and which are maintained and updated with varying frequencies. Readers should consult the source information provided for each state directly in order to check for updates to this state's laws and regulations or conduct further research.

For further information, including definitions of the different policy categories, please refer to the Discipline Laws and Regulations Compendium posted on the Center's website.

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Safe Supportive Learning
Engagement | Safety | Environment

Table of Contents

Idaho State Codes Cited **1**

General Provisions **2**

Authority to develop and establish rules of conduct 2
Scope 3
Communication of policy 3

In-School Discipline **4**

Use of multi-tiered discipline approaches 4
Teacher authority to remove students from classrooms 4
Alternatives to suspension 4
Use of corporal punishment 4
Use of student and locker searches 4
Other in-school disciplinary approaches 4

Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements **5**

Grounds for possible suspension or expulsion 5
Grounds for mandatory suspension or expulsion 7
Limitations, conditions or exclusions for use of suspension and expulsion 8
Administrative procedures related to suspension and expulsion 8
In-school suspension 8
Return to school following removal 9
Use of restraint and seclusion 9
Alternative placements 9

Disciplinary Approaches Addressing Specific Infractions and Conditions **11**

Firearms (as required by the Guns-Free Schools Act) 11
Other weapons 12
Students with chronic disciplinary issues 14
Attendance and truancy 14
Substance use 15
Bullying, harassment, or hazing 15
Other special infractions or conditions 18

Prevention and Behavioral Interventions (Non-Punitive) **20**

Prevention 20
Behavioral interventions and student support services 20
Professional development 20

Monitoring and Accountability **21**

Formal incident reporting of conduct violations 21
Parental notification 22
Reporting and referrals between schools and law enforcement 22
Disclosure of school records 24
Data collection, review, and reporting of disciplinary policies and actions 24

School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers 25
Authority and power to implement school arrest 25
Certification or training 25
MOUs, authorization, and/or funding 25
State Education Agency Support 26
State model policies and implementation support 26
Funding appropriations 26
Other/Uncategorized 27
Professional immunity or liability 27
Community input or involvement 27
Other/Uncategorized 27
State-Sponsored, Publicly Available Websites or Other Resources on School Discipline 28

Idaho State Codes Cited

Idaho Revised Statutes

Title 18. Crimes and Punishments

Chapter 9. Assault and Battery

18-917A. Student harassment – Intimidation – Bullying

Chapter 33. Firearms, Explosive, and other Deadly Weapons

18-3301. Deadly weapon – Possession with intent to assault
18-3302D. Possessing weapons or firearms on school property
18-3302I. Threatening violence on school grounds

Title 20. State Prisons and County Jails

Chapter 5. Juvenile Corrections Act

20-509 Violent offenses, controlled substances violations near schools and offenders

Title 33. Education

Chapter 2. Attendance at Schools

33-201. School age
33-205. Denial of school attendance
33-206. Habitual truant defined
33-210. Students using or under the influence of alcohol or controlled substances

Chapter 5. District Trustees

33-512. Governance of schools

Chapter 12. Teachers

33-1225. Threats of violence

Chapter 16. Courses of Instruction

33-1612. Thorough system of public schools

Chapter 20. Education of Exceptional Children

33-2009. Education of children housed in juvenile detention facilities

Idaho Administrative Code

Idaho Administrative Procedures Act (IDAPA)

Section 08. Department Of Education Rules

School Violence/ Safety Policies/ Procedures Manual

506. Student harassment
506.50. Prohibitions against harassment intimidation and bullying
541. Prohibition of weapons
543. Student suspension
544. Student expulsion/denial of enrollment

General Provisions

Authority to develop and establish rules of conduct

STATUTES

33-205. Denial of school attendance.

The board of trustees of each school district shall establish the procedure to be followed by the superintendent and principals under its jurisdiction for the purpose of effecting a temporary suspension, which procedure must conform to the minimal requirements of due process.

33-512. Governance of schools.

The board of trustees of each school district shall have the following powers and duties:

(6) To prescribe rules for the disciplining of unruly or insubordinate pupils, including rules on student harassment, intimidation and bullying, such rules to be included in a district discipline code adopted by the board of trustees and a summarized version thereof to be provided in writing at the beginning of each school year to the teachers and students in the district in a manner consistent with the student's age, grade and level of academic achievement;

33-1612. Thorough system of public schools.

The constitution of the state of Idaho, section 1, article IX, charges the legislature with the duty to establish and maintain a general, uniform and thorough system of public, free common schools. In fulfillment of this duty, the people of the state of Idaho have long enjoyed the benefits of a public school system, supported by the legislature, which has recognized the value of education to the children of this state.

In continuing recognition of the fundamental duty established by the constitution, the legislature finds it in the public interest to define thoroughness and thereby establish the basic assumptions which govern provision of a thorough system of public schools.

A thorough system of public schools in Idaho is one in which:

1. A safe environment conducive to learning is provided;
2. Educators are empowered to maintain classroom discipline;
3. The basic values of honesty, self-discipline, unselfishness, respect for authority and the central importance of work are emphasized;
4. The skills necessary to communicate effectively are taught;
5. A basic curriculum necessary to enable students to enter academic or professional-technical postsecondary educational programs is provided;
6. The skills necessary for students to enter the work force are taught;
7. The students are introduced to current technology; and
8. The importance of students acquiring the skills to enable them to be responsible citizens of their homes, schools and communities is emphasized.

The state board shall adopt rules, pursuant to the provisions of chapter 52, title 67, Idaho Code, and section 33-105(3), Idaho Code, to establish a thorough system of public schools with uniformity as required by the constitution, but shall not otherwise impinge upon the authority of the board of trustees of the school districts. Authority to govern the school district, vested in the board of trustees of the school

district, not delegated to the state board, is reserved to the board of trustees. Fulfillment of the expectations of a thorough system of public schools will continue to depend upon the vigilance of district patrons, the dedication of school trustees and educators, the responsiveness of state rules, and meaningful oversight by the legislature.

ADMINISTRATIVE CODE

School Violence/ Safety Policies/ Procedures Manual (2006):

"A school district has every right, if authorized under its own policies, to discipline a student for his or her actions relating to school matters, even if there are criminal charges or convictions levied against the student. The criminal conviction does not preclude the school district from disciplining a student as the "double jeopardy" law does not apply. 2 Within the boundaries of its policies, and depending on the severity of the incident, the school district can impose discipline, up to and including expulsion, against the student." (p.5)

Scope

No relevant statutes found.

Communication of policy

STATUTES

33-512. Governance of schools.

The board of trustees of each school district shall have the following powers and duties:

(6) To prescribe rules for the disciplining of unruly or insubordinate pupils, including rules on student harassment, intimidation and bullying, such rules to be included in a district discipline code adopted by the board of trustees and a summarized version thereof to be provided in writing at the beginning of each school year to the teachers and students in the district in a manner consistent with the student's age, grade and level of academic achievement;

In-School Discipline

Use of multi-tiered discipline approaches

No relevant statutes found.

Teacher authority to remove students from classrooms

No relevant statutes found.

Alternatives to suspension

No relevant statutes found.

Use of corporal punishment

No relevant statutes found.

Use of student and locker searches

STATUTES

18-3302D. Possessing weapons or firearms on school property.

(3) Right to search students or minors.

For purposes of enforcing the provisions of this section, employees of a school district shall have the right to search all students or minors, including their belongings and lockers, that are reasonably believed to be in violation of the provisions of this section, or applicable school rule or district policy, regarding the possessing of a firearm or other deadly or dangerous weapon.

Other in-school disciplinary approaches

No relevant statutes found.

Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements

Grounds for possible suspension or expulsion

STATUTES

33-205. Denial of school attendance.

The board of trustees may deny enrollment, or may deny attendance at any of its schools by expulsion, to any pupil who is an habitual truant (see 33-206), or who is incorrigible, or whose conduct, in the judgment of the board, is such as to be continuously disruptive of school discipline, or of the instructional effectiveness of the school, or whose presence in a public school is detrimental to the health and safety of other pupils, or who has been expelled from another school district in this state or any other state.

ADMINISTRATIVE CODE

School Violence/Safety Policies/Procedures Manual, Policy No. 506: Student Harassment

DISCIPLINARY ACTION

If the allegation of harassment is against a student and there is sufficient evidence to support the allegation, disciplinary action, up to and including suspension or expulsion, may be taken against the offender. … In the event the investigation discloses that the complaining student has falsely accused another individual of harassment knowingly or in a malicious manner, the complaining student may be subject to disciplinary action, up to and including expulsion.

School Violence/Safety Policies/Procedures Manual, Policy No. 506.50: Prohibitions Against Harassment Intimidation and Bullying

DISCIPLINARY ACTION

Students who engage in harassment, intimidation or bullying will be disciplined as determined to be appropriate, up to and including suspension and/or expulsion.

School Violence/ Safety Policies/ Procedures Manual, Policy No. 541: Prohibition of Weapons

DISCIPLINARY ACTIONS

Any student found to be in violation of this policy will be subject to disciplinary action, including, but not limited to, expulsion, suspension, or other appropriate penalties. The board may, at its discretion, expel a student for the possession and/or use of a weapon, regardless of whether the item at issue falls within the definition of “weapon” under the Gun-Free Schools Act. Disciplinary action will be taken after reviewing all factors, including, but not limited to, the mandates of federal and state law; the student’s actions; the risk of harm to the students, district personnel, and patrons; the student’s academic standing; the likelihood of recurring violation; and the student’s prior conduct.

School Violence/Safety Policies/Procedures Manual, Policy No. 543: Student Suspension

The superintendent of this district or the principal of any school within this district may temporarily suspend any student for the following reasons:

1. Disciplinary reasons, including student harassment, intimidation, or bullying, or for any other conduct disruptive of good order or of the instructional effectiveness of the school.

2. Failure of the parent/guardian to furnish, or to request of a previous administration, out-of-state records for a student transferring into this district. The parent/guardian of a student transferring from out-of-state to a school in this district is required, if requested, to furnish the district accurate copies of the student's school records, including records containing information concerning violent or disruptive behavior, student harassment, intimidation, or bullying, or disciplinary action involving the student.

The temporary suspension by the principal will not exceed five (5) school days in length. The superintendent may extend the temporary suspension an additional ten (10) school days. If the board finds that immediate return to school attendance by the temporarily suspended student would be detrimental to other students' health, welfare, or safety, the board may extend the temporary suspension for an additional five (5) school days.

Prior to suspending any student, the superintendent or principal will grant an informal hearing on the reasons for the suspension and the opportunity to challenge those reasons. Any student who has been suspended may be readmitted to the school by the superintendent or the principal who suspended him or her upon such reasonable conditions as the superintendent or principal may prescribe. The board will be notified of any temporary suspensions, the reasons therefore, and the response, if any, thereto.

Suspension of students with disabilities as defined by Public Law 94-142, and subsequent amendments, and Section 504 of the 1973 Rehabilitation Act, will follow federal guidelines and the provisions of this policy.

School Violence/Safety Policies/Procedures Manual, Policy No. 544: Student Expulsion/Denial of Enrollment

The board may deny a student enrollment, or may deny a student attendance at any of its schools by expulsion, for the following reasons:

1. The student is a habitual truant, is incorrigible, or whose conduct, in the judgment of the board, is such as to be continually disruptive of school discipline or of the instructional effectiveness of the school, or whose presence in a public school is detrimental to the health and safety of other students.
2. The student has been expelled from another school district in this state or any other state.
3. The parent/guardian fails to furnish, or to request of the out-of-state school from which the student is transferring, school records for a student transferring into this district. The parent/guardian of a student transferring from out-of-state to a school in this district is required, if requested, to furnish the district accurate copies of the student's school records, including records containing information concerning violent or disruptive behavior or disciplinary action involving the student.

Any student having been denied enrollment or expelled may be enrolled or readmitted to school by the board upon such reasonable conditions as may be prescribed by the board; but such enrollment or readmission will not prevent the board from subsequently expelling such student for cause.

The board will expel from school for a period of not less than one (1) year, twelve (12) calendar months, or may deny enrollment to, a student who has been found to have carried a weapon or firearm on school property in this state or any other state, except that the board may modify the expulsion or denial of enrollment order on a case-by-case basis. An authorized representative of the board will report such student and incident to the appropriate law enforcement agency.

No student will be expelled or denied enrollment without first receiving the following due process rights:

1. The board, through the superintendent or his or her designee, will give written notice to the parent/guardian of the student;
2. The notice will state the grounds for the proposed expulsion or denial of enrollment and the time and place where such parent/guardian may appear to contest the action of the board to deny school attendance;

3. The notice will also state the right of the student to be represented by counsel, to produce witnesses, and submit evidence on his or her own behalf, and to cross-examine any adult witnesses who may appear against him or her.
4. Within a reasonable period of time following such notification, the board will grant the student and his or her parent/guardian a full and fair hearing on the proposed expulsion or denial of enrollment.
5. The board will allow a reasonable period of time between such notification and the holding of such hearing to allow the student and the parent/guardian to prepare their response to the charge.
6. Any student who is within the age of compulsory attendance, who is expelled or denied enrollment as herein provided, will come under the purview of the Juvenile Corrections Act, and an authorized representative of the board will provide, within five (5) days, written notice of the expulsion to the prosecuting attorney of the county of the student's residence in such form as the court may require under the provisions of the Juvenile Corrections Act.

Grounds for mandatory suspension or expulsion

ADMINISTRATIVE CODE

School Violence/ Safety Policies/ Procedures Manual, Policy No. 541: Prohibition of Weapons

Expulsion Mandated by Federal Law

The board of trustees shall expel a student when the student's actions violate federal law, as set forth in the Gun-Free Schools Act and Idaho law, regarding the prohibition of weapons: **Gun-Free Schools Act.** A student is found by district personnel or by law enforcement personnel to have carried a dangerous weapon as defined by 18 U. S. C. Section 921 on school property. The definition of weapon, for purposes of expulsion under this provision, includes a firearm or destructive device which is designed to or may be readily converted to expel a projectile by the action of an explosive or other propellant. Destructive devices such as any explosive, incendiary, or poisonous gas, bomb, or grenade are also defined as firearms. Specifically excluded from the definition of "weapons" pursuant to the Gun-Free Schools Act, and therefore not subject to mandatory expulsion, are the following:

1. Antique firearms and rifles which the owner intends to use solely for sporting, recreational, or cultural purposes;
2. Firearms that are lawfully stored inside a locked vehicle on school property; and
3. Weapons which are used in activities, approved and authorized by the superintendent or designee, when appropriate safeguards are adopted to ensure student safety.

The expulsion, pursuant to the Gun-Free Schools Act, will be for a period of not less than one (1) year (twelve (12) calendar months). The board may modify the expulsion order on a case-by-case basis, taking into account the individual circumstances and the severity of the incident.

School Violence/Safety Policies/Procedures Manual, Policy No. 544: Student Expulsion/Denial of Enrollment

The board will expel from school for a period of not less than one (1) year, twelve (12) calendar months, or may deny enrollment to, a student who has been found to have carried a weapon or firearm on school property in this state or any other state, except that the board may modify the expulsion or denial of enrollment order on a case-by-case basis. An authorized representative of the board will report such student and incident to the appropriate law enforcement agency.

Limitations, conditions or exclusions for use of suspension and expulsion

ADMINISTRATIVE CODE

School Violence/Safety Policies/Procedures Manual, Policy No. 544: Student Expulsion/Denial of Enrollment

Suspension of students with disabilities as defined by Public Law 94-142, and subsequent amendments, and Section 504 of the 1973 Rehabilitation Act, will follow federal guidelines and the provisions of this policy.

Administrative procedures related to suspension and expulsion

STATUTES

33-205. Denial of school attendance.

Any pupil having been denied enrollment or expelled may be enrolled or readmitted to the school by the board of trustees upon such reasonable conditions as may be prescribed by the board; but such enrollment or readmission shall not prevent the board from again expelling such pupil for cause.

No pupil shall be expelled nor denied enrollment without the board of trustees having first given written notice to the parent or guardian of the pupil, which notice shall state the grounds for the proposed expulsion or denial of enrollment and the time and place where such parent or guardian may appear to contest the action of the board to deny school attendance, and which notice shall also state the rights of the pupil to be represented by counsel, to produce witnesses and submit evidence on his own behalf, and to cross-examine any adult witnesses who may appear against him. Within a reasonable period of time following such notification, the board of trustees shall grant the pupil and his parents or guardian a full and fair hearing on the proposed expulsion or denial of enrollment. However, the board shall allow a reasonable period of time between such notification and the holding of such hearing to allow the pupil and his parents or guardian to prepare their response to the charge.

A temporary suspension by the principal shall not exceed five (5) school days in length; and the school superintendent may extend the temporary suspension an additional ten (10) school days. Provided, that on a finding by the board of trustees that immediate return to school attendance by the temporarily suspended student would be detrimental to other pupils' health, welfare or safety, the board of trustees may extend the temporary suspension for an additional five (5) school days. Prior to suspending any student, the superintendent or principal shall grant an informal hearing on the reasons for the suspension and the opportunity to challenge those reasons. Any pupil who has been suspended may be readmitted to the school by the superintendent or principal who suspended him upon such reasonable conditions as said superintendent or principal may prescribe. The board of trustees shall be notified of any temporary suspensions, the reasons therefor, and the response, if any, thereto.

See School Violence/ Safety Policies/ Procedures Manual (2006) for additional information, including procedures related to “Disciplining Students with Disabilities” (Policy Nos. 545 and 546).

In-school suspension

No relevant statutes found.

Return to school following removal

STATUTES

33-205. Denial of school attendance.

Any pupil who has been suspended may be readmitted to the school by the superintendent or principal who suspended him upon such reasonable conditions as said superintendent or principal may prescribe.

Use of restraint and seclusion

No relevant statutes found.

Alternative placements

STATUTES

18-3302D. Possessing weapons or firearms on school property.

5) Penalties. Persons who are found guilty of violating the provisions of this section may be sentenced to a jail term of not more than one (1) year or fined an amount not in excess of one thousand dollars ($1,000) or both. If a violator is a student and under the age of eighteen (18) years, the court may place the violator on probation and suspend the juvenile detention or fine or both as long as the violator is enrolled in a program of study recognized by the court that, upon successful completion, will grant the violator a general equivalency diploma (GED) or a high school diploma or other educational program authorized by the court. Upon successful completion of the terms imposed by the court, the court shall discharge the offender from serving the remainder of the sentence. If the violator does not complete, is suspended from, or otherwise withdraws from the program of study imposed by the court, the court, upon receiving such information, shall order the violator to commence serving the sentence provided for in this section.

33-2009. Education of children housed in juvenile detention facilities.

Every public school district in this state within which is located a detention facility housing juvenile offenders pursuant to court order shall provide, subject to rules of the state board of education, instruction in accredited courses, by a certified instructor, for the juvenile offenders under twenty-one (21) years of age who are housed in the detention facility for juvenile offenders, and shall upon satisfactory completion of required public school courses or correspondence course from a state institution of higher learning in Idaho, issue credits or a diploma evidencing such achievement. Every student served by a public school district pursuant to this section shall be counted as an exceptional child by the district for purposes of state reimbursement.

ADMINISTRATIVE CODE

IDAPA Rule 08.02.03.110. Alternative Secondary Programs (Section 33-1002; 33-1002C; 33-1002F, IDAHO CODE).

Alternative secondary programs are those that provide special instructional courses and offer special services to eligible at-risk youth to enable them to earn a high school diploma. Some designated differences must be established between the alternative school programs and the regular secondary school programs. Alternative secondary school programs will include course offerings, teacher/pupil ratios and evidence of teaching strategies that are clearly designed to serve at-risk youth as defined in this section. Alternative high school programs conducted during the regular school year will be located on a

separate site from the regular high school facility or be scheduled at a time different from the regular school hours.

01. Student Qualifications. An at-risk youth is any secondary student grade seven through twelve (7-12) who meets any three (3) of the following criteria, Subsections 110.01.a. through 110.01.f., or any one (1) of criteria in Subsections 110.01.g. through 110.01.m. (3-30-07)

a. Has repeated at least one (1) grade. (4-1-97)

b. Has absenteeism that is greater than ten percent (10%) during the preceding semester. (4-1-97)

c. Has an overall grade point average that is less than 1.5 (4.0 scale) prior to enrolling in an alternative secondary program. (4-1-97)

d. Has failed one (1) or more academic subjects. (4-1-97)

e. Is two (2) or more semester credits per year behind the rate required to graduate. (4-1-97)

f. Is a limited English proficient student who has not been in a program more than three (3) years. (3-30-07)

g. Has substance abuse behavior. (4-1-97)

h. Is pregnant or a parent. (4-1-97)

i. Is an emancipated youth. (4-1-97)

j. Is a previous dropout. (4-1-97)

k. Has serious personal, emotional, or medical problems. (4-1-97)

l. Is a court or agency referral. (4-1-97)

m. Upon recommendation of the school district as determined by locally developed criteria for disruptive student behavior. (4-1-97)

02. Instruction. Special instruction courses for at-risk youth enrolled in an alternative secondary program will include: (4-1-97) a. Academic skills that include language arts and communication, mathematics, science, and social studies that meet or exceed minimum state standards. (4-1-97)

Disciplinary Approaches Addressing Specific Infractions and Conditions

Firearms (as required by the Guns-Free Schools Act)

STATUTES

18-3302D. Possessing weapons or firearms on school property.

(1) (a) It shall be unlawful and is a misdemeanor for any person to possess a firearm or other deadly or dangerous weapon while on the property of a school or in those portions of any building, stadium or other structure on school grounds which, at the time of the violation, were being used for an activity sponsored by or through a school in this state or while riding school provided transportation.

(b) The provisions of this section regarding the possession of a firearm or other deadly or dangerous weapon on school property shall also apply to students of schools while attending or participating in any school sponsored activity, program or event regardless of location.

(2) Definitions. As used in this section:

(a) "Deadly or dangerous weapon" means any weapon as defined in 18 U.S.C. section 930;

(b) "Firearm" means any firearm as defined in 18 U.S.C. section 921;

(c) "Minor" means a person under the age of eighteen (18) years;

(d) "Possess" means to bring an object, or to cause it to be brought, onto the property of a public or private elementary or secondary school, or onto a vehicle being used for school provided transportation, or to exercise dominion and control over an object located anywhere on such property or vehicle. For purposes of subsection (1)(b) of this section, "possess" shall also mean to bring an object onto the site of a school sponsored activity, program or event, regardless of location, or to exercise dominion and control over an object located anywhere on such a site;

(e) "School" means a private or public elementary or secondary school.

(4) The provisions of this section shall not apply to the following persons:

(a) A peace officer;

(b) A person who lawfully possesses a firearm or deadly or dangerous weapon as an appropriate part of a program, an event, activity or other circumstance approved by the board of trustees or governing board;

(c) A person or persons complying with the provisions of section 19-202A, Idaho Code;

(d) Any adult over eighteen (18) years of age and not enrolled in a public or private elementary or secondary school who has lawful possession of a firearm or other deadly or dangerous weapon, secured and locked in his vehicle in an unobtrusive, nonthreatening manner;

(e) A person who lawfully possesses a firearm or other deadly or dangerous weapon in a private vehicle while delivering minor children, students or school employees to and from school or a school activity;

(f) Notwithstanding the provisions of section 18-3302C, Idaho Code, a person or an employee of the school or school district who is authorized to carry a firearm with the permission of the board of trustees of the school district or the governing board.

(5) Penalties. Persons who are found guilty of violating the provisions of this section may be sentenced to a jail term of not more than one (1) year or fined an amount not in excess of one thousand dollars ($1,000) or both. If a violator is a student and under the age of eighteen (18) years, the court may place

the violator on probation and suspend the juvenile detention or fine or both as long as the violator is enrolled in a program of study recognized by the court that, upon successful completion, will grant the violator a general equivalency diploma (GED) or a high school diploma or other educational program authorized by the court. Upon successful completion of the terms imposed by the court, the court shall discharge the offender from serving the remainder of the sentence. If the violator does not complete, is suspended from, or otherwise withdraws from the program of study imposed by the court, the court, upon receiving such information, shall order the violator to commence serving the sentence provided for in this section.

33-205. Denial of school attendance.

Provided however, the board shall expel from school for a period of not less than one (1) year, twelve (12) calendar months, or may deny enrollment to, a student who has been found to have carried a weapon or firearm on school property in this state or any other state, except that the board may modify the expulsion or denial of enrollment order on a case-by-case basis.

Other weapons

STATUTES

18-3302I. Threatening violence on school grounds.

(1) (a) Any person, including a student, who willfully threatens on school grounds by word or act to use a firearm or other deadly or dangerous weapon to do violence to any other person on school grounds is guilty of a misdemeanor.

(b) The threats prohibited by this section encompass only those statements or acts where the speaker or actor intends to communicate a serious expression of an intent to commit an act of unlawful violence to a particular individual or group of individuals. The prosecution is not required to prove that the defendant actually intended to carry out the threat.

(2) Definitions. As used in this section:

(a) "Deadly or dangerous weapon" means a weapon, device, instrument, material or substance that is used for, or is readily capable of, causing death or serious bodily injury;

(b) "Firearm" means any weapon, whether loaded or unloaded, from which a shot, projectile or other object may be discharged by force of combustion, explosive, gas and/or mechanical means, regardless of whether such weapon is operable;

(c) "On school grounds" means in, or on the property of, a public or private elementary or secondary school.

ADMINISTRATIVE CODE

School Violence/ Safety Policies/ Procedures Manual (2006):

Idaho Code §18-3302I does not specify that the school district has any obligation relative to threats of violence on school grounds. However, from the standpoint of ensuring student and staff safety, any threats which are reasonably believed to meet the definition set forth in Idaho Code § 18-3302I should be reported immediately to law enforcement." (p.11)

School Violence/ Safety Policies/ Procedures Manual, Policy No. 541: Prohibition of Weapons

This district is committed to providing a safe environment for all students and staff when they are at school, on a school bus, or at any school-sponsored activity. The district's commitment includes the

prohibition against any weapons or other objects/substances which may pose a threat to the health and safety of other students, staff members, or visitors, or could be used to disrupt the educational process.

PROHIBITIONS

Students attending district schools are prohibited from:

1. Possessing or carrying objects/substances which are manufactured, used, or intended for use as a weapon, or facsimiles thereof, at school, on a school bus, or at any school sponsored activity without prior permission of school officials.
2. Possessing, carrying, using, and/or threatening to use, any normally non-dangerous object or substance with the intent or result of causing harm to another individual at school, on a school bus, or at any school-sponsored activity.
3. Knowingly assisting another student(s) to possess, carry, or use a weapon at school, on a school bus, or at any school-sponsored activity.

DEFINITIONS

"Possess" is defined as bringing an object, or causing it to be brought, onto the property of a school, or onto a vehicle being used for school-provided transportation, or exercising dominion and control over an object located anywhere on such property or vehicle. A student will be determined to possess a weapon when the item is found to be in any of the following locations:

1. On a student's person;
2. In the student's personal property, including, but not limited to, the student's clothing, backpack, purse, or any other item the student transports or carries and/or causes to be transported or carried to school;
3. A vehicle parked in the school parking lot which the student drives and/or is transported in; 4. The student's locker; or
5. Any other school-related or school-sponsored event, regardless of location.

"Deadly or dangerous weapon" means a weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury, except that such term does not include a pocket knife with a blade of less than 2½ inches in length as defined in 18 U.S.C. Section 930. "Weapon" additionally includes a knife with a blade of any length.

"Firearm" shall mean any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; the frame receiver of any such weapon; any firearm muffle or firearm silencer; any destructive device, including any explosive, incendiary or poisonous gas, bomb, grenade, or rocket, missile, mine, or similar device, as defined in 18 U.S.C. Section 921, and air rifles or other weapons that propel a projectile with air, or pellet guns, or paint ball guns. Antique firearms are specifically excluded.

DENIAL OF ENROLLMENT

This district will not admit a student who has been expelled from another school district for violation of a statute, regulation, or policy which prohibits weapons until the student is eligible to return to his or her home school district. If a student wishes to challenge that decision, he or she is entitled to a due process hearing pursuant to Idaho Code Section 33-205.

Students with chronic disciplinary issues

STATUTES

33-205. Denial of school attendance.

The board of trustees may deny enrollment, or may deny attendance at any of its schools by expulsion, to any pupil... who is incorrigible, or whose conduct, in the judgment of the board, is such as to be continuously disruptive of school discipline, or of the instructional effectiveness of the school, or whose presence in a public school is detrimental to the health and safety of other pupils...

Attendance and truancy

STATUTES

33-201. School age.

The services of the public schools of this state are extended to any acceptable person of school age. "School age" is defined as including all persons resident of the state, between the ages of five (5) and twenty-one (21) years. For the purposes of this section, the age of five (5) years shall be attained when the fifth anniversary of birth occurs on or before the first day of September of the school year in which the child is to enroll in kindergarten. For a child enrolling in the first grade, the age of six (6) years must be reached on or before the first day of September of the school year in which the child is to enroll. Any child of the age of five (5) years who has completed a private or public out-of-state kindergarten for the required four hundred fifty (450) hours but has not reached the "school age" requirement in Idaho shall be allowed to enter the first grade.

For resident children with disabilities who qualify for special education and related services under the federal individuals with disabilities education act (IDEA) and subsequent amendments thereto, and applicable state and federal regulations, "school age" shall begin at the attainment of age three (3) and shall continue through the semester of school in which the student attains the age of twenty-one (21) years.

33-205. Denial of school attendance.

The board of trustees may deny enrollment, or may deny attendance at any of its schools by expulsion, to any pupil who is an habitual truant...

33-206. Habitual truant defined.

(1) An habitual truant is:

(a) Any public school pupil who, in the judgment of the board of trustees, or the board's designee, repeatedly has violated the attendance regulations established by the board; or

(b) Any child whose parents or guardians, or any of them, have failed or refused to cause such child to be instructed as provided in section 33-202, Idaho Code.

(2) A child who is an habitual truant shall come under the purview of the juvenile corrections act if he or she was within the age of compulsory attendance at the time of the violations.

Substance use

STATUTES

33-210. Students using or under the influence of alcohol or controlled substances.

(2) In addition to policies adopted pursuant to this section, students may, at the discretion of the district board of trustees or governing board of a charter school, be subject to other disciplinary or safety policies, regardless whether the student voluntarily discloses or is reasonably suspected of using or being under the influence of alcohol or a controlled substance in violation of district or charter school policy or section 37-2732C, Idaho Code.

(5) For the purposes of this section, the following definitions shall apply:

(a) "Reasonable suspicion" means an act of judgment by a school employee or independent contractor of an educational institution which leads to a reasonable and prudent belief that a student is in violation of school board or charter school governing board policy regarding alcohol or controlled substance use, or the "use" or "under the influence" provisions of section 37-2732C, Idaho Code. Said judgment shall be based on training in recognizing the signs and symptoms of alcohol and controlled substance use.

(b) "Intentionally harass" means a knowing and willful course of conduct directed at a specific student which seriously alarms, annoys, threatens or intimidates the student and which serves no legitimate purpose. The course of conduct must be such as would cause a reasonable person to suffer substantial emotional distress.

(c) "Course of conduct" means a pattern or series of acts over a period of time, however short, evidencing a continuity of purpose. Constitutionally and statutorily protected activity is not included within the meaning of "course of conduct."

See also “Scope” and “Parental notification” for policy guidance relating to “Students using or under the influence of alcohol or controlled substances.”

Bullying, harassment, or hazing

STATUTES

18-917A. Student harassment -- Intimidation -- Bullying.

(1) No student shall intentionally commit, or conspire to commit, an act of harassment, intimidation or bullying against another student.

(2) As used in this section, "harassment, intimidation or bullying" means any intentional gesture, or any intentional written, verbal or physical act or threat by a student that:

(a) A reasonable person under the circumstances should know will have the effect of:

(i) Harming a student; or

(ii) Damaging a student's property; or

(iii) Placing a student in reasonable fear of harm to his or her person; or

(iv) Placing a student in reasonable fear of damage to his or her property; or

(b) Is sufficiently severe, persistent or pervasive that it creates an intimidating, threatening or abusive educational environment for a student. An act of harassment, intimidation or bullying may also be committed through the use of a land line, car phone or wireless telephone or through the use of data or computer software that is accessed through a computer, computer system, or computer network.

(3) A student who personally violates any provision of this section may be guilty of an infraction.

33-512. Governance of schools.

The board of trustees of each school district shall have the following powers and duties:

(6) To prescribe rules for the disciplining of unruly or insubordinate pupils, including rules on student harassment, intimidation and bullying, such rules to be included in a district discipline code adopted by the board of trustees and a summarized version thereof to be provided in writing at the beginning of each school year to the teachers and students in the district in a manner consistent with the student's age, grade and level of academic achievement;

ADMINISTRATIVE CODE

School Violence/Safety Policies/Procedures Manual, Policy No. 506: Student Harassment

It is the policy of this district to maintain a learning environment that is free from harassment. Each student has the right to attend school in an atmosphere that promotes equal opportunities and that is free from all forms of discrimination and conduct that can be considered harassing, coercive, or disruptive. Students attending district schools are:

1. Prohibited from engaging in any conduct which could reasonably be construed as constituting harassment on the basis of sex (including sexual orientation), race, color, national origin, age, religious beliefs, ethnic background, or disability;
2. Prohibited from sexually harassing other students; and
3. Required to report to the school principal or designee, harassment of which the student becomes aware. This policy applies to all conduct on the district's premises and at school-sponsored events, conduct during transportation to and from school and school-sponsored events, and to conduct off the district's premises that has an adverse affect upon a student's educational environment.

DEFINITION OF HARASSMENT

Harassment is defined to include verbal, written, graphic, or physical conduct relating to an individual's sex or sexual orientation, race, color, national origin, age, religious beliefs, ethnic background, or disability that is sufficiently severe, pervasive, or persistent so as to interfere with or limit the ability of an individual to participate in or benefit from the district's programs that:

1. Has the purpose or effect of creating an intimidating or hostile environment.
2. Unreasonably interferes with an individual's educational performance.
3. Otherwise adversely affects an individual's educational opportunities.

Harassment includes, but is not limited to:

1. Physical acts of aggression or assault, damage to property, or intimidation and implied or overt threats of violence motivated by the victim's sex or sexual orientation, race, color, national origin, age, religious beliefs, ethnic background, or disability;
2. Demeaning jokes, taunting, slurs, and derogatory "nicknames," innuendos, or other negative remarks relating to the victim's sex or sexual orientation, race, color, national origin, age, religious beliefs, ethnic background, or disability;
3. Graffiti and/or slogans or visual displays such as cartoons or posters depicting slurs or derogatory sentiments related to the victim's sex or sexual orientation, race, color, national origin, age, religious beliefs, ethnic background, or disability; and
4. Criminal offenses directed at persons because of their sex or sexual orientation, race, color, national origin, age, religious beliefs, ethnic background, or disability;

Harassment also includes an act of retaliation taken against (1) any person bringing a complaint of harassment, (2) any person assisting another person in bringing a complaint of harassment, or (3) Any person participating in an investigation of an act of harassment.

DEFINITION OF SEXUAL HARASSMENT

Sexual harassment is a form of misconduct that undermines the student's relationship with educators and with other students. No student, male or female, should be subject to unasked for and unwelcome sexual overtures or conduct, either verbal or physical. Sexual harassment refers to sexual overtures or conduct, including those that relate to the student's sexual orientation, that is unwelcome, personally offensive, and affecting morale, thereby interfering with a student's ability to study or participate in school activities. Sexual harassment is a form of misconduct that includes unwelcome sexual advances, requests for sexual favors, sexually motivated physical conductor other verbal or physical conduct of a sexual nature when:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's participation in the educational process;
2. Submission to or rejection of such conduct by an individual is used as a factor for educational decisions affecting the individual; or
3. Such conduct has the purpose or effect of unreasonably interfering with an individual's education, or creating an intimidating, hostile, or offensive educational environment. Examples of sexual harassment include, but are not limited to, the following:
    1. Unwelcome verbal statements of a sexual or abusive nature, including requests or demands for sexual activity, sexual jokes, and obscene comments, etc.;
    2. Unwelcome, sexually motivated or inappropriate touching, pinching, or other physical contact;
    3. Unwelcome sexual behavior or communications, accompanied by implied or overt threats concerning an individual's education;
    4. Unwelcome behavior or communications directed at an individual because of his/her gender; and
    5. Stalking or unwelcome, sexually motivated attention.

PROTECTION AGAINST RETALIATION

No retaliation will be taken by this district or by any of its employees or students against a student who reports harassment in good faith. Any person found to have retaliated against another individual for reporting an incident of harassment may be subject to the same disciplinary action provided for harassment offenders. Those persons who assist or participate in an investigation of harassment are also protected from retaliation under this policy.

CONFIDENTIALITY

Any investigation will be conducted, to the maximum extent possible, in a manner that protects the privacy of both the complainant and the accused. However, if it is suspected that child abuse has occurred, such abuse will be reported to the proper authorities as required by state law.

School Violence/Safety Policies/Procedures Manual, Policy No. 506.50: Prohibitions Against Harassment Intimidation and Bullying

It is the policy of this district to maintain a safe school environment for all students while attending school, riding the school bus, and attending district sponsored activities on school premises or other locations. Harassment, intimidation, and/or bullying regardless of the specific nature of the students' behavior, is disruptive to a safe school environment and will not be tolerated. This district shall observe the week of September 10 through September 16, 2006, as Bullying Awareness Week.

DEFINITION

Harassment, intimidation and/or bullying is defined as misconduct by a student(s), which is characterized by the aggressor(s) repeatedly engaging in negative actions against another student(s) in an attempt to exercise control over the victim. Harassment, intimidation, and/or bullying is generally characterized by aggressive or intentionally harmful behavior which is carried out repeatedly over time.

PROHIBITED BEHAVIOR

Students attending district schools are prohibited from engaging in the following behaviors:

1. Physical abuse against a student, including, but not limited to hitting, pushing, tripping, kicking, blocking or restraining another's movement; sexual misconduct; causing damage to another's clothing or possessions; and taking another's belongings.
2. Verbal abuse against a student, including, but not limited to, name calling, threatening, sexual misconduct, taunting, and malicious teasing.
3. Psychological abuse against a student, including, but not limited to , spreading harmful or inappropriate rumors regarding another, drawing inappropriate pictures or wiring inappropriate statements regarding another, and intentionally excluding another from groups, or similar activities.
4. Harassment, intimidation, and/or bullying, including any intentional gesture or any intentional written, verbal, or physical acts or threats, against another student that:
   a. A reasonable person under the circumstances should know will have the effect of:
      (1) Harming a student; or
      (2) Damaging a student's property; or
      (3) Placing a student in reasonable fear of harm to his or her person; or
      (4) Placing a student in reasonable fear of damage to his or her property; or
   b. Is sufficiently severe, persistent, or pervasive that it creates an intimidating, threatening, or abusive educational environment for a student.

This prohibition extends not only to actions taking place on school grounds but also action originating at a remote location and carried out via any technology, including, but not limited to, the use of a landline, care phone, or wireless telephone, or through the use of data or computer software that is accessed through a computer, computer system, or computer network.

INVESTIGATION

The school administrator or designees will investigate any allegations of misconduct that are reasonably characterized as harassment, intimidation or bullying. At the discretion of the school principal and/or superintendent, the alleged perpetrators(s) may be suspended pending the outcome of the investigation.

DISCIPLINARY ACTION

Students who engage in harassment, intimidation or bullying will be disciplined as determined to be appropriate, up to and including suspension and/or expulsion.

Other special infractions or conditions

STATUTES

20-509. Violent offenses, controlled substances violations near schools and offenders.

(1) Any juvenile, age fourteen (14) years to age eighteen (18) years, who is alleged to have committed any of the following crimes or any person under age fourteen (14) years who is alleged to have committed any of the following crimes and, pursuant to section 20-508, Idaho Code, has been ordered by the court to be held for adult criminal proceedings:

(a) Murder of any degree or attempted murder;

(b) Robbery;

(c) Rape as defined in section 18-6101, Idaho Code;

(d) Male rape as defined in section 18-6108, Idaho Code;

(e) Forcible sexual penetration by the use of a foreign object;

(f) Infamous crimes against nature, committed by force or violence;

(g) Mayhem;

(h) Assault or battery with the intent to commit any of the above serious felonies;

(i) A violation of the provisions of section 37-2732(a)(1)(A), (B) or (C), Idaho Code, when the violation occurred on or within one thousand (1,000) feet of the property of any public or private primary or secondary school, or in those portions of any building, park, stadium or other structure or grounds which were, at the time of the violation, being used for an activity sponsored by or through such a school;

(j) Arson in the first degree and aggravated arson; shall be charged, arrested and proceeded against by complaint, indictment or information as an adult. All other felonies or misdemeanors charged in the complaint, indictment or information, which are based on the same act or transaction or on one (1) or more acts or transactions as the violent or controlled substances offense shall similarly be charged, arrested and proceeded against as an adult. Any juvenile proceeded against pursuant to this section shall be accorded all constitutional rights, including bail and trial by jury, and procedural safeguards as if that juvenile were an adult defendant.

Prevention and Behavioral Interventions (Non-Punitive)

Prevention

No relevant statutes found.

Behavioral interventions and student support services

No relevant statutes found.

Professional development

No relevant statutes found.

Monitoring and Accountability

Formal incident reporting of conduct violations

ADMINISTRATIVE CODE

School Violence/ Safety Policies/ Procedures Manual (2006)

"If it is determined that a student's actions fall within the definition of "harassment, intimidation or bullying," pursuant to Idaho Code § 18-917A, a referral should be made to law enforcement, and the appropriate discipline, based on the actions, must be determined." (p.4)

School Violence/Safety Policies/Procedures Manual, Policy No. 506: Student Harassment

REPORTING PROCEDURES

1. Any student, and/or parents of a student, who believe the student is being harassed should immediately report the situation to school personnel.
2. Any district employee who receives a report of harassment from a student, becomes aware that a student is being subjected to harassment, or in good faith believes that a student is being subjected to harassment, is required to report the matter to the building principal immediately. In the event the complaint involves the principal, the matter must be immediately reported to the superintendent.
3. Any district employee who witnesses harassment of a student should take immediate, appropriate action to intervene to stop the harassment.
4. Any student who becomes aware that a fellow student is being subjected to harassment should immediately report the incident to a counselor, teacher, or the principal.

INVESTIGATION AND REPORT

[Option A—the board must choose either Option A or Option B.]

When a report of harassment is received by the principal or the superintendent, immediate steps will be taken to follow the policy entitled "Civil Rights Grievance Procedure," Policy No. (294).

[Option B—the board must choose either Option A or Option B.]

When a report of harassment is received by the principal or the superintendent, immediate steps will be taken to do the following:

1. Obtain a written statement from the complainant regarding the allegations;
2. Obtain a written statement from the accused;
3. Obtain written statements from witnesses, if any; and
4. Prepare a written report detailing the investigation.

An investigator may be appointed to conduct the investigation or the principal or superintendent may conduct the investigation. The investigation should be completed within ten (10) workdays.

School Violence/ Safety Policies/ Procedures Manual, Policy No. 541: Prohibition of Weapons

INVESTIGATION

The superintendent or designee will immediately investigate any allegation that a student is in violation of this policy. If determined necessary by the superintendent or designee, law enforcement may be requested to conduct the investigation. Any item identified as a weapon may be confiscated by the superintendent or designee. Students reasonably believed to be in possession of these items may be suspended from school until a thorough investigation is completed.

Parental notification

STATUTES

33-210. Students using or under the influence of alcohol or controlled substances.

(1) It is legislative intent that parental involvement in all aspects of a child's education in the public school system remain a priority…Notification of the disclosure and availability of counseling for students shall be provided to parents, the legal guardian or child's custodian. However, once a student is reasonably suspected of using or being under the influence of alcohol or a controlled substance in violation of section 37-2732C, Idaho Code, regardless of any previous voluntary disclosure, the school administrator or designee shall contact the student's parent, legal guardian or custodian, and report the incident to law enforcement. The fact that a student has previously disclosed use of alcohol or a controlled substance shall not be deemed a factor in determining reasonable suspicion at a later date.

(3) The district board of trustees or the governing board of the charter school shall ensure that procedures are developed for contacting law enforcement and the student's parents, legal guardian or custodian regarding a student reasonably suspected of using or being under the influence of alcohol or a controlled substance. District and charter school policies formulated to meet the provisions of section 37-2732C, Idaho Code, and this section shall be made available to each student, parent, guardian or custodian by August 31, 2002, and thereafter as provided by section 33-512(6), Idaho Code.

ADMINISTRATIVE CODE

School Violence/Safety Policies/Procedures Manual, Policy No. 544: Student Expulsion/Denial of Enrollment

No student will be expelled or denied enrollment without first receiving the following due process rights:
1. The board, through the superintendent or his or her designee, will give written notice to the parent/guardian of the student;

Reporting and referrals between schools and law enforcement

STATUTES

33-205. Denial of school attendance.

Any pupil who is within the age of compulsory attendance, who is expelled or denied enrollment as herein provided, shall come under the purview of the juvenile corrections act, and an authorized representative of the board shall, within five (5) days, give written notice of the pupil's expulsion to the prosecuting attorney of the county of the pupil's residence.

33-210. Students using or under the influence of alcohol or controlled substances.

(1) It is legislative intent that parental involvement in all aspects of a child's education in the public school system remain a priority… Notification of the disclosure and availability of counseling for students shall be provided to parents, the legal guardian or child's custodian. However, once a student is reasonably suspected of using or being under the influence of alcohol or a controlled substance in violation of section 37-2732C, Idaho Code, regardless of any previous voluntary disclosure, the school administrator or designee shall contact the student's parent, legal guardian or custodian, and report the incident to law enforcement. The fact that a student has previously disclosed use of alcohol or a controlled substance shall not be deemed a factor in determining reasonable suspicion at a later date.

(3) The district board of trustees or the governing board of the charter school shall ensure that procedures are developed for contacting law enforcement and the student's parents, legal guardian or custodian regarding a student reasonably suspected of using or being under the influence of alcohol or a controlled substance. District and charter school policies formulated to meet the provisions of section 37-2732C, Idaho Code, and this section shall be made available to each student, parent, guardian or custodian by August 31, 2002, and thereafter as provided by section 33-512(6), Idaho Code.

ADMINISTRATIVE CODE

School Violence/ Safety Policies/ Procedures Manual (2006):

"Idaho Code §18-917A is a criminal statute and does not specify any obligation on the part of the school district. However, given the school district's general obligation to provide a safe environment for all students, the school district should immediately report to law enforcement all incidents which are reasonably determined to meet the criteria of Idaho Code §18-917A." (p. 5)

School Violence/Safety Policies/Procedures Manual, Policy No. 506: Student Harassment

DISCIPLINARY ACTION

If the allegation of harassment is against a student and there is sufficient evidence to support the allegation, disciplinary action, up to and including suspension or expulsion, may be taken against the offender. … In the event the harassment involves violent or other conduct which could be reasonably considered to be criminal in nature, the principal/superintendent will refer the matter to the local law enforcement agency.

School Violence/Safety Policies/Procedures Manual, Policy No. 506.50: Prohibitions Against Harassment Intimidation and Bullying

REPORT TO LAW ENFORCEMENT

The school administrator will refer allegations of bullying to law enforcement if he/she reasonably believes that the student has engaged in conduct, including harassment, intimidation, and/or bullying, in violation of Idaho Code Section 18-917A.

School Violence/ Safety Policies/ Procedures Manual, Policy No. 541: Prohibition of Weapons

REFERRAL TO LAW ENFORCEMENT

The district will refer any student who brings onto school property a weapon or firearm, as defined under the Gun-Free Schools Act or Idaho law, to law enforcement.

The board may, at its discretion, refer other students who violate this policy to law enforcement.

School Violence/Safety Policies/Procedures Manual, Policy No. 544: Student Expulsion/Denial of Enrollment

The board will expel from school for a period of not less than one (1) year, twelve (12) calendar months, or may deny enrollment to, a student who has been found to have carried a weapon or firearm on school property in this state or any other state, except that the board may modify the expulsion or denial of enrollment order on a case-by-case basis. An authorized representative of the board will report such student and incident to the appropriate law enforcement agency.

RECORD OF ALLEGATIONS

This district will keep and maintain a written record, including, but not limited to, witness statements, investigative reports, and correspondence, from the date any allegation of harassment is reported to district personnel. The information in the written record will also include the action taken by the district in

response to each allegation. The written record will be kept in the district's administrative offices and will not, at any time, be purged by district personnel.

Disclosure of school records

No relevant statutes found.

Data collection, review, and reporting of disciplinary policies and actions

No relevant statutes found.

School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers

Authority and power to implement school arrest

No relevant statutes found.

Certification or training

No relevant statutes found.

MOUs, authorization, and/or funding

No relevant statutes found.

State Education Agency Support

State model policies and implementation support

No relevant statutes found.

Funding appropriations

See “State-Sponsored, Publicly Available Websites or Other Resources on School Discipline.”

Other/Uncategorized

Professional immunity or liability

STATUTES

33-210. Students using or under the influence of alcohol or controlled substances.

(4) Any school district employee or independent contractor of an educational institution who has a reasonable suspicion that a student is using or is under the influence of alcohol or a controlled substance and, acting upon that suspicion, reports that suspicion to a school administrator or initiates procedures adopted by the board of trustees or governing board of the charter school pursuant to this section, shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed. Any such participant shall have the same immunity with respect to participation in any judicial proceeding resulting from such report. Any person who reports in bad faith or with malice shall not be protected by this section. Employees and independent contractors of educational institutions who intentionally harass a student through the misuse of the authority provided in this section shall not be immune from civil liability arising from the wrongful exercise of that authority and shall be guilty of a misdemeanor punishable by a fine not to exceed three hundred dollars ($300).

33-1225. Threats of violence -- Limitation on liability.

(1) A communication by any person to a school principal, or designee, or a communication by a student attending the school to the student's teacher, school counselor or school nurse, and any report of that communication to the school principal stating that a specific person has made a threat to commit violence on school grounds by use of a firearm, explosive, or deadly weapon defined in chapter 33, title 18, Idaho Code, is a communication on a matter of public concern. Such communication or report shall only be subject to liability in defamation by clear and convincing evidence that the communication or report was made with knowledge of its falsity or with reckless disregard for the truth or falsity of the communication or report. This section shall not be interpreted to change or eliminate other elements of defamation required by law.

(2) As used in this section, "school" means any public or private school providing instruction in kindergarten or any grades from grade one (1) through grade twelve (12) which is the subject of a threat.

Community input or involvement

No relevant statutes found.

Other/Uncategorized

No relevant statutes found.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by Idaho provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
Website		
Idaho Safe & Drug Free Data & Resource Directory	Webpage listing safe and drug free school resources, including the documents noted below.	http://www.sde.idaho.gov/sdfs/freelibrary.asp
Safe and Secure Schools	Provides current information and resources about the safety and security of schools including the Idaho emergency operation planning guide for safe and secure schools.	http://www.sde.idaho.gov/site/safe_secure/
Documents		
Current Legal Issues in Student Safety Training Manual (2008)	Provides basic procedural issues, sample policies and procedures, and scenarios with questions and responses. *Primary audience*: local school boards, superintendents, building administrators, and school board attorneys in the development and implementation of sound policy. *Secondary audience*: teachers, school resource officers and parents. Section 1: Search and Seizure Section 2: Harassment, Intimidation and Bullying Section 3: Drug Testing Section 4: Electronic Records Section 5: Scenarios Section 6: Policies/Procedures Section 7: Idaho Statutes	http://www.sde.idaho.gov/site/safe_drugfree/docs/Training-ManualCurrent-Legal-Issues-1013008.pdf

Title	Description	Website address (if applicable)
Website		
School Violence/ Safety Policies/ Procedures Manual (2006)	Provides an overview of the statutory language and obligations relating to Code §18-917A (harassment, intimidation, and bullying); Code §18-3302I pertaining to use of firearms and other deadly weapons; Code §33-512 requiring school districts to adopt policies regarding discipline of students who engage in acts of harassment, intimidation and bullying; and Code §33-205 regarding suspension for engaging in acts of harassment, intimidation or bullying.	http://www.sde.idaho.gov/sdfs/docs/Publications/manual.pdf
Idaho School Search Resource Guide (Aug 2002)	Provides definitions and legal principles relative to school searches; sample local school board policies and procedures; U.S. and Idaho Constitutional provisions governing school searches as well as Idaho statutes; guidelines for student searches and Fourth Amendment Protection; and a list of publications and other resources.	http://www.sde.idaho.gov/sdfs/docs/Publications/IDSearchGuideFinalnu.pdf
Harassment on School Campuses Manual	Table of Contents A. Bullying Characteristics B. Bullying Forms C. Profile of a Bully D. Profile of a Victim E. Bullying Statistics F. Location of Bullying G. Bullying by Boys H. Bullying by Girls I. Bullying Studies J. Sample Legislation	http://www.sde.idaho.gov/site/safe_drugfree/docs/HarrassmentFall2001.pdf
Other Resources		
No relevant resources found		

Illinois
Compilation of School Discipline Laws and Regulations

Prepared: August 12, 2013

Introduction

This compilation presents school discipline-related state statutes, school discipline-related regulations, and, where available, links to state-sponsored websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSLE). For example, one major category encompasses all state laws or regulations mandating specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of state legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in each state.

Discipline categories were not mutually exclusive. Statutes and regulations often appeared across multiple categories. For states with more extensive statutes covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. State laws, ordered by chapter and section number, appear first within each category followed by state regulations. All statutes and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists statutes by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to state-sponsored websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of May 2013, with the exception of the state laws related to seclusion and restraint, which are complete and current as of December 2012. Readers should also note that the information in this document was compiled from individual state sources that are created by each state and which are maintained and updated with varying frequencies. Readers should consult the source information provided for each state directly in order to check for updates to this state's laws and regulations or conduct further research.

For further information, including definitions of the different policy categories, please refer to the Discipline Laws and Regulations Compendium posted on the Center's website.

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Safe Supportive Learning
Engagement | Safety | Environment

Table of Contents

Illinois State Codes Cited **1**

General Provisions **3**

Authority to develop and establish rules of conduct 3
Scope 4
Communication of policy 4

In-School Discipline **5**

Use of multi-tiered discipline approaches 5
Teacher authority to remove students from classrooms 5
Alternatives to suspension 5
Use of corporal punishment 5
Use of student and locker searches 5
Other in-school disciplinary approaches 6

Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements **7**

Grounds for possible suspension or expulsion 7
Grounds for mandatory suspension or expulsion 8
Limitations, conditions or exclusions for use of suspension or expulsion 8
Administrative procedures related to suspension and expulsion 8
In school suspension 9
Return to school following removal 10
Use of restraint and seclusion 10
Alternative placements 14

Disciplinary Approaches Addressing Specific Infractions and Conditions **17**

Firearms (as required by the Guns-Free Schools Act) 17
Other weapons 17
Students with chronic disciplinary issues 17
Attendance and truancy 17
Substance use 19
Bullying, harassment, or hazing 19
Other special infractions or conditions 21

Prevention and Behavioral Interventions (Non-Punitive) **22**

Prevention 22
Behavioral interventions and student support services 23
Professional development 24

Monitoring and Accountability **25**

Formal incident reporting of conduct violations 25
Parental notification 25
Reporting and referrals between schools and law enforcement 26
Disclosure of school records 27
Data collection, review, and reporting of disciplinary policies and actions 27

School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers 28
Authority and power to implement school arrest 28
Certification or training 28
MOUs, authorization, and/or funding 28
State Education Agency Support 29
State model policies and implementation support 29
Funding appropriations 29
Other/Uncategorized 33
Professional immunity or liability 33
Community input or involvement 33
Other/Uncategorized 33
State-Sponsored, Publicly Available Websites or Other Resources on School Discipline 35

Illinois State Codes Cited

Illinois Revised Statutes

Illinois Compiled Statutes (ILCS)

Chapter 105. Schools Subsection 5 School Code

Article 2. State Board of Education - Powers and Duties

2-3.13a.	School records; transferring students

Article 10. School Boards

10/2.	Definitions
10-20.14.	Student discipline policies; Parent-teacher advisory committee
10-21.7.	Attacks on school personnel
10-22.6.	Suspension or expulsion of pupils; school searches
10-22.10a.	Inspection for drugs
10-27.1A.	Firearms in schools
10-27.1B.	Reporting drug-related incidents in schools

Article 13A. Alternative public schools

13A-1.	Legislative declaration (a.k.a. the “Safe Schools Law”)
13A-4.	Administrative transfers
13B-20.5.	Eligible activities and services

Article 22. General Provisions--Penalties--Liabilities

22-12.	Preventing or interfering with a child's attendance at school

Article 24. Employment of Teachers--Tenure--Duties of Teachers

24-24.	Maintenance of discipline

Article 26. Pupils--Compulsory Attendance

26-2a.	[Terms defined]
26-5.	Duties of truant officers
26-12.	Punitive action
26-13.	Absenteeism and truancy policies

Article 27. Courses of Study--Special Instruction

27-13.3.	Internet safety education curriculum.
27-23.4.	Violence prevention and conflict resolution education
27-23.7.	Bullying prevention.
27-23.10.	Gang resistance education and training

Illinois Administrative Code

Title 23. Education and Cultural Resources

1. Public Schools Evaluation, Recognition and Supervision

1.280. Discipline
1.285. Requirements for the use of isolated time out and physical restraint

205. Truants' Alternative and Optional Education Programs

205.20. Purpose
205.30. Eligible applicants
205.35. Required program components
205.40. Application procedure and content
205.50. Proposal review and approval
205.60. Allocation of funds
205.70. Terms of the grant

General Provisions

Authority to develop and establish rules of conduct

STATUTES

§ 105 ILCS 5/10-20.14. Student discipline policies; Parent-teacher advisory committee.

(a) To establish and maintain a parent-teacher advisory committee to develop with the school board policy guidelines on pupil discipline, including school searches, to furnish a copy of the policy to the parents or guardian of each pupil within 15 days after the beginning of the school year, or within 15 days after starting classes for a pupil who transfers into the district during the school year, and to require that each school informs its pupils of the contents of its policy. School boards, along with the parent-teacher advisory committee, are encouraged to annually review their pupil discipline policies, the implementation of those policies, and any other factors related to the safety of their schools, pupils, and staff.

§ 105 ILCS 5/24-24. Maintenance of discipline.

Subject to the limitations of all policies established or adopted under Section 14-8.05 [105 ILCS 5/14-8.05], teachers, other certificated educational employees, and any other person, whether or not a certificated employee, providing a related service for or with respect to a student shall maintain discipline in the schools, including school grounds which are owned or leased by the board and used for school purposes and activities. In all matters relating to the discipline in and conduct of the schools and the school children, they stand in the relation of parents and guardians to the pupils. This relationship shall extend to all activities connected with the school program, including all athletic and extracurricular programs, and may be exercised at any time for the safety and supervision of the pupils in the absence of their parents or guardians.

§ 105 ILCS 5/ 26-13. Absenteeism and truancy policies.

School districts shall adopt policies, consistent with rules adopted by the State Board of Education, which identify the appropriate supportive services and available resources which are provided for truants and chronic truants.

§ 105 ILCS 5/27-23.7. Bullying prevention.

(d) Each school district and non-public, non-sectarian elementary or secondary school shall create and maintain a policy on bullying, which policy must be filed with the State Board of Education. Each school district and non-public, non-sectarian elementary or secondary school must communicate its policy on bullying to its students and their parent or guardian on an annual basis. The policy must be updated every 2 years and filed with the State Board of Education after being updated. The State Board of Education shall monitor the implementation of policies created under this subsection (d).

ADMINISTRATIVE CODE

1.280. Discipline.

Section 24-24 of the School Code [105 ILCS 5/24-24 Provides for teachers, other certificated educational employees and persons providing a related service for or with respect to a student as determined by the board of education to maintain discipline in the schools.

b) The board of education shall establish a policy on the administration of discipline in accordance with the requirements of Sections 10-20.14 and 24-24 of the School Code [105 ILCS 5/10-20.14 and 24-24] and disseminate that policy as provided in Section 10-20.14 of the School Code.

Scope

No relevant statutes found.

Communication of policy

STATUTES

§ 105 ILCS 5/10-20.14. Student discipline policies; Parent-teacher advisory committee.

(a) To establish and maintain a parent-teacher advisory committee to develop with the school board policy guidelines on pupil discipline, including school searches, to furnish a copy of the policy to the parents or guardian of each pupil within 15 days after the beginning of the school year, or within 15 days after starting classes for a pupil who transfers into the district during the school year, and to require that each school informs its pupils of the contents of its policy. School boards, along with the parent-teacher advisory committee, are encouraged to annually review their pupil discipline policies, the implementation of those policies, and any other factors related to the safety of their schools, pupils, and staff.

§ 105 ILCS 5/27-23.7. Bullying prevention.

(d) [...] Each school district and non-public, non-sectarian elementary or secondary school must communicate its policy on bullying to its students and their parent or guardian on an annual basis. [...]

ADMINISTRATIVE CODE

1.280. Discipline.

Section 24-24 of the School Code [105 ILCS 5/24-24 Provides for teachers, other certificated educational employees and persons providing a related service for or with respect to a student as determined by the board of education to maintain discipline in the schools.

b) The board of education shall establish a policy on the administration of discipline in accordance with the requirements of Sections 10-20.14 and 24-24 of the School Code [105 ILCS 5/10-20.14 and 24-24] and disseminate that policy as provided in Section 10-20.14 of the School Code.

In-School Discipline

Use of multi-tiered discipline approaches

No relevant statutes found.

Teacher authority to remove students from classrooms

STATUTES

§ 105 ILCS 5/24-24. Maintenance of discipline.

[…] Nothing in this Section affects the power of the board to establish rules with respect to discipline; except that each board shall establish a policy on discipline, and the policy so established shall provide, subject to the limitations of all policies established or adopted under Section 14-8.05 [105 ILCS 5/14-8.05], that a teacher, other certificated employee, and any other person, whether or not a certificated employee, providing a related service for or with respect to a student may use reasonable force as needed to maintain safety for the other students, school personnel or persons or for the purpose of self defense or the defense of property, shall provide that a teacher may remove a student from the classroom for disruptive behavior, and shall include provisions which provide due process to students. [...]

Alternatives to suspension

No relevant statutes found.

Use of corporal punishment

STATUTES

§ 105 ILCS 5/ 24-24. Maintenance of discipline.

[…] Nothing in this Section affects the power of the board to establish rules with respect to discipline; except that each board shall establish a policy on discipline, and [...] The policy shall not include slapping, paddling or prolonged maintenance of students in physically painful positions nor shall it include the intentional infliction of bodily harm.

Use of student and locker searches

STATUTES

§ 105 ILCS 5/10-22.6. Suspension or expulsion of pupils; school searches.

(e) To maintain order and security in the schools, school authorities may inspect and search places and areas such as lockers, desks, parking lots, and other school property and equipment owned or controlled by the school, as well as personal effects left in those places and areas by students, without notice to or the consent of the student, and without a search warrant. As a matter of public policy, the General Assembly finds that students have no reasonable expectation of privacy in these places and areas or in their personal effects left in these places and areas. School authorities may request the assistance of law enforcement officials for the purpose of conducting inspections and searches of lockers, desks, parking lots, and other school property and equipment owned or controlled by the school for illegal drugs, weapons, or other illegal or dangerous substances or materials, including searches conducted through

the use of specially trained dogs. If a search conducted in accordance with this Section produces evidence that the student has violated or is violating either the law, local ordinance, or the school's policies or rules, such evidence may be seized by school authorities, and disciplinary action may be taken. School authorities may also turn over such evidence to law enforcement authorities. The provisions of this subsection (e) apply in all school districts, including special charter districts and districts organized under Article 34.

§ 105 ILCS 5/10-22.10a. Inspection for drugs.

School boards are empowered to adopt a policy to authorize school officials to request the assistance of law enforcement officials for the purpose of conducting reasonable searches of school grounds and lockers for illegal drugs, including searches conducted through the use of specially trained dogs.

Other in-school disciplinary approaches

No relevant statutes found.

Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements

Grounds for possible suspension or expulsion

STATUTES

§ 105 ILCS 5/10-22.6. Suspension or expulsion of pupils; school searches.

(b) To suspend or by policy to authorize the superintendent of the district or the principal, assistant principal, or dean of students of any school to suspend pupils guilty of gross disobedience or misconduct, or to suspend pupils guilty of gross disobedience or misconduct on the school bus from riding the school bus, and no action shall lie against them for such suspension. The board may by policy authorize the superintendent of the district or the principal, assistant principal, or dean of students of any school to suspend pupils guilty of such acts for a period not to exceed 10 school days. If a pupil is suspended due to gross disobedience or misconduct on a school bus, the board may suspend the pupil in excess of 10 school days for safety reasons. Any suspension shall be reported immediately to the parents or guardian of such pupil along with a full statement of the reasons for such suspension and a notice of their right to a review. The school board must be given a summary of the notice, including the reason for the suspension and the suspension length. Upon request of the parents or guardian the school board or a hearing officer appointed by it shall review such action of the superintendent or principal, assistant principal, or dean of students. At such review the parents or guardian of the pupil may appear and discuss the suspension with the board or its hearing officer. If a hearing officer is appointed by the board he shall report to the board a written summary of the evidence heard at the meeting. After its hearing or upon receipt of the written report of its hearing officer, the board may take such action as it finds appropriate.

(c) The Department of Human Services shall be invited to send a representative to consult with the board at such meeting whenever there is evidence that mental illness may be the cause for expulsion or suspension.

(d-5) The board may suspend or by regulation authorize the superintendent of the district or the principal, assistant principal, or dean of students of any school to suspend a student for a period not to exceed 10 school days or may expel a student for a definite period of time not to exceed 2 calendar years, as determined on a case by case basis, if (i) that student has been determined to have made an explicit threat on an Internet website against a school employee, a student, or any school-related personnel, (ii) the Internet website through which the threat was made is a site that was accessible within the school at the time the threat was made or was available to third parties who worked or studied within the school grounds at the time the threat was made, and (iii) the threat could be reasonably interpreted as threatening to the safety and security of the threatened individual because of his or her duties or employment status or status as a student inside the school. The provisions of this subsection (d-5) apply in all school districts, including special charter districts and districts organized under Article 34 of this Code.

Grounds for mandatory suspension or expulsion

STATUTES

§ 105 ILCS 5/10-22.6. Suspension or expulsion of pupils; school searches.

(d) [...] A student who is determined to have brought one of the following objects to school, any school-sponsored activity or event, or any activity or event that bears a reasonable relationship to school shall be expelled for a period of not less than one year:

(1) A firearm. [...]

(2) A knife, brass knuckles or other knuckle weapon regardless of its composition, a billy club, or any other object if used or attempted to be used to cause bodily harm, including "look alikes" of any firearm as defined in subdivision (1) of this subsection (d)[...]

Limitations, conditions or exclusions for use of suspension or expulsion

STATUTES

§ 105 ILCS 5/10-22.6. Suspension or expulsion of pupils; school searches.

(d) [...]Expulsion or suspension shall be construed in a manner consistent with the Federal Individuals with Disabilities Education Act [20 U.S.C. § 1400 et seq.]. A student who is subject to suspension or expulsion as provided in this Section may be eligible for a transfer to an alternative school program in accordance with Article 13A of the School Code. The provisions of this subsection (d) apply in all school districts, including special charter districts and districts organized under Article 34 [105 ILCS 5/34-1 et seq.].

(f) Suspension or expulsion may include suspension or expulsion from school and all school activities and a prohibition from being present on school grounds.

§ 105 ILCS 5/ 26-12. Punitive action.

No punitive action including out of school suspensions, expulsions or court action, shall be taken against chronic truants for such truancy unless available supportive services and other school resources have been provided to the student.

Administrative procedures related to suspension and expulsion

§ 105 ILCS 5/10-22.6. Suspension or expulsion of pupils; school searches.

(a) To expel pupils guilty of gross disobedience or misconduct, including gross disobedience or misconduct perpetuated by electronic means, and no action shall lie against them for such expulsion. Expulsion shall take place only after the parents have been requested to appear at a meeting of the board, or with a hearing officer appointed by it, to discuss their child's behavior. Such request shall be made by registered or certified mail and shall state the time, place and purpose of the meeting. The board, or a hearing officer appointed by it, at such meeting shall state the reasons for dismissal and the date on which the expulsion is to become effective. If a hearing officer is appointed by the board he shall report to the board a written summary of the evidence heard at the meeting and the board may take such action thereon as it finds appropriate. An expelled pupil may be immediately transferred to an alternative program in the manner provided in Article 13A or 13B of this Code [105 ILCS 5/13A-0.5 et seq. or 105 ILCS 5/13B-1 et seq.]. A pupil must not be denied transfer because of the expulsion, except in cases in which such transfer is deemed to cause a threat to the safety of students or staff in the alternative program.

(b) To suspend or by policy to authorize the superintendent of the district or the principal, assistant principal, or dean of students of any school to suspend pupils guilty of gross disobedience or misconduct, or to suspend pupils guilty of gross disobedience or misconduct on the school bus from riding the school bus, and no action shall lie against them for such suspension. The board may by policy authorize the superintendent of the district or the principal, assistant principal, or dean of students of any school to suspend pupils guilty of such acts for a period not to exceed 10 school days. If a pupil is suspended due to gross disobedience or misconduct on a school bus, the board may suspend the pupil in excess of 10 school days for safety reasons. Any suspension shall be reported immediately to the parents or guardian of such pupil along with a full statement of the reasons for such suspension and a notice of their right to a review. The school board must be given a summary of the notice, including the reason for the suspension and the suspension length. Upon request of the parents or guardian the school board or a hearing officer appointed by it shall review such action of the superintendent or principal, assistant principal, or dean of students. At such review the parents or guardian of the pupil may appear and discuss the suspension with the board or its hearing officer. If a hearing officer is appointed by the board he shall report to the board a written summary of the evidence heard at the meeting. After its hearing or upon receipt of the written report of its hearing officer, the board may take such action as it finds appropriate.

(c) The Department of Human Services shall be invited to send a representative to consult with the board at such meeting whenever there is evidence that mental illness may be the cause for expulsion or suspension.

(d-5) The board may suspend or by regulation authorize the superintendent of the district or the principal, assistant principal, or dean of students of any school to suspend a student for a period not to exceed 10 school days or may expel a student for a definite period of time not to exceed 2 calendar years, as determined on a case by case basis, if (i) that student has been determined to have made an explicit threat on an Internet website against a school employee, a student, or any school-related personnel, (ii) the Internet website through which the threat was made is a site that was accessible within the school at the time the threat was made or was available to third parties who worked or studied within the school grounds at the time the threat was made, and (iii) the threat could be reasonably interpreted as threatening to the safety and security of the threatened individual because of his or her duties or employment status or status as a student inside the school. The provisions of this subsection (d-5) apply in all school districts, including special charter districts and districts organized under Article 34 of this Code.

In school suspension

STATUTES

§ 105 ILCS 5/13B-20.5. Eligible activities and services.

Eligible activities and services. Alternative learning opportunities programs may include without limitation evening high school, in-school tutoring and mentoring programs, in-school suspension programs, high school completion programs to assist high school dropouts in completing their education, support services, parental involvement programs, and programs to develop, enhance, or extend the transition for students transferring back to the regular school program, an adult education program, or a post-secondary education program.

Return to school following removal

STATUTES

§ 105 ILCS 5/10-22.6. Suspension or expulsion of pupils; school searches.

(g) A school district may adopt a policy providing that if a student is suspended or expelled for any reason from any public or private school in this or any other state, the student must complete the entire term of the suspension or expulsion in an alternative school program under Article 13A of this Code or an alternative learning opportunities program under Article 13B of this Code before being admitted into the school district if there is no threat to the safety of students or staff in the alternative program. This subsection (g) applies to all school districts, including special charter districts and districts organized under Article 34 of this Code.

Use of restraint and seclusion

ADMINISTRATIVE CODE

1.280. Discipline.

Section 24-24 of the School Code [105 ILCS 5/24-24 Provides for teachers, other certificated educational employees and persons providing a related service for or with respect to a student as determined by the board of education to maintain discipline in the schools.

c) Any use of isolated time out or physical restraint permitted by a board's policy shall conform to the requirements of Section 1.285 of this Part. If isolated time out or physical restraint is to be permitted, the policy shall include:

1) the circumstances under which isolated time out or physical restraint will be applied;

2) a written procedure to be followed by staff in cases of isolated time out or physical restraint;

3) designation of a school official who will be informed of incidents and maintain the documentation required pursuant to Section 1.285 of this Part when isolated time out or physical restraint is used;

4) the process the district or other administrative entity will use to evaluate any incident that results in an injury that the affected student (or the responsible parent or guardian), staff member, or other individual identifies as serious;

5) a description of the alternative strategies that will be implemented when determined advisable pursuant to Section 1.285(f)(4) of this Part; and

6) a description of the district's or other administrative entity's annual review of the use of isolated time out or physical restraint, which shall include at least:

A) the number of incidents involving the use of these interventions,

B) the location and duration of each incident,

C) identification of the staff members who were involved,

D) any injuries or property damage that occurred, and

E) the timeliness of parental notification and administrative review.

d) In addition to, or as part of, its policy on the maintenance of discipline, each board of education shall adopt policies and procedures regarding the use of behavioral interventions for students with disabilities who require such intervention. Each board's policies and procedures shall conform to the requirements of Section 14-8.05(c) of the School Code [105 ILCS 5/14-8.05(c)].

1.285. Requirements for the use of isolated time out and physical restraint.

Isolated time out and physical restraint as defined in this Section shall be used only as means of maintaining discipline in schools (that is, as means of maintaining a safe and orderly environment for learning) and only to the extent that they are necessary to preserve the safety of students and others. Neither isolated time out nor physical restraint shall be used in administering discipline to individual students, i.e., as a form of punishment. Nothing in this Section or in Section 1.280 of this Part shall be construed as regulating the restriction of students' movement when that restriction is for a purpose other than the maintenance of an orderly environment (e.g., the appropriate use of safety belts in vehicles).

a)"Isolated time out" means the confinement of a student in a time-out room or some other enclosure, whether within or outside the classroom, from which the student's egress is restricted. The use of isolated time out shall be subject to the following requirements.

1) Any enclosure used for isolated time out shall:

A)have the same ceiling height as the surrounding room or rooms and be large enough to accommodate not only the student being isolated but also any other individual who is required to accompany that student;

B) be constructed of materials that cannot be used by students to harm themselves or others, be free of electrical outlets, exposed wiring, and other objects that could be used by students to harm themselves or others, and be designed so that students cannot climb up the walls (including walls far enough apart so as not to offer the student being isolated sufficient leverage for climbing); and

C) be designed to permit continuous visual monitoring of and communication with the student.

2) If an enclosure used for isolated time out is fitted with a door, either a steel door or a wooden door of solid-core construction shall be used. If the door includes a viewing panel, the panel shall be unbreakable.

3) An adult who is responsible for supervising the student shall remain within two feet of the enclosure.

4) The adult responsible for supervising the student must be able to see the student at all times. If a locking mechanism is used on the enclosure, the mechanism shall be constructed so that it will engage only when a key, handle, knob, or other similar device is being held in position by a person, unless the mechanism is an electrically or electronically controlled one that is automatically released when the building's fire alarm system is triggered. Upon release of the locking mechanism by the supervising adult, the door must be able to be opened readily.

b) "Physical restraint" means holding a student or otherwise restricting his or her movements. "Physical restraint" as permitted pursuant to this Section includes only the use of specific, planned techniques (e.g., the "basket hold" and "team control").

c) The requirements set forth in subsections (d) through (h) of this Section shall not apply to the actions described in this subsection (c) because, pursuant to Section 10-20.33 of the School Code [105 ILCS 5/10-20.33], "restraint" does not include momentary periods of physical restriction by direct person-to-person contact, without the aid of material or mechanical devices, accomplished with limited force and designed to:

1) prevent a student from completing an act that would result in potential physical harm to himself, herself, or another or damage to property; or

2) remove a disruptive student who is unwilling to leave the area voluntarily.

d) The use of physical restraint shall be subject to the following requirements.

1) Pursuant to Section 10-20.33 of the School Code, physical restraint may only be employed when:

A) the student poses a physical risk to himself, herself, or others,

B) there is no medical contraindication to its use, and

C) the staff applying the restraint have been trained in its safe application as specified in subsection (h)(2) of this Section.

2) Students shall not be subjected to physical restraint for using profanity or other verbal displays of disrespect for themselves or others. A verbal threat shall not be considered as constituting a physical danger unless a student also demonstrates a means of or intent to carry out the threat.

3) Except as permitted by the administrative rules of another State agency operating or licensing a facility in which elementary or secondary educational services are provided (e.g., the Illinois Department of Corrections or the Illinois Department of Human Services), mechanical or chemical restraint (i.e., the use of any device other than personal physical force to restrict the limbs, head, or body) shall not be employed.

4) Medically prescribed restraint procedures employed for the treatment of a physical disorder or for the immobilization of a person in connection with a medical or surgical procedure shall not be used as means of physical restraint for purposes of maintaining discipline.

5) Any application of physical restraint shall take into consideration the safety and security of the student. Further, physical restraint shall not rely upon pain as an intentional method of control.

6) In determining whether a student who is being physically restrained should be removed from the area where such restraint was initiated, the supervising adult(s) shall consider the potential for injury to the student, the student's need for privacy, and the educational and emotional well-being of other students in the vicinity.

7) If physical restraint is imposed upon a student whose primary mode of communication is sign language or an augmentative mode, the student shall be permitted to have his or her hands free of restraint for brief periods, unless the supervising adult determines that such freedom appears likely to result in harm to the student or others.

e)Time Limits

1) A student shall not be kept in isolated time out for more than 30 minutes after he or she ceases presenting the specific behavior for which isolated time out was imposed or any other behavior for which it would be an appropriate intervention.

2) A student shall be released from physical restraint immediately upon a determination by the staff member administering the restraint that the student is no longer in imminent danger of causing physical harm to himself, herself, or others.

f) Documentation and Evaluation

1) A written record of each episode of isolated time out or physical restraint shall be maintained in the student's temporary record. The official designated pursuant to Section 1.280(c)(3) of this Part shall also maintain a copy of each such record. Each such record shall include:

A) the student's name;

B) the date of the incident;

C) the beginning and ending times of the incident;

D) a description of any relevant events leading up to the incident;

E) a description of any interventions used prior to the implementation of isolated time out or physical restraint;

F) a description of the incident and/or student behavior that resulted in isolated time out or physical restraint;

G) a log of the student's behavior in isolated time out or during physical restraint, including a description of the restraint technique(s) used and any other interaction between the student and staff;

H) a description of any injuries (whether to students, staff, or others) or property damage;

I) a description of any planned approach to dealing with the student's behavior in the future;

J) a list of the school personnel who participated in the implementation, monitoring, and supervision of isolated time out or physical restraint;

K) the date on which parental notification took place as required by subsection (g) of this Section.

2) The school official designated pursuant to Section 1.280(c)(3) of this Part shall be notified of the incident as soon as possible, but no later than the end of the school day on which it occurred.

3) The record described in subsection (f)(1) of this Section shall be completed by the beginning of the school day following the episode of isolated time out or physical restraint.

4) The requirements of this subsection (f)(4) shall apply whenever an episode of isolated time out exceeds 30 minutes, an episode of physical restraint exceeds 15 minutes, or repeated episodes have occurred during any three-hour period.

A) A certified staff person knowledgeable about the use of isolated time out or trained in the use of physical restraint, as applicable, shall evaluate the situation.

B) The evaluation shall consider the appropriateness of continuing the procedure in use, including the student's potential need for medication, nourishment, or use of a restroom, and the need for alternate strategies (e.g., assessment by a mental health crisis team, assistance from police, or transportation by ambulance).

C) The results of the evaluation shall be committed to writing and copies of this documentation shall be placed into the student's temporary student record and provided to the official designated pursuant to Section 1.280(c)(3) of this Part.

5) When a student has first experienced three instances of isolated time out or physical restraint, the school personnel who initiated, monitored, and supervised the incidents shall initiate a review of the effectiveness of the procedure(s) used and prepare an individual behavior plan for the student that provides either for continued use of these interventions or for the use of other, specified interventions. The plan shall be placed into the student's temporary student record. The review shall also consider the student's potential need for an alternative program or for special education.

A) The district or other entity serving the student shall invite the student's parent(s) or guardian(s) to participate in this review and shall provide ten days' notice of its date, time, and location.

B) The notification shall inform the parent(s) or guardian(s) that the student's potential need for special education or an alternative program will be considered and that the results of the review will be entered into the temporary student record.

g) Notification to Parents

1) A district whose policies on the maintenance of discipline include the use of isolated time out or physical restraint shall notify parents to this effect as part of the information distributed annually or upon enrollment pursuant to Sections 10-20.14 and 14-8.05(c) of the School Code [105 ILCS 5/10-20.14 and 14-8.05(c)].

2) Within 24 hours after any use of isolated time out or physical restraint, the school district or other entity serving the student shall send written notice of the incident to the student's parent(s), unless the parent has provided the district or other entity with a written waiver of this requirement for notification. Such notification shall include the student's name, the date of the incident, a description of the intervention used, and the name of a contact person with a telephone number to be called for further information.

h) Requirements for Training

1) Isolated Time Out

Each district, cooperative, or joint agreement whose policy permits the use of isolated time out shall provide orientation to its staff members covering at least the written procedure established pursuant to Section 1.280(c)(2) of this Part.

2) Physical Restraint

A) Physical restraint as defined in this Section shall be applied only by individuals who have received systematic training that includes all the elements described in subsection (h)(2)(B) of this Section and who have received a certificate of completion or other written evidence of participation. An individual who applies physical restraint shall use only techniques in which he or she has received such training within the preceding two years, as indicated by written evidence of participation.

B) Training with respect to physical restraint may be provided either by the employer or by an external entity and shall include, but need not be limited to:

i) appropriate procedures for preventing the need for physical restraint, including the de-escalation of problematic behavior, relationship-building, and the use of alternatives to restraint;

ii) a description and identification of dangerous behaviors on the part of students that may indicate the need for physical restraint and methods for evaluating the risk of harm in individual situations in order to determine whether the use of restraint is warranted;

iii) the simulated experience of administering and receiving a variety of physical restraint techniques, ranging from minimal physical involvement to very controlling interventions;

iv) instruction regarding the effects of physical restraint on the person restrained, including instruction on monitoring physical signs of distress and obtaining medical assistance;

v) instruction regarding documentation and reporting requirements and investigation of injuries and complaints; and

vi) demonstration by participants of proficiency in administering physical restraint.

C) An individual may provide training to others in a particular method of physical restraint only if he or she has received written evidence of completing training in that technique that meets the requirements of subsection (h)(2)(B) of this Section within the preceding one-year period.

Alternative placements

STATUTES

§ 105 ILCS 5/10-22.6. Suspension or expulsion of pupils; school searches.

(b) […] A pupil who is suspended in excess of 20 school days may be immediately transferred to an alternative program in the manner provided in Article 13A or 13B of this Code. A pupil must not be denied transfer because of the suspension, except in cases in which such transfer is deemed to cause a threat to the safety of students or staff in the alternative program.

§ 105 ILCS 5/13A-1. Legislative Declaration.

The General Assembly finds and declares as follows:

(e) Disruptive students typically derive little benefit from traditional school programs and may benefit substantially by being transferred from their current school into an alternative public school program, where their particular needs may be more appropriately and individually addressed and where they may benefit from the opportunity for a fresh start in a new educational environment. At those alternative school programs, innovative academic and school-to-work programs, including but not limited to the techniques of work based learning and technology delivered learning, can be utilized to best help the students enrolled in those schools to become productive citizens.

For information on establishing truants' alternative and optional education programs as authorized in Section 2-3.66 of the School Code. [105 ILCS 5/2-3.66] see http://www.isbe.net/rules/archive/pdfs/205ARK.pdf.

(h) Every school district in the State shall do all it can to ensure a safe and appropriate educational environment for all of its students, and the first, but not the only, step school districts must take to achieve that goal is to administratively transfer disruptive students from the schools they currently attend to the alternative school programs created by this Article. Those administrative transfers will also provide optional educational programs to best fit the needs of the transferred students.

(i) Administrative transfers may prove more productive for dealing with disruptive students than out-of-school suspensions or expulsions, which have been the subject of much criticism.

ADMINISTRATIVE CODE

205.35. Truants' alternative and optional education programs -- Required program components.

Each program funded pursuant to Section 2-3.66 of the School Code shall include at least the following components.

a) A comprehensive community-based program planning process that includes, but is not limited to, the participation of business, community organizations, social service providers, government agencies, parents, school administrators and other staff members, including teachers, and students, and that leads to the development and implementation of a strategic plan.

1) The plan shall contain program goals and objectives developed by analyzing social and academic challenges in the community to be served by the truants' alternative and optional education program.

2) The plan shall identify available community resources and services and describe how these will be coordinated to meet the needs of students identified as eligible for the program (see Section 205.20(b) of this Part).

b) An Individualized Optional Education Plan, which is a written document developed in accordance with Section 2-3.66 of the School Code and this Part, that outlines an individual's academic, vocational and/or life skill needs, as well as goals and objectives and various educational and social experiences needed to reach those goals and objectives. The development of this plan shall include school officials, the student, and the student's parents or legal guardians if the student is less than 18 years old. The individualized optional education plan for each student shall include:

1) learning objectives or individual outcomes, such as increased school attendance, course credit, graduation, gains in achievement level, or employment;

2) the basis upon which the student is referred to the program;

3) the services that will be provided in relation to the student's educational, social, and/or career development needs necessary to achieve the learning objectives or individual outcomes pursuant to subsection (b)(1) of this Section;

4) assessment procedures to determine the degree to which the student is achieving his or her learning objectives or individual outcomes;

5) a time period sufficient to allow the student to achieve those objectives or outcomes; and

6) a statement that the student, parent, or guardian has the ultimate choice of whether to accept the individualized optional education plan that is offered or to return to or remain in the regular education program of the school district attended.

c) Educational services that may include either:

1) An Optional Education Program that provides a modified instructional program that incorporates

State academic standards and, as appropriate to the student's needs, work-based learning and career development, and is established by school board policy to serve as a part-time or full-time option in lieu of regular school attendance in conformance with Section 2-3.66 of the School Code and this Part; or

2) Supplemental services that provide students enrolled in the regular school program with supports (e.g., tutoring, mentoring, health services, home visits, counseling) that are needed to increase their attendance rates or prevent them from dropping out of school.

Disciplinary Approaches Addressing Specific Infractions and Conditions

Firearms (as required by the Guns-Free Schools Act)

STATUTES

§ 105 ILCS 5/10-22.6. Suspension or expulsion of pupils; school searches.

(d) The board may expel a student for a definite period of time not to exceed 2 calendar years, as determined on a case by case basis. A student who is determined to have brought one of the following objects to school, any school-sponsored activity or event, or any activity or event that bears a reasonable relationship to school shall be expelled for a period of not less than one year:

(1) A firearm. For the purposes of this Section, "firearm" means any gun, rifle, shotgun, weapon as defined by Section 921 of Title 18 of the United States Code, firearm as defined in Section 1.1 of the Firearm Owners Identification Card Act [430 ILCS 65/1.1], or firearm as defined in Section 24-1 of the Criminal Code of 2012 [720 ILCS 5/24-1]. The expulsion period under this subdivision (1) may be modified by the superintendent, and the superintendent's determination may be modified by the board on a case-by-case basis.

Other weapons

STATUTES

§ 105 ILCS 5/10-22.6. Suspension or expulsion of pupils; school searches.

(d) The board may expel a student for a definite period of time not to exceed 2 calendar years, as determined on a case by case basis. A student who is determined to have brought one of the following objects to school, any school-sponsored activity or event, or any activity or event that bears a reasonable relationship to school shall be expelled for a period of not less than one year:

(2) A knife, brass knuckles or other knuckle weapon regardless of its composition, a billy club, or any other object if used or attempted to be used to cause bodily harm, including "look alikes" of any firearm as defined in subdivision (1) of this subsection (d). The expulsion requirement under this subdivision (2) may be modified by the superintendent, and the superintendent's determination may be modified by the board on a case-by-case basis.

Students with chronic disciplinary issues

No relevant statutes found.

Attendance and truancy

STATUTES

§ 105 ILCS 5/26-2a. [Terms defined].

Sec. 26-2a. A "truant" is defined as a child subject to compulsory school attendance and who is absent without valid cause from such attendance for a school day or portion thereof.

"Valid cause" for absence shall be illness, observance of a religious holiday, death in the immediate family, family emergency, and shall include such other situations beyond the control of the student as

determined by the board of education in each district, or such other circumstances which cause reasonable concern to the parent for the safety or health of the student.

"Chronic or habitual truant" shall be defined as a child who is subject to compulsory school attendance and who is absent without valid cause from such attendance for 5% or more of the previous 180 regular attendance days.

"Truant minor" is defined as a chronic truant to whom supportive services, including prevention, diagnostic, intervention and remedial services, alternative programs and other school and community resources have been provided and have failed to result in the cessation of chronic truancy, or have been offered and refused.

A "dropout" is defined as any child enrolled in grades 9 through 12 whose name has been removed from the district enrollment roster for any reason other than the student's death, extended illness, removal for medical non-compliance, expulsion, aging out, graduation, or completion of a program of studies and who has not transferred to another public or private school and is not known to be home-schooled by his or her parents or guardians or continuing school in another country.

§ 105 ILCS 5/ 26-5. Duties of truant officers.

The truant officer of the school district, whenever notified by the Superintendent, teacher, or other person of violations of this Article, or the county truant officer, when notified by the County Superintendent, shall investigate all cases of truancy or non-attendance at school in their respective jurisdictions, and if the children complained of are not exempt under the provisions of this Article, the truant officer shall proceed as is provided in this Article. The county truant officer, within the county and the district truant officers, within their respective districts, shall in the exercise of their duties be conservators of the peace and shall keep the same, suppress riots, routs, affray, fighting, breaches of the peace, and prevent crime; and may arrest offenders on view and cause them to be brought before proper officials for trial or examination.

§ 105 ILCS 5/ 26-12. Punitive action.

No punitive action including out of school suspensions, expulsions or court action, shall be taken against chronic truants for such truancy unless available supportive services and other school resources have been provided to the student.

ADMINISTRATIVE CODE

205.20. Truants' alternative and optional education programs – Purpose.

b) Programs funded under this grant shall serve students identified as one of the following:

1) a truant, as defined in Section 26-2a of the School Code [105 ILCS 5/26-2a]; or

2) a chronic or habitual truant, as defined in Section 26-2a of the School Code; or

3) a dropout, as defined in Section 26-2a of the School Code; or

4) a potential dropout, which is any student subject to compulsory attendance as defined in Article 26 of the School Code [105 ILCS 5/Art. 26] and whose school absences or pattern of school attendance impedes the student's learning or contributes to the student's failure to meet State and/or district learning standards. Attendance problems may include chronic truancy, truancy, selective absences, excessive absences or a pattern of absences or tardiness. In assessing whether marginal school attendance problems would place a student within the definition of "potential dropout," consideration shall be given to a student's personal involvement in the education process, apparent motivation to receive an education, or any continued and obvious apathy or disaffection for education, particularly, when indications of uninvolvement, lack of motivation or disaffection are coupled with currently known individual or family circumstances that, if they remain unresolved, would be reasonably expected to

result in escalating attendance problems. (Source: Amended at 25 Ill. Reg. 2399, effective January 25, 2001)

Substance use

STATUTES

§ 105 ILCS 5/2-3.13a. School records; transferring students.

[…] f a student is transferring from a public school, whether located in this or any other state, from which the student has been suspended or expelled for knowingly possessing in a school building or on school grounds a weapon as defined in the Gun Free Schools Act [20 USCS § 7151 et seq.], for knowingly possessing, selling, or delivering in a school building or on school grounds a controlled substance or cannabis, or for battering a staff member of the school, and if the period of suspension or expulsion has not expired at the time of the student attempts to transfer into another public school in the same or any other school district…and (ii) with the exception of transfers into the Department of Juvenile Justice school district, the student shall not be permitted to attend class in the public school into which he or she is transferring until the student has served the entire period of the suspension or expulsion imposed by the school from which the student is transferring […]

Bullying, harassment, or hazing

STATUTES

§ 105 ILCS 5/10-20.14. Student discipline policies; Parent-teacher advisory committee.

(d) The school board, in consultation with the parent-teacher advisory committee and other community-based organizations, must include provisions in the student discipline policy to address students who have demonstrated behaviors that put them at risk for aggressive behavior, including without limitation bullying, as defined in the policy. These provisions must include procedures for notifying parents or legal guardians and early intervention procedures based upon available community-based and district resources.

105 ILCS 5/22-12. Preventing or interfering with a child's attendance at school.

Whoever by threat, menace, or intimidation prevents any child entitled to attend a public or nonpublic school in this State from attending such school or interferes with any such child's attendance at that school shall be guilty of a Class A misdemeanor.

§ 105 ILCS 5/27-13.3. Internet safety education curriculum.

(a) The purpose of this Section is to inform and protect students from inappropriate or illegal communications and solicitation and to encourage school districts to provide education about Internet threats and risks, including without limitation child predators, fraud, and other dangers.

(c) Each school may adopt an age-appropriate curriculum for Internet safety instruction of students in grades kindergarten through 12. However, beginning with the 2009-2010 school year, a school district must incorporate into the school curriculum a component on Internet safety to be taught at least once each school year to students in grades 3 through 12. The school board shall determine the scope and duration of this unit of instruction. The age-appropriate unit of instruction may be incorporated into the current courses of study regularly taught in the district's schools, as determined by the school board, and it is recommended that the unit of instruction include the following topics:

(5) Recognizing and reporting online harassment and cyber-bullying.

(e) The State Board of Education shall make available resource materials for educating children regarding child online safety and may take into consideration the curriculum on this subject developed by other states, as well as any other curricular materials suggested by education experts, child psychologists, or technology companies that work on child online safety issues. Materials may include without limitation safe online communications, privacy protection, cyber-bullying […]

§ 105 ILCS 5/27-23.7. Bullying prevention.

(a) The General Assembly finds that a safe and civil school environment is necessary for students to learn and achieve and that bullying causes physical, psychological, and emotional harm to students and interferes with students' ability to learn and participate in school activities. The General Assembly further finds that bullying has been linked to other forms of antisocial behavior, such as vandalism, shoplifting, skipping and dropping out of school, fighting, using drugs and alcohol, sexual harassment, and sexual violence. Because of the negative outcomes associated with bullying in schools, the General Assembly finds that school districts and non-public, non-sectarian elementary and secondary schools should educate students, parents, and school district or non-public, non-sectarian elementary or secondary school personnel about what behaviors constitute prohibited bullying.

Bullying on the basis of actual or perceived race, color, religion, sex, national origin, ancestry, age, marital status, physical or mental disability, military status, sexual orientation, gender-related identity or expression, unfavorable discharge from military service, association with a person or group with one or more of the aforementioned actual or perceived characteristics, or any other distinguishing characteristic is prohibited in all school districts and non-public, non-sectarian elementary and secondary schools.

No student shall be subjected to bullying:

(1) during any school-sponsored education program or activity;

(2) while in school, on school property, on school buses or other school vehicles, at designated school bus stops waiting for the school bus, or at school-sponsored or school-sanctioned events or activities; or

(3) through the transmission of information from a school computer, a school computer network, or other similar electronic school equipment.

(b) In this Section: "Bullying" means any severe or pervasive physical or verbal act or conduct, including communications made in writing or electronically, directed toward a student or students that has or can be reasonably predicted to have the effect of one or more of the following:

(1) placing the student or students in reasonable fear of harm to the student's or students' person or property;

(2) causing a substantially detrimental effect on the student's or students' physical or mental health;

(3) substantially interfering with the student's or academic performance; or

(4) substantially interfering with the student's or students' ability to participate in or benefit from the services, activities, or privileges provided by a school.

Bullying, as defined in this subsection (b), may take various forms, including without limitation one or more of the following: harassment, threats, intimidation, stalking, physical violence, sexual harassment, sexual violence, theft, public humiliation, destruction of property, or retaliation for asserting or alleging an act of bullying. This list is meant to be illustrative and non-exhaustive.

"School personnel" means persons employed by, on contract with, or who volunteer in a school district or non-public, non-sectarian elementary or secondary school, including without limitation school and school district administrators, teachers, school guidance counselors, school social workers, school counselors, school psychologists, school nurses, cafeteria workers, custodians, bus drivers, school resource officers, and security guards.

(c) (Blank).

(d) Each school district and non-public, non-sectarian elementary or secondary school shall create and maintain a policy on bullying, which policy must be filed with the State Board of Education. Each school district and non-public, non-sectarian elementary or secondary school must communicate its policy on bullying to its students and their parent or guardian on an annual basis. The policy must be updated every 2 years and filed with the State Board of Education after being updated. The State Board of Education shall monitor the implementation of policies created under this subsection (d).

(e) This Section shall not be interpreted to prevent a victim from seeking redress under any other available civil or criminal law. Nothing in this Section is intended to infringe upon any right to exercise free expression or the free exercise of religion or religiously based views protected under the First Amendment to the United States Constitution or under Section 3 or 4 of Article 1 of the Illinois Constitution.

Other special infractions or conditions

No relevant statutes found.

Prevention and Behavioral Interventions (Non-Punitive)

Prevention

STATUTES

§ 105 ILCS 5/27-23.4. Violence prevention and conflict resolution education.

School districts shall provide instruction in violence prevention and conflict resolution education for grades kindergarten through 12 and may include such instruction in the courses of study regularly taught therein. School districts may give regular school credit for satisfactory completion by the student of such courses.

§ 105 ILCS 5/27-23.7. Bullying prevention.

(a) The General Assembly finds that a safe and civil school environment is necessary for students to learn and achieve and that bullying causes physical, psychological, and emotional harm to students and interferes with students' ability to learn and participate in school activities. The General Assembly further finds that bullying has been linked to other forms of antisocial behavior, such as vandalism, shoplifting, skipping and dropping out of school, fighting, using drugs and alcohol, sexual harassment, and sexual violence. Because of the negative outcomes associated with bullying in schools, the General Assembly finds that school districts and non-public, non-sectarian elementary and secondary schools should educate students, parents, and school district or non-public, non-sectarian elementary or secondary school personnel about what behaviors constitute prohibited bullying.

Bullying on the basis of actual or perceived race, color, religion, sex, national origin, ancestry, age, marital status, physical or mental disability, military status, sexual orientation, gender-related identity or expression, unfavorable discharge from military service, association with a person or group with one or more of the aforementioned actual or perceived characteristics, or any other distinguishing characteristic is prohibited in all school districts and non-public, non-sectarian elementary and secondary schools.
No student shall be subjected to bullying:

(1) during any school-sponsored education program or activity;

(2) while in school, on school property, on school buses or other school vehicles, at designated school bus stops waiting for the school bus, or at school-sponsored or school-sanctioned events or activities; or

(3) through the transmission of information from a school computer, a school computer network, or other similar electronic school equipment.

(b) In this Section: "Bullying" means any severe or pervasive physical or verbal act or conduct, including communications made in writing or electronically, directed toward a student or students that has or can be reasonably predicted to have the effect of one or more of the following:

(1) placing the student or students in reasonable fear of harm to the student's or students' person or property;

(2) causing a substantially detrimental effect on the student's or students' physical or mental health;

(3) substantially interfering with the student's or academic performance; or

(4) substantially interfering with the student's or students' ability to participate in or benefit from the services, activities, or privileges provided by a school.

Bullying, as defined in this subsection (b), may take various forms, including without limitation one or more of the following: harassment, threats, intimidation, stalking, physical violence, sexual harassment,

sexual violence, theft, public humiliation, destruction of property, or retaliation for asserting or alleging an act of bullying. This list is meant to be illustrative and non-exhaustive.

"School personnel" means persons employed by, on contract with, or who volunteer in a school district or non-public, non-sectarian elementary or secondary school, including without limitation school and school district administrators, teachers, school guidance counselors, school social workers, school counselors, school psychologists, school nurses, cafeteria workers, custodians, bus drivers, school resource officers, and security guards.

§ 105 ILCS 5/27-23.10. Gang resistance education and training.

(a) The General Assembly finds that the instance of youth delinquent gangs continues to rise on a statewide basis. Given the higher rates of criminal offending among gang members, as well as the availability of increasingly lethal weapons, the level of criminal activity by gang members has taken on new importance for law enforcement agencies, schools, the community, and prevention efforts.
(b) As used in this Section:

"Gang resistance education and training" means and includes instruction in, without limitation, each of the following subject matters when accompanied by a stated objective of reducing gang activity and educating children in grades K through 12 about the consequences of gang involvement:

(1) conflict resolution;

(2) cultural sensitivity;

(3) personal goal setting; and

(4) resisting peer pressure.

(c) Each school district and non-public, non-sectarian elementary or secondary school in this State may make suitable provisions for instruction in gang resistance education and training in all grades and include that instruction in the courses of study regularly taught in those grades. For the purposes of gang resistance education and training, a school board or the governing body of a non-public, non-sectarian elementary or secondary school must collaborate with State and local law enforcement agencies. The State Board of Education may assist in the development of instructional materials and teacher training in relation to gang resistance education and training.

Behavioral interventions and student support services

STATUTES

§ 105 ILCS 5/27-23.4. Violence prevention and conflict resolution education.

School districts shall provide instruction in violence prevention and conflict resolution education for grades kindergarten through 12 and may include such instruction in the courses of study regularly taught therein. School districts may give regular school credit for satisfactory completion by the student of such courses.

ADMINISTRATIVE CODE

1.280. Discipline.

Section 24-24 of the School Code [105 ILCS 5/24-24 Provides for teachers, other certificated educational employees and persons providing a related service for or with respect to a student as determined by the board of education to maintain discipline in the schools.

d) In addition to, or as part of, its policy on the maintenance of discipline, each board of education shall adopt policies and procedures regarding the use of behavioral interventions for students with disabilities

who require such intervention. Each board's policies and procedures shall conform to the requirements of Section 14-8.05(c) of the School Code [105 ILCS 5/14-8.05(c)].

Professional development

ADMINISTRATIVE CODE

1.285. Requirements for the use of isolated time out and physical restraint.

h) Requirements for Training

1) Isolated Time Out

Each district, cooperative, or joint agreement whose policy permits the use of isolated time out shall provide orientation to its staff members covering at least the written procedure established pursuant to Section 1.280(c)(2) of this Part.

2) Physical Restraint

A) Physical restraint as defined in this Section shall be applied only by individuals who have received systematic training that includes all the elements described in subsection (h)(2)(B) of this Section and who have received a certificate of completion or other written evidence of participation. An individual who applies physical restraint shall use only techniques in which he or she has received such training within the preceding two years, as indicated by written evidence of participation.

B) Training with respect to physical restraint may be provided either by the employer or by an external entity and shall include, but need not be limited to:

i) appropriate procedures for preventing the need for physical restraint, including the de-escalation of problematic behavior, relationship-building, and the use of alternatives to restraint;

ii) a description and identification of dangerous behaviors on the part of students that may indicate the need for physical restraint and methods for evaluating the risk of harm in individual situations in order to determine whether the use of restraint is warranted;

iii) the simulated experience of administering and receiving a variety of physical restraint techniques, ranging from minimal physical involvement to very controlling interventions;

iv) instruction regarding the effects of physical restraint on the person restrained, including instruction on monitoring physical signs of distress and obtaining medical assistance;

v) instruction regarding documentation and reporting requirements and investigation of injuries and complaints; and

vi) demonstration by participants of proficiency in administering physical restraint.

C) An individual may provide training to others in a particular method of physical restraint only if he or she has received written evidence of completing training in that technique that meets the requirements of subsection (h)(2)(B) of this Section within the preceding one-year period.

Monitoring and Accountability

Formal incident reporting of conduct violations

ADMINISTRATIVE CODE

1.285. Requirements for the use of isolated time out and physical restraint.

f) Documentation and Evaluation

1) A written record of each episode of isolated time out or physical restraint shall be maintained in the student's temporary record. The official designated pursuant to Section 1.280(c)(3) of this Part shall also maintain a copy of each such record. Each such record shall include:

A) the student's name;

B) the date of the incident;

C) the beginning and ending times of the incident;

D) a description of any relevant events leading up to the incident;

E) a description of any interventions used prior to the implementation of isolated time out or physical restraint;

F) a description of the incident and/or student behavior that resulted in isolated time out or physical restraint;

G) a log of the student's behavior in isolated time out or during physical restraint, including a description of the restraint technique(s) used and any other interaction between the student and staff;

H) a description of any injuries (whether to students, staff, or others) or property damage;

I) a description of any planned approach to dealing with the student's behavior in the future;

J) a list of the school personnel who participated in the implementation, monitoring, and supervision of isolated time out or physical restraint;

K) the date on which parental notification took place as required by subsection (g) of this Section.

2) The school official designated pursuant to Section 1.280(c)(3) of this Part shall be notified of the incident as soon as possible, but no later than the end of the school day on which it occurred.

3) The record described in subsection (f)(1) of this Section shall be completed by the beginning of the school day following the episode of isolated time out or physical restraint.

4) The requirements of this subsection (f)(4) shall apply whenever an episode of isolated time out exceeds 30 minutes, an episode of physical restraint exceeds 15 minutes, or repeated episodes have occurred during any three-hour period.

Parental notification

STATUTES

§ 105 ILCS 5/10-22.6. Suspension or expulsion of pupils; school searches.

(a) To expel pupils guilty of gross disobedience or misconduct [...] Expulsion shall take place only after the parents have been requested to appear at a meeting of the board, or with a hearing officer appointed by it, to discuss their child's behavior.

(b) [...] Any suspension shall be reported immediately to the parents or guardian of such pupil along with a full statement of the reasons for such suspension and a notice of their right to a review.

ADMINISTRATIVE CODE

1.285. Requirements for the use of isolated time out and physical restraint.

f.5.A) The district or other entity serving the student shall invite the student's parent(s) or guardian(s) to participate in this review and shall provide ten days' notice of its date, time, and location.

f.5.B) The notification shall inform the parent(s) or guardian(s) that the student's potential need for special education or an alternative program will be considered and that the results of the review will be entered into the temporary student record.

g) Notification to Parents

1) A district whose policies on the maintenance of discipline include the use of isolated time out or physical restraint shall notify parents to this effect as part of the information distributed annually or upon enrollment pursuant to Sections 10-20.14 and 14-8.05(c) of the School Code [105 ILCS 5/10-20.14 and 14-8.05(c)].

2) Within 24 hours after any use of isolated time out or physical restraint, the school district or other entity serving the student shall send written notice of the incident to the student's parent(s), unless the parent has provided the district or other entity with a written waiver of this requirement for notification. Such notification shall include the student's name, the date of the incident, a description of the intervention used, and the name of a contact person with a telephone number to be called for further information.

Reporting and referrals between schools and law enforcement

STATUTES

§ 105 ILCS 5/10-21.7. Attacks on school personnel.

Upon receipt of a written complaint from any school personnel, the superintendent, or other appropriate administrative officer for a private school, shall report all incidents of battery committed against teachers, teacher personnel, administrative personnel or educational support personnel to the local law enforcement authorities immediately after the occurrence of the attack and to the Department of State Police's Illinois Uniform Crime Reporting Program no later than 3 days after the occurrence of the attack.

§ 105 ILCS 5/10-27.1A. Firearms in schools.

Upon receiving a report [of student possession of a firearm in school] from any school official pursuant to this Section, or from any other person, the principal or his or her designee shall immediately notify a local law enforcement agency.

§ 105 ILCS 5/10-27.1B. Reporting drug-related incidents in schools.

Upon receipt of any written, electronic, or verbal report from any school personnel regarding a verified incident involving drugs in a school or on school owned or leased property, including any conveyance owned, leased, or used by the school for the transport of students or school personnel, the superintendent or his or her designee, or other appropriate administrative officer for a private school, shall report all such drug-related incidents occurring in a school or on school property to the local law enforcement authorities immediately and to the Department of State Police in a form, manner, and frequency as prescribed by the Department of State Police.

Disclosure of school records

STATUTES

§ 105 ILCS 10/2. Definitions.

f. […] The student temporary record shall include information regarding serious disciplinary infractions that resulted in expulsion, suspension, or the imposition of punishment or sanction. For purposes of this provision, serious disciplinary infractions means: infractions involving drugs, weapons, or bodily harm to another.

§ 105 ILCS 5/2-3.13a. School records; transferring students.

a. […] If a student is transferring from a public school, whether located in this or any other state, from which the student has been suspended or expelled for knowingly possessing in a school building or on school grounds a weapon as defined in the Gun Free Schools Act [20 USCS § 7151 et seq.], for knowingly possessing, selling, or delivering in a school building or on school grounds a controlled substance or cannabis, or for battering a staff member of the school, and if the period of suspension or expulsion has not expired at the time of the student attempts to transfer into another public school in the same or any other school district: (i) any school student records required to be transferred shall include the date and duration of the period of suspension or expulsion; and (ii) with the exception of transfers into the Department of Juvenile Justice school district, the student shall not be permitted to attend class in the public school into which he or she is transferring until the student has served the entire period of the suspension or expulsion imposed by the school from which the student is transferring…

Data collection, review, and reporting of disciplinary policies and actions

STATUTES

§ 105 ILCS 5/10-20.14. Student discipline policies; Parent-teacher advisory committee.

(a) [...] School boards, along with the parent-teacher advisory committee, are encouraged to annually review their pupil discipline policies, the implementation of those policies, and any other factors related to the safety of their schools, pupils, and staff.

School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers

Authority and power to implement school arrest

STATUTES

§ 105 ILCS 5/ 26-5. Duties of truant officers.

The truant officer of the school district, whenever notified by the Superintendent, teacher, or other person of violations of this Article, or the county truant officer, when notified by the County Superintendent, shall investigate all cases of truancy or non-attendance at school in their respective jurisdictions, and if the children complained of are not exempt under the provisions of this Article, the truant officer shall proceed as is provided in this Article. The county truant officer, within the county and the district truant officers, within their respective districts, shall in the exercise of their duties be conservators of the peace and shall keep the same, suppress riots, routs, affray, fighting, breaches of the peace, and prevent crime; and may arrest offenders on view and cause them to be brought before proper officials for trial or examination.

Certification or training

No relevant statutes found.

MOUs, authorization, and/or funding

No relevant statutes found.

State Education Agency Support

State model policies and implementation support

No relevant statutes found.

Funding appropriations

STATUTES

§ 105 ILCS 5/13A-1. Legislative Declaration.

The General Assembly finds and declares as follows:

(j) Because of the urgency of the problems described in this Section, as well as their statewide impact, the State of Illinois bears the responsibility to establish and fully fund alternative schools as soon as possible, thereby providing school districts with an option for dealing with disruptive students that they do not now possess.

ADMINISTRATIVE CODE

205.20. Truants' alternative and optional education programs – Purpose.

a) This Part establishes the procedure and criteria for approval of applications, submitted by eligible applicants to the State Board of Education, for grants to assist the applicants in establishing truants' alternative and optional education programs as authorized in Section 2-3.66 of the School Code. [105 ILCS 5/2-3.66]

b) Programs funded under this grant shall serve students identified as one of the following:

1) a truant, as defined in Section 26-2a of the School Code [105 ILCS 5/26-2a]; or

2) a chronic or habitual truant, as defined in Section 26-2a of the School Code; or

3) a dropout, as defined in Section 26-2a of the School Code; or

4) a potential dropout, which is any student subject to compulsory attendance as defined in Article 26 of the School Code [105 ILCS 5/Art. 26] and whose school absences or pattern of school attendance impedes the student's learning or contributes to the student's failure to meet State and/or district learning standards. Attendance problems may include chronic truancy, truancy, selective absences, excessive absences or a pattern of absences or tardiness. In assessing whether marginal school attendance problems would place a student within the definition of "potential dropout," consideration shall be given to a student's personal involvement in the education process, apparent motivation to receive an education, or any continued and obvious apathy or disaffection for education, particularly, when indications of uninvolvement, lack of motivation or disaffection are coupled with currently known individual or family circumstances that, if they remain unresolved, would be reasonably expected to result in escalating attendance problems. (Source: Amended at 25 Ill. Reg. 2399, effective January 25, 2001)

205.30. Truants' alternative and optional education programs – Eligible applicants.

a) Proposals for grant awards under Section 2-3.66 of the School Code may be submitted only by public school districts, regional offices of education, public university laboratory schools approved by the State Board of Education pursuant to Section 18-8.05(K) of the School Code [105 ILCS 5/18-8.05(K)], charter schools, community college districts, or area vocational centers.

b) Joint applications for funds may be submitted. If a joint application is submitted, then an administrative agent shall be designated.

1) The superintendent from each of the participating school districts and the official authorized to submit a proposal on behalf of any other eligible entity as defined in subsection (a) of this Section shall sign the joint application.

2) A school district or other eligible entity shall only participate in one proposal for a program. (Source: Amended at 26 Ill. Reg. 882, effective January 15, 2002)

205.40. Truants' alternative and optional education programs – Application procedure and content.

It is the intention of the State Board of Education to approve truants' alternative and optional education programs for a three- year period. Funding for the second and third years of operation (i.e., beginning the year following the initial grant award) shall be contingent upon the availability of funds for the program, the grantee's progress toward meeting its objectives, and the evidence presented in the proposal that a sufficient need continues to exist for the program (see Section 205.40(f) of this Part).

a) The State Board of Education will issue a Request for Proposals (RFP) specifying the information that applicants shall include in their proposals and requiring that proposals be submitted to the State Board of Education no later than the date specified in the RFP. The RFP shall provide at least 45 calendar days in which to submit proposals.

b) Each RFP shall indicate the descriptive information (e.g., needs assessment, community-based planning procedures, indicators used to identify students for the program, program objectives and activities, individualized optional education plan development, means of evaluation) that initial applicants will be required to provide about their proposed programs. Initial applicants are those that did not receive funding under this Part for a truants' alternative and optional education program in the year previous to an application or that are completing the last year in a three-year funding cycle. Each RFP shall identify any area or areas of high priority for the funding cycle.

c) Each RFP shall describe the proposal format that applicants will be required to follow (e.g., cover page, program staffing, proposal abstract, proposal narrative).

d) Each proposal shall include a budget summary and payment schedule and a narrative budget breakdown (i.e., a detailed explanation of each line item of expenditure), completed on forms provided by the State Board of Education.

e) Each proposal shall include a Certification and Assurances for Application and Award and a Drug-Free

f) Each proposal for renewal shall contain at least the following:

1) a mid-year report of the current year's program, documenting the services provided and describing the degree to which the grantee is achieving its stated objectives;

2) an updated narrative description of the objectives, activities, timelines, evaluation procedures and the personnel to be responsible for them in the renewal year, relating the objectives and activities proposed to the results to date, as described in the mid-year report required under subsection (f)(1) of this Section;

3) an updated budget summary and payment schedule, with narrative budget breakdown, for the renewal year; and

4) the assurances and certification forms referred to in subsection (e) of this Section, bearing a current signature and applicable to the renewal period.

g) Incomplete proposals will not be considered for funding.

205.50. Truants' alternative and optional education programs – Proposal review and approval.

a) Proposals submitted for initial funding under this Part shall be evaluated in accordance with the following criteria and points:

1) There is sufficient need for the program/services, as evidenced by the number or proportion of students identified as eligible for program services (see Section 205.20(b) of this Part). (20 points)

2) Criteria and indicators for identifying students who are eligible for the program are clearly established and likely to target those students most in need of services. (20 points)

3) Program objectives and activities are well- defined, linked to identified needs, and likely to lead to improved outcomes for the students served in the program. (20 points)

4) The program is cost-effective as evidenced by the cost of proposed services in relation to the numbers to be served and the services to be provided. (20 points)

5) The evaluation strategies will effectively gauge the success of the program and yield sufficient data that can be used to improve the program. (10 points)

6) The proposal demonstrates strategies, other than those routinely offered by the regular school program that will be effective in decreasing the dropout rate and increasing school attendance. (10 points)

b) Proposals submitted for a renewal period shall be evaluated in accordance with the following criteria:

1) The evaluation of the current year's project indicates that its stated objectives are being met, that the project has been conducted in conformance with the proposal approved by the State Superintendent of Education, and that a sufficient need continues to exist for the truants' alternative and optional education program; or

2) In instances where certain objectives of the project are not being met, the grantee has described the relative status of each such objective, the reason(s) for incomplete achievement, and either:

i) the steps to be taken to ensure that the objective will be met during the renewal period, if the objective remains a valid part of the proposal for renewal; or

ii) if the grantee has determined that the objective should be deleted from its plan or altered in light of the previous year's experience, then the grantee has provided its rationale for such deletion or change and has described how the program's goals for the renewal period will be met in light of the change.

c) The selection of proposals for funding may be based in part on geographic distribution and/or the need to provide resources to public school districts and communities with varying demographic characteristics.

d) Priority consideration may be given to proposals with specific areas of emphasis, as identified by the State Board of Education in a particular RFP.

e) The State Superintendent of Education will make final determinations in accordance with the criteria stated in subsections (a) and (b) of this Section.

205.60. Truants' alternative and optional education programs –Allocation of funds.

The State Superintendent of Education shall determine the amount of individual grant awards on the basis of the following criteria. The final award amounts will be based on these criteria following negotiation with the grant recipient:

a) the total funds appropriated for truants' alternative and optional education programs;

b) the program needs, resources, and amounts requested in the top-ranked proposals determined pursuant to Section 205.50(a) and (b) of this Part; and

c) the need to assure delivery of truancy prevention services and truants' alternative and optional education programs on a statewide basis and in a manner that will have the greatest impact in preventing truancy and students from dropping out of school.

205.70. Truants' alternative and optional education programs –Terms of the grant.

Each RFP shall inform potential recipients of the terms and conditions that apply to their receipt and use of grant funds under this program, including at least the following:

a) All grants issued under this Part shall be governed by the Illinois Grant Funds Recovery Act [30 ILCS 705].

b) Applicants may be asked to clarify certain aspects of their proposals. A negotiated and finalized proposal returned to the applicant, with an authorized signature affixed to the cover page, will constitute an approved grant agreement with the State Board of Education.

c) Orders for payment will be submitted to the Office of the Comptroller by the State Board of Education according to a negotiated payment schedule. Payments may be reduced from scheduled amounts if periodic reports show excessive cash on hand.

d) The grantee may operate its own program or enter into a subcontract with another not-for-profit entity to implement the program.

e) Grant recipients must submit a final project report to the State Board of Education within 30 days after the ending date of the grant period.

f) An approved budget may be amended by completing an amendment to the approved budget, using forms supplied by the State Board of Education, to show the new amounts required and attaching an explanation for the changes. A budget amendment is necessary whenever an approved individual line item changes by more than $1,000 or 20 percent (whichever is larger) from the approved budget. A budget amendment must also be submitted for approval when a grantee proposes to use funds for allowable expenditures not identified in the approved budget. Changes will be approved if the proposed distribution of resources or activities would have been approvable within the original application.

g) The annual RFP shall indicate the proportion of grant funds that can be used for administrative expenses.

Other/Uncategorized

Professional immunity or liability

No relevant statutes found.

Community input or involvement

ADMINISTRATIVE CODE

205.35. Truants' alternative and optional education programs – Required program components.

Each program funded pursuant to Section 2-3.66 of the School Code shall include at least the following components.

a) A comprehensive community-based program planning process that includes, but is not limited to, the participation of business, community organizations, social service providers, government agencies, parents, school administrators and other staff members, including teachers, and students, and that leads to the development and implementation of a strategic plan.

Other/Uncategorized

STATUTES

§ 105 ILCS 10/2. Definitions.

Sec. 2. As used in this Act,

(a) "Student" means any person enrolled or previously enrolled in a school.

(b) "School" means any public preschool, day care center, kindergarten, nursery, elementary or secondary educational institution, vocational school, special educational facility or any other elementary or secondary educational agency or institution and any person, agency or institution which maintains school student records from more than one school, but does not include a private or non-public school.

(c) "State Board" means the State Board of Education.

(d) "School Student Record" means any writing or other recorded information concerning a student and by which a student may be individually identified, maintained by a school or at its direction or by an employee of a school, regardless of how or where the information is stored. The following shall not be deemed school student records under this Act: writings or other recorded information maintained by an employee of a school or other person at the direction of a school for his or her exclusive use; provided that all such writings and other recorded information are destroyed not later than the student's graduation or permanent withdrawal from the school; and provided further that no such records or recorded information may be released or disclosed to any person except a person designated by the school as a substitute unless they are first incorporated in a school student record and made subject to all of the provisions of this Act. School student records shall not include information maintained by law enforcement professionals working in the school.

(e) "Student Permanent Record" means the minimum personal information necessary to a school in the education of the student and contained in a school student record. Such information may include the student's name, birth date, address, grades and grade level, parents' names and addresses, attendance records, and such other entries as the State Board may require or authorize.

(f) "Student Temporary Record" means all information contained in a school student record but not contained in the student permanent record. Such information may include family background information, intelligence test scores, aptitude test scores, psychological and personality test results, teacher evaluations, and other information of clear relevance to the education of the student, all subject to regulations of the State Board. The information shall include information provided under Section 8.6 of the Abused and Neglected Child Reporting Act [325 ILCS 5/1 et seq.]. In addition, the student temporary record shall include information regarding serious disciplinary infractions that resulted in expulsion, suspension, or the imposition of punishment or sanction. For purposes of this provision, serious disciplinary infractions means: infractions involving drugs, weapons, or bodily harm to another.

(g) "Parent" means a person who is the natural parent of the student or other person who has the primary responsibility for the care and upbringing of the student. All rights and privileges accorded to a parent under this Act shall become exclusively those of the student upon his 18th birthday, graduation from secondary school, marriage or entry into military service, whichever occurs first. Such rights and privileges may also be exercised by the student at any time with respect to the student's permanent school record.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by Illinois provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
Website		
"Classroom Management and Discipline	ISBE webpage on the topic of classroom management and discipline	http://www.isbe.net/learningsupports/html/classroom-mgmt.htm
School Climate	ISBE webpage on the topic of school climate	http://www.isbe.net/learningsupports/climate/default.htm
Documents		
" Illinois School District Bullying Policies	Index of Illinois school *district level* bullying policies	http://www.isbe.net/SBPTF/pdf/bullying_index.pdf
Supporting Implementation of Efficient and Effective Classroom-wide Positive Behavior Support Plans	PowerPoint presentation from 2010 training.	http://www.isbe.net/learningsupports/pdfs/pbis-clsrm-mgmt.pdf
Anti-bullying Efforts in the State of Illinois	PowerPoint presentation on 2006 Anti-bullying statute	http://www.isbe.net/learningsupports/pdfs/IL-bully-statute.pdf
Other Resources		
No relevant resources found		

Indiana
Compilation of School Discipline Laws and Regulations

Prepared: August 12, 2013

Introduction

This compilation presents school discipline-related state statutes, school discipline-related regulations, and, where available, links to state-sponsored websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSLE). For example, one major category encompasses all state laws or regulations mandating specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of state legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in each state.

Discipline categories were not mutually exclusive. Statutes and regulations often appeared across multiple categories. For states with more extensive statutes covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. State laws, ordered by chapter and section number, appear first within each category followed by state regulations. All statutes and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists statutes by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to state-sponsored websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of May 2013, with the exception of the state laws related to seclusion and restraint, which are complete and current as of December 2012. Readers should also note that the information in this document was compiled from individual state sources that are created by each state and which are maintained and updated with varying frequencies. Readers should consult the source information provided for each state directly in order to check for updates to this state's laws and regulations or conduct further research.

For further information, including definitions of the different policy categories, please refer to the Discipline Laws and Regulations Compendium posted on the Center's website.

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Safe Supportive Learning
Engagement | Safety | Environment

Table of Contents

Indiana State Codes Cited **1**

General Provisions **4**

Authority to develop and establish rules of conduct 4
Scope 5
Communication of policy 6

In-School Discipline **8**

Use of multi-tiered discipline approaches 8
Teacher authority to remove students from classrooms 8
Alternatives to suspension 8
Use of corporal punishment 9
Use of student and locker searches 10
Other in-school disciplinary approaches 10

Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements **11**

Grounds for possible suspension or expulsion 11
Grounds for mandatory suspension or expulsion 11
Limitations, conditions or exclusions for use of suspension and expulsion 12
Administrative procedures related to suspension and expulsion 13
In-school suspension 14
Return to school following removal 15
Use of restraint and seclusion 16
Alternative placements 16

Disciplinary Approaches Addressing Specific Infractions and Conditions **18**

Firearms (as required by the Guns-Free Schools Act) 18
Other weapons 18
Students with chronic disciplinary issues 19
Attendance and truancy 19
Substance use 20
Bullying, harassment, or hazing 21
Other special infractions or conditions 22

Prevention and Behavioral Interventions (Non-Punitive) **23**

Prevention 23
Behavioral interventions and student support services 23
Professional development 24

Monitoring and Accountability **25**

Formal incident reporting of conduct violations 25
Parental notification 25
Reporting and referrals between schools and law enforcement 26
Disclosure of school records 27
Data collection, review, and reporting of disciplinary policies and actions 27

School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers 28
Authority and power to implement school arrest 28
Certification or training 28
MOUs, authorization, and/or funding 28
State Education Agency Support 30
State model policies and implementation support 30
Funding appropriations 30
Other/Uncategorized 31
Professional immunity or liability 31
Community input or involvement 32
Other/Uncategorized 32
State-Sponsored, Publicly Available Websites or Other Resources on School Discipline 35

Indiana State Codes Cited

Indiana Revised Statutes

Indiana Code

Title 20 Education

Article 33 Students General Provisions

Chapter 2. Compulsory School Attendance

20-33-2-23.	Powers of certain officers to take children into custody
20-33-2-24.	Principal; duties when truant child received
20-33-2-25.	Habitual absence from school; report to juvenile intake officer or department of child services
20-33-2-26.	Enforcement of chapter

Chapter 8. Student Discipline

IC 20-33-8-0.2.	“Bullying"
IC 20-33-8-0.5.	“Physician"
IC 20-33-8-1.	“Principal" Sec. 1. As used in this chapter,. “principal" includes a principal's designee.
IC 20-33-8-2.	“Educational function"
IC 20-33-8-3.	“Expulsion"
IC 20-33-8-4.	“School purposes"
IC 20-33-8-5.	“School property"
IC 20-33-8-6.	“Superintendent" includes superintendent's designee
IC 20-33-8-7.	“Suspension"
IC 20-33-8-8.	Duty and powers of school corporation to supervise and discipline students
IC 20-33-8-9.	Disciplinary powers of teachers and school staff members
IC 20-33-8-10.	Disciplinary powers of principals
IC 20-33-8-11.	Disciplinary powers of superintendents and administrative staff members
IC 20-33-8-12.	Adoption of discipline rules; publicity requirement; discipline policy regulations and guidelines; delegation of authority; rulemaking powers of governing body
IC 20-33-8-13.5.	Discipline rules prohibiting bullying required
IC 20-33-8-14.	Grounds for suspension or expulsion
IC 20-33-8-15.	Unlawful activity by student
IC 20-33-8-16.	Possession of firearms, deadly weapons, or destructive devices
IC 20-33-8-17.	Student's legal settlement not in attendance area
IC 20-33-8-18.	Maximum term of suspension; procedure
IC 20-33-8-19.	Expulsion procedure; appeals
IC 20-33-8-20.	Maximum term of expulsion; reenrollment in alternative program after expulsion or exclusion; reinstatement review
IC 20-33-8-21.	Scope of judicial review
IC 20-33-8-22.	Effectiveness of statute during judicial review
IC 20-33-8-23.	Suspension pending expulsion decision
IC 20-33-8-24.	Requirements for reenrollment after expulsion
IC 20-33-8-25.	Additional disciplinary actions authorized

IC 20-33-8-26. Rules requiring participation in disciplinary action by person caring for dependent student
IC 20-33-8-27. Supplemental procedures authorized
IC 20-33-8-28. Waiver of rights
IC 20-33-8-29. Special schools
IC 20-33-8-30. Enrollment in another school corporation or charter school during period of expulsion or proposed expulsion
IC 20-33-8-31. Effect of suspension or expulsion on compulsory attendance laws
IC 20-33-8-32. Locker searches
IC 20-33-8-33. Duty to submit information to bureau of motor vehicles
IC 20-33-8-34. Disciplinary action for children with disabilities

Chapter 8.5. Court Assisted Resolution of Suspension and Expulsion Cases

IC 20-33-8.5-1. Applicability
IC 20-33-8.5-2 Agreement between superintendent and court having juvenile jurisdiction
IC 20-33-8.5-3. Agreement; court's responsibilities
IC 20-33-8.5-4. Agreement; school corporation's responsibilities
IC 20-33-8.5-5. Agreement; payment of expenses
IC 20-33-8.5-6. Informal hearing before court
IC 20-33-8.5-7. Hearing not a determination of whether student is child in need of services
IC 20-33-8.5-8. Presence of parent or guardian at hearing
IC 20-33-8.5-9. Appearance of student not to be used in subsequent court proceedings
IC 20-33-8.5-10. Expungement of court record
IC 20-33-8.5-11. Student with disability; procedural requirements
IC 20-33-8.5-12. Child not deprived of due process rights

Chapter 9. Reporting Requirements

IC 20-33-9-1. Application of chapter
IC 20-33-9-1.3. "Battery"
IC 20-33-9-1.5. "Harassment"
IC 20-33-9-2. "Intimidation"
IC 20-33-9-3. "Member of the administrative staff"
IC 20-33-9-4. "Threat"
IC 20-33-9-5. Controlled substance violations; reports by school employees
IC 20-33-9-6. Controlled substance violations; reports by members of administrative staffs
IC 20-33-9-7. Privileged or confidential information
IC 20-33-9-8. Immunity from civil liability; presumption of good faith
IC 20-33-9-9. Programs to implement chapter
IC 20-33-9-10. Duty to report threat
IC 20-33-9-11. Procedure to make report
IC 20-33-9-12. Relief of obligation to report
IC 20-33-9-13. Oral report to local law enforcement agency
IC 20-33-9-14. Immunity from liability
IC 20-33-9-15. Liability
IC 20-33-9-16. Good faith

Title 5. State and Local Administration

Article 2. Law Enforcement

Chapter 10. State Drug Free Communities Fund

5-2-10-2. Purpose; composition of fund

Indiana Administrative Code

No relevant regulations found.

General Provisions

Authority to develop and establish rules of conduct

STATUTES

20-33-8-10. Disciplinary powers of principals.

(a) A principal may take action concerning the principal's school or a school activity within the principal's jurisdiction that is reasonably necessary to carry out or prevent interference with an educational function or school purposes.

(b) Subsection (a) allows a principal to write regulations that govern student conduct.

20-33-8-11. Disciplinary powers of superintendents and administrative staff members.

A:

(1) superintendent; or

(2) member of the superintendent's administrative staff, with the superintendent's approval;

may take any action with respect to all schools within the superintendent's jurisdiction that is reasonably necessary to carry out or prevent interference with an educational function or school purposes.

20-33-8-12. Adoption of discipline rules; publicity requirement; discipline policy regulations and guidelines; delegation of authority; rulemaking powers of governing body.

(b) The:

(1) superintendent of a school corporation; and

(2) principals of each school in a school corporation;

may adopt regulations establishing lines of responsibility and related guidelines in compliance with the discipline policies of the governing body.

(c) The governing body of a school corporation may delegate:

(1) rulemaking;

(2) disciplinary; and

(3) other authority;

as reasonably necessary to carry out the school purposes of the school corporation.

20-33-8-27. Supplemental procedures authorized.

The governing body of a school corporation may by rule:

(1) amplify;

(2) supplement; or

(3) extend;

the procedures provided in this chapter in any manner that is consistent with this chapter.

20-33-8-29. Special schools.

(c) The governing body of a special school may make necessary modifications to the responsibilities of school personnel under this chapter to accommodate the administrative structure of a special school.

(d) In addition to a disciplinary action imposed by a special school, the principal of the school where a student is enrolled may without additional procedures adopt a disciplinary action or decision of a special school as a disciplinary action of the school corporation.

20-33-9-9. Programs to implement chapter.

The law enforcement agencies and the school corporations in each county shall develop and administer a program to efficiently implement this chapter.

Scope

STATUTES

20-33-8-13.5. Discipline rules prohibiting bullying required.

(a) Discipline rules adopted by the governing body of a school corporation under section 12 of this chapter must:

(1) prohibit bullying; and

(2) include provisions concerning education, parental involvement, reporting, investigation, and intervention.

(b) The discipline rules described in subsection (a) must apply when a student is:

(1) on school grounds immediately before or during school hours, immediately after school hours, or at any other time when the school is being used by a school group;

(2) off school grounds at a school activity, function, or event;

(3) traveling to or from school or a school activity, function, or event; or

(4) using property or equipment provided by the school.

(c) The discipline rules described in subsection (a) must prohibit bullying through the use of data or computer software that is accessed through a:

(1) computer;

(2) computer system; or

(3) computer network;

of a school corporation.

20-33-8-15. Unlawful activity by student.

In addition to the grounds specified in section 14 of this chapter, a student may be suspended or expelled for engaging in unlawful activity on or off school grounds if:

(1) the unlawful activity may reasonably be considered to be an interference with school purposes or an educational function; or

(2) the student's removal is necessary to restore order or protect persons on school property;

including an unlawful activity during weekends, holidays, other school breaks, and the summer period when a student may not be attending classes or other school functions.

20-33-9-5. Controlled substance violations; reports by school employees.

If a person other than a member of the administrative staff who is an employee of a school corporation has personally observed:

(1) a violation described in section 1 of this chapter; or

(2) a delinquent act that would be a violation under section 1 of this chapter if the violator were an adult;

in, on, or within one thousand (1,000) feet of the school property of the school corporation employing the person, the person shall immediately report the violation in writing to a member of the administrative staff of the school corporation employing the person.

20-33-9-6. Controlled substance violations; reports by members of administrative staffs.

A member of the administrative staff who, based on personal knowledge or on the report of another employee of the school corporation, believes that a person has committed a violation described in section 1 of this chapter or a delinquent act that would be a violation described in section 1 of this chapter if the violator were an adult in, on, or within one thousand (1,000) feet of the school property of the school corporation employing the member, shall immediately report in writing to a law enforcement officer.

20-33-8-14. Grounds for suspension or expulsion.

(a) The following are the grounds for student suspension or expulsion, subject to the procedural requirements of this chapter and as stated by school corporation rules:

(1) Student misconduct.

(2) Substantial disobedience.

(b) The grounds for suspension or expulsion listed in subsection (a) apply when a student is:

(1) on school grounds immediately before or during school hours, or immediately after school hours, or at any other time when the school is being used by a school group;

(2) off school grounds at a school activity, function, or event; or

(3) traveling to or from school or a school activity, function, or event.

20-33-8-8. Duty and powers of school corporation to supervise and discipline students.

(c) Students must:

(1) follow responsible directions of school personnel in all educational settings; and

(2) refrain from disruptive behavior that interferes with the educational environment.

Communication of policy

STATUTES

20-33-8-12. Adoption of discipline rules; publicity requirement; discipline policy regulations and guidelines; delegation of authority; rulemaking powers of governing body.

(a) Except as provided under IC 20-33-8-16, the governing body of a school corporation must do the following:

(2) Give general publicity to the discipline rules within a school where the discipline rules apply by actions such as:

(A) making a copy of the discipline rules available to students and students' parents; or

(B) delivering a copy of the discipline rules to students or the parents of students.

This publicity requirement may not be construed technically and is satisfied if the school corporation makes a good faith effort to disseminate to students or parents generally the text or substance of a discipline rule.

20-33-8-32. Locker searches.

(a) A school corporation must provide each:

(1) student; and

(2) student's parent;

a copy of the rules of the governing body on searches of students' lockers and locker contents.

In-School Discipline

Use of multi-tiered discipline approaches

STATUTES

20-33-8-12. Adoption of discipline rules; publicity requirement; discipline policy regulations and guidelines; delegation of authority; rulemaking powers of governing body.

(a) Except as provided under IC 20-33-8-16, the governing body of a school corporation must do the following:

(1) Establish written discipline rules, which must include a graduated system of discipline

Teacher authority to remove students from classrooms

STATUTES

20-33-8-8. Duty and powers of school corporation to supervise and discipline students.

(b) In all matters relating to the discipline and conduct of students, school corporation personnel:

(2) have the right to take any disciplinary action necessary to promote student conduct that conforms with an orderly and effective educational system, subject to this chapter;

20-33-8-9. Disciplinary powers of teachers and school staff members.

(b) An individual may take any action that is reasonably necessary to carry out or to prevent an interference with an educational function that the individual supervises.

(c) Subject to rules of the governing body and the administrative staff, an individual may remove a student for a period that does not exceed five (5) school days from an educational function supervised by the individual or another individual who is a teacher or other school staff member.

Alternatives to suspension

STATUTES

20-33-8-9. Disciplinary powers of teachers and school staff members.

(d) If an individual removes a student from a class under subsection (c), the principal may place the student in another appropriate class or placement or into in school suspension. The principal may not return the student to the class from which the student was removed until the principal has met with the student, the student's teacher, and the student's parents to determine an appropriate behavior plan for the student. If the student's parents do not meet with the principal and the student's teacher within a reasonable amount of time, the student may be moved to another class at the principal's discretion.

20-33-8-25. Additional disciplinary actions authorized.

(b) An individual may take disciplinary action instead of or in addition to suspension and expulsion that is necessary to ensure a safe, orderly, and effective educational environment. Disciplinary action under this section may include the following:

(1) Counseling with a student or group of students.

(2) Conferences with a parent or group of parents.

(3) Assigning additional work.

(4) Rearranging class schedules.

(5) Requiring a student to remain in school after regular school hours:

(A) to do additional school work; or

(B) for counseling.

(6) Restricting extracurricular activities.

(7) Removal of a student by a teacher from that teacher's class for a period not to exceed:

(A) five (5) class periods for middle, junior high, or high school students; or

(B) one (1) school day for elementary school students;

if the student is assigned regular or additional school work to complete in another school setting.

(8) Assignment by the principal of:

(A) a special course of study;

(B) an alternative educational program; or

(C) an alternative school.

(9) Assignment by the principal of the school where the recipient of the disciplinary action is enrolled of not more than one hundred twenty (120) hours of service with a nonprofit organization operating in or near the community where the school is located or where the student resides. The following apply to service assigned under this subdivision:

(A) A principal may not assign a student under this subdivision unless the student's parent approves:

(i) the nonprofit organization where the student is assigned; and

(ii) the plan described in clause (B)(i).

A student's parent may request or suggest that the principal assign the student under this subdivision.

(B) The principal shall make arrangements for the student's service with the nonprofit organization. Arrangements must include the following:

(i) A plan for the service that the student is expected to perform.

(ii) A description of the obligations of the nonprofit organization to the student, the student's parents, and the school corporation where the student is enrolled.

(iii) Monitoring of the student's performance of service by the principal or the principal's designee.

(iv) Periodic reports from the nonprofit organization to the principal and the student's parent or guardian of the student's performance of the service.

(C) The nonprofit organization must obtain liability insurance in the amount and of the type specified by the school corporation where the student is enrolled that is sufficient to cover liabilities that may be incurred by a student who performs service under this subdivision.

(D) Assignment of service under this subdivision suspends the implementation of a student's suspension or expulsion. A student's completion of service assigned under this subdivision to the satisfaction of the principal and the nonprofit organization terminates the student's suspension or expulsion.

(10) Removal of a student from school sponsored transportation.

(11) Referral to the juvenile court having jurisdiction over the student.

Use of corporal punishment

No relevant statutes found.

Use of student and locker searches

STATUTES

20-33-8-32. Locker searches.

(a) A school corporation must provide each:

(1) student; and

(2) student's parent;

a copy of the rules of the governing body on searches of students' lockers and locker contents.

(b) A student who uses a locker that is the property of a school corporation is presumed to have no expectation of privacy in:

(1) that locker; or

(2) the locker's contents.

(c) In accordance with the rules of the governing body, a principal may search:

(1) a student's locker; and

(2) the locker's contents;

at any time.

(d) A law enforcement agency having jurisdiction over the geographic area having a school facility containing a student's locker may:

(1) at the request of the school principal; and

(2) in accordance with rules of the governing body of the school corporation;

assist a school administrator in searching a student's locker and the locker's contents.

Other in-school disciplinary approaches

No relevant statutes found.

Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements

Grounds for possible suspension or expulsion

STATUTES

20-33-8-14. Grounds for suspension or expulsion.

(a) The following are the grounds for student suspension or expulsion, subject to the procedural requirements of this chapter and as stated by school corporation rules:

(1) Student misconduct.

(2) Substantial disobedience.

(b) The grounds for suspension or expulsion listed in subsection (a) apply when a student is:

(1) on school grounds immediately before or during school hours, or immediately after school hours, or at any other time when the school is being used by a school group;

(2) off school grounds at a school activity, function, or event; or

(3) traveling to or from school or a school activity, function, or event.

20-33-8-15. Unlawful activity by student.

In addition to the grounds specified in section 14 of this chapter, a student may be suspended or expelled for engaging in unlawful activity on or off school grounds if:

(1) the unlawful activity may reasonably be considered to be an interference with school purposes or an educational function; or

(2) the student's removal is necessary to restore order or protect persons on school property;

including an unlawful activity during weekends, holidays, other school breaks, and the summer period when a student may not be attending classes or other school functions.

20-33-8-16. Possession of firearms, deadly weapons, or destructive devices.

(f) Notwithstanding section 20 of this chapter, a student who is:

(1) identified as bringing a deadly weapon to school or on school property; or

(2) in possession of a deadly weapon on school property;

may be expelled for not more than one (1) calendar year.

Grounds for mandatory suspension or expulsion

STATUTES

20-33-8-16. Possession of firearms, deadly weapons, or destructive devices.

(d) Notwithstanding section 20 of this chapter, a student who is:

(1) identified as bringing a firearm or destructive device to school or on school property; or

(2) in possession of a firearm or destructive device on school property;

must be expelled for at least one (1) calendar year, with the return of the student to be at the beginning of the first school semester after the end of the one (1) year period.

(e) The superintendent may, on a case by case basis, modify the period of expulsion under subsection (d) for a student who is expelled under this section.

Limitations, conditions or exclusions for use of suspension and expulsion

STATUTES

20-33-8-9. Disciplinary powers of teachers and school staff members.

(c) Subject to rules of the governing body and the administrative staff, an individual may remove a student for a period that does not exceed five (5) school days from an educational function supervised by the individual or another individual who is a teacher or other school staff member.

20-33-8-18. Maximum term of suspension; procedure.

(a) A principal may suspend a student for not more than ten (10) school days under section 14, 15, or 16 of this chapter. However, the student may be suspended for more than ten (10) school days under section 23 of this chapter.

20-33-8-20. Maximum term of expulsion; reenrollment in alternative program after expulsion or exclusion; reinstatement review.

(a) Except as provided in section 16 of this chapter, a student may not be expelled for a longer period than the remainder of the school year in which the expulsion took effect if the misconduct occurs during the first semester. If a student is expelled during the second semester, the expulsion remains in effect for summer school and may remain in effect for the first semester of the following school year, unless otherwise modified or terminated by order of the governing body. The appropriate authorities may require that a student who is at least sixteen (16) years of age and who wishes to reenroll after an expulsion or an exclusion attend an alternative program.

(b) An expulsion that takes effect more than three (3) weeks before the beginning of the second semester of a school year must be reviewed before the beginning of the second semester. The review:

(1) shall be conducted by the superintendent or an individual designated under section 19(a) of this chapter after notice of the review has been given to the student and the student's parent;

(2) is limited to newly discovered evidence or evidence of changes in the student's circumstances occurring since the original meeting; and

(3) may lead to a recommendation by the person conducting the review that the student be reinstated for the second semester.

(c) An expulsion that will remain in effect during the first semester of the following school year must be reviewed before the beginning of the school year. The review:

(1) shall be conducted by the superintendent or an individual designated under section 19(a) of this chapter after notice of the review has been given to the student and the student's parent;

(2) is limited to newly discovered evidence or evidence of changes in the student's circumstances occurring since the original meeting; and

(3) may lead to a recommendation by the individual conducting the review that the student be reinstated for the upcoming school year.

20-33-8-34. Disciplinary action for children with disabilities.

(a) Notwithstanding any other law, a suspension, an expulsion, or another disciplinary action against a student who is a child with a disability (as defined in IC 20-35-1-2) is subject to the:

(1) procedural requirements of 20 U.S.C. 1415; and

(2) rules adopted by the state board.

(b) The division of special education shall propose rules under IC 20-35-2-1(b)(5) to the state board for adoption under IC 4-22-2 governing suspensions, expulsions, and other disciplinary action for a student who is a child with a disability (as defined in IC 20-35-1-2).

Administrative procedures related to suspension and expulsion

STATUTES

20-33-8-16. Possession of firearms, deadly weapons, or destructive devices.

(h) A student with disabilities (as defined in IC 20-35-7-7) who possesses a firearm on school property is subject to procedural safeguards under 20 U.S.C. 1415.

20-33-8-18. Maximum term of suspension; procedure.

(b) A principal may not suspend a student before the principal affords the student an opportunity for a meeting during which the student is entitled to the following:

(1) A written or an oral statement of the charges against the student.

(2) If the student denies the charges, a summary of the evidence against the student.

(3) An opportunity for the student to explain the student's conduct.

(c) When misconduct requires immediate removal of a student, the meeting under subsection (b) must begin as soon as reasonably possible after the student's suspension.

(d) Following a suspension, the principal shall send a written statement to the parent of the suspended student describing the following:

(1) The student's misconduct.

(2) The action taken by the principal.

20-33-8-19. Expulsion procedure; appeals.

(a) A superintendent of a school corporation may conduct an expulsion meeting or appoint one (1) of the following to conduct an expulsion meeting:

(1) Legal counsel.

(2) A member of the administrative staff if the member:

(A) has not expelled the student during the current school year; and

(B) was not involved in the events giving rise to the expulsion.

The superintendent or a person designated under this subsection may issue subpoenas, compel the attendance of witnesses, and administer oaths to persons giving testimony at an expulsion meeting.

(b) An expulsion may take place only after the student and the student's parent are given notice of their right to appear at an expulsion meeting with the superintendent or a person designated under subsection (a). Notice of the right to appear at an expulsion meeting must:

(1) be made by certified mail or by personal delivery;

(2) contain the reasons for the expulsion; and

(3) contain the procedure for requesting an expulsion meeting.

(c) The individual conducting an expulsion meeting:

(1) shall make a written summary of the evidence heard at the expulsion meeting;

(2) may take action that the individual finds appropriate; and

(3) must give notice of the action taken under subdivision (2) to the student and the student's parent.

(d) If the student or the student's parent not later than ten (10) days of receipt of a notice of action taken under subsection (c) makes a written appeal to the governing body, the governing body:

(1) shall hold a meeting to consider:

(A) the written summary of evidence prepared under subsection (c)(1); and

(B) the arguments of the principal and the student or the student's parent;

unless the governing body has voted under subsection (f) not to hear appeals of actions taken under subsection (c); and

(2) may take action that the governing body finds appropriate.

The decision of the governing body may be appealed only under section 21 of this chapter.

(e) A student or a student's parent who fails to request and appear at an expulsion meeting after receipt of notice of the right to appear at an expulsion meeting forfeits all rights administratively to contest and appeal the expulsion. For purposes of this section, notice of the right to appear at an expulsion meeting or notice of the action taken at an expulsion meeting is effectively given at the time when the request or notice is delivered personally or sent by certified mail to a student and the student's parent.

(f) The governing body may vote to not hear appeals of actions taken under subsection (c). If the governing body votes to not hear appeals, subsequent to the date on which the vote is taken, a student or parent may appeal only under section 21 of this chapter.

20-33-8-22. Effectiveness of statute during judicial review.

An expulsion that has been upheld by a governing body continues in effect during judicial review under section 21 of this chapter unless:

(1) the court grants a temporary restraining order under the Indiana Rules of Civil Procedure; and

(2) the school corporation was given the opportunity to appear at the hearing regarding the temporary restraining order.

20-33-8-23. Suspension pending expulsion decision.

The superintendent or the person designated by the superintendent under section 19(a) of this chapter may continue suspension of a student for more than the ten (10) school day period of the principal's suspension and until the time of the expulsion decision under section 19 of this chapter if the superintendent or the designated person determines that the student's continued suspension will prevent or substantially reduce the risk of:

(1) interference with an educational function or school purposes; or

(2) a physical injury to the student, other students, school employees, or visitors to the school.

However, a student may not be suspended from school pending a meeting on a student's proposed expulsion if the expulsion is ordered under section 17 of this chapter.

In-school suspension

STATUTES

20-33-8-9. Disciplinary powers of teachers and school staff members.

(b) An individual may take any action that is reasonably necessary to carry out or to prevent an interference with an educational function that the individual supervises.

(c) Subject to rules of the governing body and the administrative staff, an individual may remove a student for a period that does not exceed five (5) school days from an educational function supervised by the individual or another individual who is a teacher or other school staff member.

(d) If an individual removes a student from a class under subsection (c), the principal may place the student in another appropriate class or placement or into in school suspension. The principal may not return the student to the class from which the student was removed until the principal has met with the student, the student's teacher, and the student's parents to determine an appropriate behavior plan for the student. If the student's parents do not meet with the principal and the student's teacher within a reasonable amount of time, the student may be moved to another class at the principal's discretion.

20-33-8-25. Additional disciplinary actions authorized.

(b) An individual may take disciplinary action instead of or in addition to suspension and expulsion that is necessary to ensure a safe, orderly, and effective educational environment. Disciplinary action under this section may include the following:

(1) Counseling with a student or group of students.

(2) Conferences with a parent or group of parents.

(3) Assigning additional work.

(4) Rearranging class schedules.

(5) Requiring a student to remain in school after regular school hours:

(A) to do additional school work; or

(B) for counseling.

(6) Restricting extracurricular activities.

(7) Removal of a student by a teacher from that teacher's class for a period not to exceed:

(A) five (5) class periods for middle, junior high, or high school students; or

(B) one (1) school day for elementary school students;

if the student is assigned regular or additional school work to complete in another school setting.

Return to school following removal

STATUTES

20-33-8-24. Requirements for reenrollment after expulsion.

(b) A principal may require a student to attend one (1) or more of the following:

(1) An alternative school or alternative educational program.

(2) Evening classes.

(3) Classes established for students who are at least sixteen (16) years of age.

20-33-8-30. Enrollment in another school corporation or charter school during period of expulsion or proposed expulsion.

(b) The student referred to in subsection (a) may enroll in another school corporation or charter school during the period of the actual or proposed expulsion or separation if:

(1) the student's parent informs the school corporation in which the student seeks to enroll and also:

(A) in the case of a student withdrawing from a charter school that is not a conversion charter school to avoid expulsion, the conversion charter school; or

(B) in the case of a student withdrawing from a conversion charter school to avoid expulsion:

(i) the conversion charter school; and

(ii) the school corporation that sponsored the conversion charter school;

of the student's expulsion, separation, or withdrawal to avoid expulsion or separation;

(2) the school corporation (and, in the case of a student withdrawal described in subdivision (1)(A) or (1)(B), the charter school) consents to the student's enrollment; and

(3) the student agrees to the terms and conditions of enrollment established by the school corporation (or, in the case of a student withdrawal described in subdivision (1)(A) or (1)(B), the charter school or conversion charter school).

(c) If:

(1) a student's parent fails to inform the school corporation of the expulsion or separation or withdrawal to avoid expulsion or separation; or

(2) a student fails to follow the terms and conditions of enrollment under subsection (b)(3);

the school corporation or charter school may withdraw consent and prohibit the student's enrollment during the period of the actual or proposed expulsion or separation.

(d) Before a consent is withdrawn under subsection (c) the student must have an opportunity for an informal meeting before the principal of the student's proposed school. At the informal meeting, the student is entitled to:

(1) a written or an oral statement of the reasons for the withdrawal of the consent;

(2) a summary of the evidence against the student; and

(3) an opportunity to explain the student's conduct.

(e) This section does not apply to a student who is expelled under section 17 of this chapter.

Use of restraint and seclusion

No relevant statutes found.

Alternative placements

STATUTES

20-33-8-24. Requirements for reenrollment after expulsion.

(b) A principal may require a student to attend one (1) or more of the following:

(1) An alternative school or alternative educational program.

(2) Evening classes.

(3) Classes established for students who are at least sixteen (16) years of age.

20-33-8-25. Additional disciplinary actions authorized.

(b) An individual may take disciplinary action instead of or in addition to suspension and expulsion that is necessary to ensure a safe, orderly, and effective educational environment. Disciplinary action under this section may include the following:

(8) Assignment by the principal of:

(A) a special course of study;

(B) an alternative educational program; or

(C) an alternative school.

Disciplinary Approaches Addressing Specific Infractions and Conditions

Firearms (as required by the Guns-Free Schools Act)

STATUTES

20-33-8-16. Possession of firearms, deadly weapons, or destructive devices.

(a) As used in this section, "firearm" has the meaning set forth in IC 35-47-1-5.

(b) As used in this section, "deadly weapon" has the meaning set forth in IC 35-31.5-2-86. The term does not include a firearm or destructive device.

(c) As used in this section, "destructive device" has the meaning set forth in IC 35-47.5-2-4.

(d) Notwithstanding section 20 of this chapter, a student who is:

(1) identified as bringing a firearm or destructive device to school or on school property; or

(2) in possession of a firearm or destructive device on school property;

must be expelled for at least one (1) calendar year, with the return of the student to be at the beginning of the first school semester after the end of the one (1) year period.

(e) The superintendent may, on a case by case basis, modify the period of expulsion under subsection (d) for a student who is expelled under this section.

(g) A superintendent or the superintendent's designee shall immediately notify the appropriate law enforcement agency having jurisdiction over the property where the school is located if a student engages in a behavior described in subsection (d). The superintendent may give similar notice if the student engages in a behavior described in subsection (f). Upon receiving notification under this subsection, the law enforcement agency shall begin an investigation and take appropriate action.

(h) A student with disabilities (as defined in IC 20-35-7-7) who possesses a firearm on school property is subject to procedural safeguards under 20 U.S.C. 1415.

Other weapons

STATUTES

20-33-8-16. Possession of firearms, deadly weapons, or destructive devices.

(a) As used in this section, "firearm" has the meaning set forth in IC 35-47-1-5.

(b) As used in this section, "deadly weapon" has the meaning set forth in IC 35-31.5-2-86. The term does not include a firearm or destructive device.

(c) As used in this section, "destructive device" has the meaning set forth in IC 35-47.5-2-4.

(d) Notwithstanding section 20 of this chapter, a student who is:

(1) identified as bringing a firearm or destructive device to school or on school property; or

(2) in possession of a firearm or destructive device on school property;

must be expelled for at least one (1) calendar year, with the return of the student to be at the beginning of the first school semester after the end of the one (1) year period.

(e) The superintendent may, on a case by case basis, modify the period of expulsion under subsection (d) for a student who is expelled under this section.

(f) Notwithstanding section 20 of this chapter, a student who is:

(1) identified as bringing a deadly weapon to school or on school property; or

(2) in possession of a deadly weapon on school property;

may be expelled for not more than one (1) calendar year.

(g) A superintendent or the superintendent's designee shall immediately notify the appropriate law enforcement agency having jurisdiction over the property where the school is located if a student engages in a behavior described in subsection (d). The superintendent may give similar notice if the student engages in a behavior described in subsection (f). Upon receiving notification under this subsection, the law enforcement agency shall begin an investigation and take appropriate action.

(h) A student with disabilities (as defined in IC 20-35-7-7) who possesses a firearm on school property is subject to procedural safeguards under 20 U.S.C. 1415.

Students with chronic disciplinary issues

STATUTES

20-33-2-25. Habitual absence from school; report to juvenile intake officer or department of child services.

The superintendent or an attendance officer having jurisdiction shall report a child who is habitually absent from school in violation of this chapter to an intake officer of the juvenile court or the department of child services. The intake officer or the department of child services shall proceed in accord with IC 31-30 through IC 31-40.

Attendance and truancy

STATUTES

20-33-2-23. Powers of certain officers to take children into custody.

(a) Each school attendance officer, sheriff, marshal, and police officer in Indiana may take into custody any child who:

(1) is required to attend school under this chapter; and

(2) is found during school hours, unless accompanied:

(A) by a parent; or

(B) with the consent of a parent, by a relative by blood or marriage who is at least eighteen (18) years of age; in a public place, in a public or private conveyance, or in a place of business open to the public.

(b) When an officer takes a child into custody under this section, the officer shall immediately deliver the child to the principal of the public or nonpublic school in which the child is enrolled. If a child is not enrolled in any school, then the officer shall deliver the child into the custody of the principal of the public school in the attendance area in which the child resides. If a child is taken to the appropriate school and the principal is unavailable, the acting chief administrative officer of the school shall take custody of the child.

(c) The powers conferred under this section may be exercised without warrant and without subsequent legal proceedings.

20-33-2-24. Principal; duties when truant child received.

(a) When a child is delivered into the custody of a principal or acting chief administrative officer under section 23 of this chapter, the principal or officer shall immediately place the child in class in the grade or course of study in which the child is enrolled or to which the child may be properly assigned.

(b) A child who is placed in class under this section shall not be kept at school beyond the regular hour of dismissal on that day for the grade or course of study in which the child is placed. As promptly as reasonably possible after placing a child in class under this section, the principal or acting chief administrative officer shall attempt to advise the child's parent of the facts of the case by telephone. The principal or acting chief administrative officer shall advise the parent of the facts of the case by mail on the same day the principal or officer receives the child.

20-33-2-25. Habitual absence from school; report to juvenile intake officer or department of child services.

The superintendent or an attendance officer having jurisdiction shall report a child who is habitually absent from school in violation of this chapter to an intake officer of the juvenile court or the department of child services. The intake officer or the department of child services shall proceed in accord with IC 31-30 through IC 31-40.

20-33-2-26. Enforcement of chapter.

(a) It is the duty of each:

(1) superintendent;

(2) attendance officer;

(3) state attendance official;

(4) security police officer appointed under IC 36-8-3-7; and

(5) school corporation police officer appointed under IC 20-26-16;

to enforce this chapter in their respective jurisdictions and to execute the affidavits authorized under this section. The duty is several, and the failure of one (1) or more to act does not excuse another official from the obligation to enforce this chapter.

(b) An affidavit against a parent for a violation of this chapter shall be prepared and filed in the same manner and under the procedure prescribed for filing affidavits for the prosecution of public offenses.

(c) An affidavit under this section shall be filed in a court with jurisdiction in the county in which the affected child resides. The prosecuting attorney shall file and prosecute actions under this section as in other criminal cases. The court shall promptly hear cases brought under this section.

Substance use

STATUTES

5-2-10-2. Purpose; composition of fund.

The state drug free communities fund is established to promote comprehensive alcohol and drug abuse prevention initiatives by supplementing state and federal funding for the coordination and provision of treatment, education, prevention, and criminal justice efforts. The fund consists of amounts deposited:

(1) under IC 33-37-9-4; and

(2) from any other public or private source.

20-33-9-1. Application of chapter.

Sections 5 through 9 of this chapter apply to the following:

(1) A violation under IC 7.1-5-7 (concerning minors and alcoholic beverages).

(2) A violation under IC 35-48-4 (offenses related to controlled substances).

20-33-9-5. Controlled substance violations; reports by school employees.

If a person other than a member of the administrative staff who is an employee of a school corporation has personally observed:

(1) a violation described in section 1 of this chapter; or

(2) a delinquent act that would be a violation under section 1 of this chapter if the violator were an adult;

in, on, or within one thousand (1,000) feet of the school property of the school corporation employing the person, the person shall immediately report the violation in writing to a member of the administrative staff of the school corporation employing the person.

20-33-9-6. Controlled substance violations; reports by members of administrative staffs.

A member of the administrative staff who, based on personal knowledge or on the report of another employee of the school corporation, believes that a person has committed a violation described in section 1 of this chapter or a delinquent act that would be a violation described in section 1 of this chapter if the violator were an adult in, on, or within one thousand (1,000) feet of the school property of the school corporation employing the member, shall immediately report in writing to a law enforcement officer.

Bullying, harassment, or hazing

STATUTES

20-33-8-0.2. Bullying.

(a) As used in this chapter, bullying means overt, unwanted, repeated acts or gestures, including verbal or written communications or images transmitted in any manner (including digitally or electronically), physical acts committed, aggression, or any other behaviors, that are committed by a student or group of students against another student with the intent to harass, ridicule, humiliate, intimidate, or harm the targeted student and create for the targeted student an objectively hostile school environment that:

(1) places the targeted student in reasonable fear of harm to the targeted student's person or property;

(2) has a substantially detrimental effect on the targeted student's physical or mental health;

(3) has the effect of substantially interfering with the targeted student's academic performance; or

(4) has the effect of substantially interfering with the targeted student's ability to participate in or benefit from the services, activities, and privileges provided by the school.

(b) The term may not be interpreted to impose any burden or sanction on, or include in the definition of the term, the following:

(1) Participating in a religious event.

(2) Acting in an emergency involving the protection of a person or property from an imminent threat of serious bodily injury or substantial danger.

(3) Participating in an activity consisting of the exercise of a student's rights protected under the First Amendment to the United States Constitution or Article I, Section 31 of the Constitution of the State of Indiana, or both.

(4) Participating in an activity conducted by a nonprofit or governmental entity that provides recreation, education, training, or other care under the supervision of one (1) or more adults.

(5) Participating in an activity undertaken at the prior written direction of the student's parent.

(6) Engaging in interstate or international travel from a location outside Indiana to another location outside Indiana.

20-33-8-13.5. Discipline rules prohibiting bullying required.

(a) Discipline rules adopted by the governing body of a school corporation under section 12 of this chapter must:

(1) prohibit bullying; and

(2) include provisions concerning education, parental involvement, reporting, investigation, and intervention.

(b) The discipline rules described in subsection (a) must apply when a student is:

(1) on school grounds immediately before or during school hours, immediately after school hours, or at any other time when the school is being used by a school group;

(2) off school grounds at a school activity, function, or event;

(3) traveling to or from school or a school activity, function, or event; or

(4) using property or equipment provided by the school.

(c) The discipline rules described in subsection (a) must prohibit bullying through the use of data or computer software that is accessed through a:

(1) computer;

(2) computer system; or

(3) computer network;

of a school corporation.

Other special infractions or conditions

No relevant statutes found.

Prevention and Behavioral Interventions (Non-Punitive)

Prevention

STATUTES

5-2-10-2. Purpose; composition of fund.

The state drug free communities fund is established to promote comprehensive alcohol and drug abuse prevention initiatives by supplementing state and federal funding for the coordination and provision of treatment, education, prevention, and criminal justice efforts. The fund consists of amounts deposited:

(1) under IC 33-37-9-4; and

(2) from any other public or private source.

Behavioral interventions and student support services

STATUTES

20-33-8-25. Additional disciplinary actions authorized.

(b) An individual may take disciplinary action instead of or in addition to suspension and expulsion that is necessary to ensure a safe, orderly, and effective educational environment. Disciplinary action under this section may include the following:

(1) Counseling with a student or group of students.

(2) Conferences with a parent or group of parents.

(3) Assigning additional work.

(4) Rearranging class schedules.

(5) Requiring a student to remain in school after regular school hours:

(A) to do additional school work; or

(B) for counseling.

(6) Restricting extracurricular activities.

(7) Removal of a student by a teacher from that teacher's class for a period not to exceed:

(A) five (5) class periods for middle, junior high, or high school students; or

(B) one (1) school day for elementary school students;

if the student is assigned regular or additional school work to complete in another school setting.

(8) Assignment by the principal of:

(A) a special course of study;

(B) an alternative educational program; or

(C) an alternative school.

(9) Assignment by the principal of the school where the recipient of the disciplinary action is enrolled of not more than one hundred twenty (120) hours of service with a nonprofit organization operating in or near the community where the school is located or where the student resides. The following apply to service assigned under this subdivision:

(A) A principal may not assign a student under this subdivision unless the student's parent approves:

(i) the nonprofit organization where the student is assigned; and

(ii) the plan described in clause (B)(i).

A student's parent may request or suggest that the principal assign the student under this subdivision.

(B) The principal shall make arrangements for the student's service with the nonprofit organization. Arrangements must include the following:

(i) A plan for the service that the student is expected to perform.

(ii) A description of the obligations of the nonprofit organization to the student, the student's parents, and the school corporation where the student is enrolled.

(iii) Monitoring of the student's performance of service by the principal or the principal's designee.

(iv) Periodic reports from the nonprofit organization to the principal and the student's parent or guardian of the student's performance of the service.

(C) The nonprofit organization must obtain liability insurance in the amount and of the type specified by the school corporation where the student is enrolled that is sufficient to cover liabilities that may be incurred by a student who performs service under this subdivision.

(D) Assignment of service under this subdivision suspends the implementation of a student's suspension or expulsion. A student's completion of service assigned under this subdivision to the satisfaction of the principal and the nonprofit organization terminates the student's suspension or expulsion.

Professional development

No relevant statutes found.

Monitoring and Accountability

Formal incident reporting of conduct violations

STATUTES

20-33-9-5. Controlled substance violations; reports by school employees.

If a person other than a member of the administrative staff who is an employee of a school corporation has personally observed:

(1) a violation described in section 1 of this chapter; or

(2) a delinquent act that would be a violation under section 1 of this chapter if the violator were an adult;

in, on, or within one thousand (1,000) feet of the school property of the school corporation employing the person, the person shall immediately report the violation in writing to a member of the administrative staff of the school corporation employing the person.

20-33-9-10. Duty to report threat.

In addition to any other duty to report arising under this article, an individual who has reason to believe that a school employee:

(1) has received a threat;

(2) is the victim of intimidation;

(3) is the victim of battery; or

(4) is the victim of harassment;

shall report that information as required by this chapter.

20-33-9-11. Procedure to make report.

(a) If an individual who is required to make a report under this chapter is a member of the staff of a school, the individual shall make the report by immediately notifying the principal of the school that a school employee may have received a threat or may be the victim of intimidation, battery, or harassment.

(b) An individual who receives a report under subsection (a) shall immediately make a report or cause a report to be made under section 13 of this chapter.

Parental notification

STATUTES

20-33-2-24. Principal; duties when truant child received.

(b) A child who is placed in class under this section shall not be kept at school beyond the regular hour of dismissal on that day for the grade or course of study in which the child is placed. As promptly as reasonably possible after placing a child in class under this section, the principal or acting chief administrative officer shall attempt to advise the child's parent of the facts of the case by telephone. The principal or acting chief administrative officer shall advise the parent of the facts of the case by mail on the same day the principal or officer receives the child.

20-33-8-26. Rules requiring participation in disciplinary action by person caring for dependent student.

(a) The governing body of a school corporation may adopt rules that require a person having care of a dependent student to participate in an action taken under this chapter in connection with a student's behavior. The rules must include the following:

(1) Procedures for giving actual notice to the person having care of the dependent student.

(2) A description of the steps that the person must take to participate in the school corporation's action.

(3) A description of the additional actions in connection with the student's behavior that are justified in part or in full if the person does not participate in the school corporation's action.

(b) A dependent student is a child in need of services under IC 31-34-1-7 if, before the student child becomes eighteen (18) years of age:

(1) the student's parent fails to participate in a disciplinary proceeding in connection with the student's improper behavior, as provided for by this section, if the behavior of the student has been repeatedly disruptive in the school; and

(2) the student needs care, treatment, or rehabilitation that the child:

(A) is not receiving; and

(B) is unlikely to be provided or accepted without the coercive intervention of the court.

Reporting and referrals between schools and law enforcement

STATUTES

20-33-2-25. Habitual absence from school; report to juvenile intake officer or department of child services.

The superintendent or an attendance officer having jurisdiction shall report a child who is habitually absent from school in violation of this chapter to an intake officer of the juvenile court or the department of child services. The intake officer or the department of child services shall proceed in accord with IC 31-30 through IC 31-40.

20-33-8-16. Possession of firearms, deadly weapons, or destructive devices.

(g) A superintendent or the superintendent's designee shall immediately notify the appropriate law enforcement agency having jurisdiction over the property where the school is located if a student engages in a behavior described in subsection (d). The superintendent may give similar notice if the student engages in a behavior described in subsection (f). Upon receiving notification under this subsection, the law enforcement agency shall begin an investigation and take appropriate action.

20-33-9-6. Controlled substance violations; reports by members of administrative staffs.

A member of the administrative staff who, based on personal knowledge or on the report of another employee of the school corporation, believes that a person has committed a violation described in section 1 of this chapter or a delinquent act that would be a violation described in section 1 of this chapter if the violator were an adult in, on, or within one thousand (1,000) feet of the school property of the school corporation employing the member, shall immediately report:

(1) a general description of the violation;

(2) the name or a general description of each violator known to the member;

(3) the date, time, and and place of the violation;

(4) the name or a general description of each person who the member knows witnessed any part of the violation; and

(5) a general description and the location of any property that the member knows was involved in the violation;

in writing to a law enforcement officer.

20-33-9-13. Oral report to local law enforcement agency.

An individual who has a duty under sections 10 through 12 of this chapter to report that a school employee may have received a threat or may be the victim of intimidation, battery, or harassment shall immediately make an oral report to the local law enforcement agency.

Disclosure of school records

STATUTES

20-33-9-7. Privileged or confidential information.

A report is not required under sections 5 through 6 of this chapter if:

(1) a federal statute or regulation;

(2) IC 20-28-10-17, IC 25-33-1-17, IC 34-46-3-1, or another state statute; or

(3) a rule adopted by a state agency;

imposes a duty on the employee of the school corporation or member of the administrative staff not to disclose privileged or confidential information that otherwise would have been the basis of a report.

Data collection, review, and reporting of disciplinary policies and actions

STATUTES

20-33-8-13.5. Discipline rules prohibiting bullying required.

(a) Discipline rules adopted by the governing body of a school corporation under section 12 of this chapter must:

(1) prohibit bullying; and

(2) include provisions concerning education, parental involvement, reporting, investigation, and intervention.

(b) The discipline rules described in subsection (a) must apply when a student is:

(1) on school grounds immediately before or during school hours, immediately after school hours, or at any other time when the school is being used by a school group;

(2) off school grounds at a school activity, function, or event;

(3) traveling to or from school or a school activity, function, or event; or

(4) using property or equipment provided by the school.

(c) The discipline rules described in subsection (a) must prohibit bullying through the use of data or computer software that is accessed through a:

(1) computer;

(2) computer system; or

(3) computer network;

of a school corporation.

School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers

Authority and power to implement school arrest

STATUTES

20-33-2-23. Powers of certain officers to take children into custody.

(a) Each school attendance officer, sheriff, marshal, and police officer in Indiana may take into custody any child who:

(1) is required to attend school under this chapter; and

(2) is found during school hours, unless accompanied:

(A) by a parent; or

(B) with the consent of a parent, by a relative by blood or marriage who is at least eighteen (18) years of age; in a public place, in a public or private conveyance, or in a place of business open to the public.

(b) When an officer takes a child into custody under this section, the officer shall immediately deliver the child to the principal of the public or nonpublic school in which the child is enrolled. If a child is not enrolled in any school, then the officer shall deliver the child into the custody of the principal of the public school in the attendance area in which the child resides. If a child is taken to the appropriate school and the principal is unavailable, the acting chief administrative officer of the school shall take custody of the child.

(c) The powers conferred under this section may be exercised without warrant and without subsequent legal proceedings.

Certification or training

No relevant statutes found.

MOUs, authorization, and/or funding

STATUTES

20-33-2-25. Habitual absence from school; report to juvenile intake officer or department of child services.

The superintendent or an attendance officer having jurisdiction shall report a child who is habitually absent from school in violation of this chapter to an intake officer of the juvenile court or the department of child services. The intake officer or the department of child services shall proceed in accord with IC 31-30 through IC 31-40.

20-33-2-26. Enforcement of chapter.

(a) It is the duty of each:

(1) superintendent;

(2) attendance officer;

(3) state attendance official;

(4) security police officer appointed under IC 36-8-3-7; and

(5) school corporation police officer appointed under IC 20-26-16;

to enforce this chapter in their respective jurisdictions and to execute the affidavits authorized under this section. The duty is several, and the failure of one (1) or more to act does not excuse another official from the obligation to enforce this chapter.

(b) An affidavit against a parent for a violation of this chapter shall be prepared and filed in the same manner and under the procedure prescribed for filing affidavits for the prosecution of public offenses.

(c) An affidavit under this section shall be filed in a court with jurisdiction in the county in which the affected child resides. The prosecuting attorney shall file and prosecute actions under this section as in other criminal cases. The court shall promptly hear cases brought under this section.

State Education Agency Support

State model policies and implementation support

No relevant statutes found.

Funding appropriations

STATUTES

5-2-10-2. Purpose; composition of fund.

The state drug free communities fund is established to promote comprehensive alcohol and drug abuse prevention initiatives by supplementing state and federal funding for the coordination and provision of treatment, education, prevention, and criminal justice efforts. The fund consists of amounts deposited:

(1) under IC 33-37-9-4; and

(2) from any other public or private source.

Other/Uncategorized

Professional immunity or liability

STATUTES

20-33-8-8. Duty and powers of school corporation to supervise and discipline students.

(b) In all matters relating to the discipline and conduct of students, school corporation personnel:

(3) have qualified immunity with respect to a disciplinary action taken to promote student conduct under subdivision (2) if the action is taken in good faith and is reasonable.

20-33-9-8. Immunity from civil liability; presumption of good faith.

(a) A person, other than a person who has committed a violation under section 1 of this chapter or a delinquent act that would be a violation under section 1 of this chapter if the violator were an adult, who:

(1) makes a report under this chapter in good faith;

(2) participates in good faith in a judicial proceeding resulting from a report under this chapter;

(3) employs a person described in subdivision (1) or (2); or

(4) supervises a person described in subdivision (1) or (2);

is not liable for civil damages or penalties that might otherwise be imposed because of the conduct described in subdivisions (1) through (4).

(b) A person described in subsection (a)(1) or (a)(2) is presumed to act in good faith.

20-33-9-14. Immunity from liability.

Except as provided in section 15 of this chapter, an individual, other than a person accused of making a threat against a school employee, intimidating a school employee, committing a battery against a school employee, or harassing a school employee, who:

(1) makes, or causes to be made, a report under this chapter; or

(2) participates in any judicial proceeding or other proceeding:

(A) resulting from a report under this chapter; or

(B) relating to the subject matter of the report;

is immune from any civil or criminal liability that might otherwise be imposed because of such actions.

20-33-9-15. Liability.

An individual who has acted maliciously or in bad faith is not immune from civil or criminal liability under this chapter.

20-33-9-16. Good faith.

An individual making a report under sections 10 through 14 of this chapter or assisting in any requirement of sections 10 through 14 of this chapter is presumed to have acted in good faith.

Community input or involvement

STATUTES

20-33-8-25. Additional disciplinary actions authorized.

(b) An individual may take disciplinary action instead of or in addition to suspension and expulsion that is necessary to ensure a safe, orderly, and effective educational environment. Disciplinary action under this section may include the following:

(9) Assignment by the principal of the school where the recipient of the disciplinary action is enrolled of not more than one hundred twenty (120) hours of service with a nonprofit organization operating in or near the community where the school is located or where the student resides. The following apply to service assigned under this subdivision:

(A) A principal may not assign a student under this subdivision unless the student's parent approves:

(i) the nonprofit organization where the student is assigned; and

(ii) the plan described in clause (B)(i).

A student's parent may request or suggest that the principal assign the student under this subdivision.

(B) The principal shall make arrangements for the student's service with the nonprofit organization. Arrangements must include the following:

(i) A plan for the service that the student is expected to perform.

(ii) A description of the obligations of the nonprofit organization to the student, the student's parents, and the school corporation where the student is enrolled.

(iii) Monitoring of the student's performance of service by the principal or the principal's designee.

(iv) Periodic reports from the nonprofit organization to the principal and the student's parent or guardian of the student's performance of the service.

(C) The nonprofit organization must obtain liability insurance in the amount and of the type specified by the school corporation where the student is enrolled that is sufficient to cover liabilities that may be incurred by a student who performs service under this subdivision.

(D) Assignment of service under this subdivision suspends the implementation of a student's suspension or expulsion. A student's completion of service assigned under this subdivision to the satisfaction of the principal and the nonprofit organization terminates the student's suspension or expulsion.

Other/Uncategorized

STATUTES

20-33-8-21. Scope of judicial review.

Judicial review of a governing body's action under this chapter by the circuit or superior court of the county in which a student who is the subject of the governing body's action resides is limited to the issue of whether the governing body acted without following the procedure required under this chapter.

20-33-8-28. Waiver of rights.

Any rights granted to a student or a student's parent by this chapter may be waived only by a written instrument signed by both the student and the student's parent. The waiver is valid if made:

(1) voluntarily; and

(2) with the knowledge of the:

(A) procedures available under this chapter; and

(B) consequences of the waiver.

20-33-8-31. Effect of suspension or expulsion on compulsory attendance laws.

If a student is suspended or expelled from school or from any educational function under this chapter, the student's absence from school because of the suspension or expulsion is not a violation of:

(1) IC 20-33-2; or

(2) any other statute relating to compulsory school attendance.

20-33-8-32. Locker searches.

(a) A school corporation must provide each:

(1) student; and

(2) student's parent;

a copy of the rules of the governing body on searches of students' lockers and locker contents.

(b) A student who uses a locker that is the property of a school corporation is presumed to have no expectation of privacy in:

(1) that locker; or

(2) the locker's contents.

(c) In accordance with the rules of the governing body, a principal may search:

(1) a student's locker; and

(2) the locker's contents;

at any time.

(d) A law enforcement agency having jurisdiction over the geographic area having a school facility containing a student's locker may:

(1) at the request of the school principal; and

(2) in accordance with rules of the governing body of the school corporation;

assist a school administrator in searching a student's locker and the locker's contents.

20-33-8-33. Duty to submit information to bureau of motor vehicles.

Before February 1 and before October 1 of each year, except when a hearing has been requested to determine financial hardship under IC 9-24-2-1(a)(4), a principal shall submit to the bureau of motor vehicles the pertinent information concerning an individual's ineligibility under IC 9-24-2-1 to be issued a driver's license or learner's permit, or concerning the suspension of driving privileges under IC 9-24-2-4.

20-33-9-5. Controlled substance violations; reports by school employees.

If a person other than a member of the administrative staff who is an employee of a school corporation has personally observed:

(1) a violation described in section 1 of this chapter; or

(2) a delinquent act that would be a violation under section 1 of this chapter if the violator were an adult;

in, on, or within one thousand (1,000) feet of the school property of the school corporation employing the person, the person shall immediately report the violation in writing to a member of the administrative staff of the school corporation employing the person.

20-33-9-10. Duty to report threat.

In addition to any other duty to report arising under this article, an individual who has reason to believe that a school employee:

(1) has received a threat;

(2) is the victim of intimidation;

(3) is the victim of battery; or

(4) is the victim of harassment;

shall report that information as required by this chapter.

20-33-9-11. Procedure to make report.

(a) If an individual who is required to make a report under this chapter is a member of the staff of a school, the individual shall make the report by immediately notifying the principal of the school that a school employee may have received a threat or may be the victim of intimidation, battery, or harassment.

(b) An individual who receives a report under subsection (a) shall immediately make a report or cause a report to be made under section 13 of this chapter.

20-33-9-12. Relief of obligation to report.

This chapter does not relieve an individual of the obligation to report a threat, intimidation, a battery, or harassment on the individual's own behalf, unless a report has already been made to the best of the individual's belief.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by Indiana provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
Website		
No relevant resources found		
Documents		
No relevant resources found		
Other Resources		
No relevant resources found		

Iowa
Compilation of School Discipline Laws and Regulations

Prepared: August 12, 2013

Introduction

This compilation presents school discipline-related state statutes, school discipline-related regulations, and, where available, links to state-sponsored websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSLE). For example, one major category encompasses all state laws or regulations mandating specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of state legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in each state.

Discipline categories were not mutually exclusive. Statutes and regulations often appeared across multiple categories. For states with more extensive statutes covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. State laws, ordered by chapter and section number, appear first within each category followed by state regulations. All statutes and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists statutes by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to state-sponsored websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of May 2013, with the exception of the state laws related to seclusion and restraint, which are complete and current as of December 2012. Readers should also note that the information in this document was compiled from individual state sources that are created by each state and which are maintained and updated with varying frequencies. Readers should consult the source information provided for each state directly in order to check for updates to this state's laws and regulations or conduct further research.

For further information, including definitions of the different policy categories, please refer to the Discipline Laws and Regulations Compendium posted on the Center's website.

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Safe Supportive Learning
Engagement | Safety | Environment

Table of Contents

Iowa State Codes Cited **1**

General Provisions **3**

Authority to develop and establish rules of conduct 3
Scope 4
Communication of policy 4

In-School Discipline **5**

Use of multi-tiered discipline approaches 5
Teacher authority to remove students from classrooms 5
Alternatives to suspension 5
Use of corporal punishment 5
Use of student and locker searches 6
Other in-school disciplinary approaches 7

Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements **8**

Grounds for possible suspension or expulsion 8
Grounds for mandatory suspension or expulsion 8
Limitations, conditions or exclusions for use of suspension and expulsion 9
Administrative procedures related to suspension and expulsion 9
In-school suspension 9
Return to school following removal 9
Use of restraint and seclusion 10
Alternative placements 12

Disciplinary Approaches Addressing Specific Infractions and Conditions **14**

Firearms (as required by the Guns-Free Schools Act) 14
Other weapons 14
Students with chronic disciplinary issues 15
Attendance and truancy 15
Substance use 16
Bullying, harassment, or hazing 16
Other special infractions or conditions 19

Prevention and Behavioral Interventions (Non-Punitive) **20**

Prevention 20
Behavioral interventions and student support services 20
Professional development 20

Monitoring and Accountability **21**

Formal incident reporting of conduct violations 21
Parental notification 21
Reporting and referrals between schools and law enforcement 22
Disclosure of school records 23
Data collection, review, and reporting of disciplinary policies and actions 23

School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers 24
Authority and power to implement school arrest 24
Certification or training 24
MOUs, authorization, and/or funding 24
State Education Agency Support 25
State model policies and implementation support 25
Funding appropriations 25
Other/Uncategorized 26
Professional immunity or liability 26
Community input or involvement 26
Other/Uncategorized 26
State-Sponsored, Publicly Available Websites or Other Resources on School Discipline 27

Iowa State Codes Cited

Iowa Revised Statutes

2013 Iowa Code

Title VII. Education and Cultural Affairs

Subtitle 6. School Districts

Chapter 279. Directors – Powers and Duties

279.9.	Use of tobacco, alcoholic beverages, or controlled substances
279.9A.	Information sharing
279.9B.	Reports to juvenile authorities
279.58.	School dress code policies
279.66.	Discipline and personal conduct standards

Chapter 280. Uniform School Requirements

280.9B.	Violence prevention curriculum
280.17A.	Procedures for handling dangerous weapons
280.17B.	Students suspended or expelled for possession of dangerous weapons
280.21.	Corporal punishment — burden of proof
280.21B.	Expulsion — weapons in school
280.24.	Procedures for reporting drug or alcohol possession or use
280.25.	Information sharing — interagency agreements
280.26.	Intervention in altercations
280.27.	Reporting violence — immunity
280.28.	Harassment and bullying prohibited — policy — immunity

Chapter 282. School Attendance and Tuition

282.4.	Suspension — expulsion
282.5.	Readmission of student
299.9.	Truants — rules for punishment
299.15.	Reports by school officers and employees

Title IV. Public Health

Subtitle 1. Alcoholic Beverages and Controlled Substances

Chapter 124. Controlled Substances

124.401B.	Possession of controlled substances on certain real property — additional penalty

Title VII Education and Cultural Affairs

Subtitle 6 School Districts

Chapter 280 Uniform School Requirements

280.12.	School improvement advisory committee
280.19.	Plans for at-risk children

Chapter 299. Compulsory Education

299.1.	Attendance requirements
299.10.	Truancy officers — appointment
299.11.	Duties of truancy officer

Title XVI. Criminal Law and Procedure

Subtitle 1. Crime Control and Criminal Acts

Chapter 708. Assault

708.10.	Hazing

Subtitle 2. Criminal Procedure

Chapter 808A. Student Searches

808A.2.	Searches of students, protected student areas, lockers, desks, and other facilities or spaces

Iowa Administrative Code

Educational Department [281]

Chapter 103. Corporal Punishment Ban; Restraint; Physical Confinement and Detention

281—103.1(256B,280).	Purpose
281—103.2(256B,280).	Ban on corporal punishment
281—103.3(256B,280).	Exclusions
281—103.4(256B,280).	Exceptions and privileges
281—103.6(256B,280).	Physical confinement and detention
281—103.8(256B,280).	Additional provisions concerning physical restraint

Transportation Department [761]

Chapter 615. Sanctions

761—615.32(321).	Suspension for juvenile's failure to attend school

General Provisions

Authority to develop and establish rules of conduct

STATUTES

279.58. School dress code policies.

2. The board of directors of a school district may adopt, for the district or for an individual school within the district, a dress code policy that prohibits students from wearing gang-related or other specific apparel if the board determines that the policy is necessary for the health, safety, or positive educational environment of students and staff in the school environment or for the appropriate discipline and operation of the school. Adoption and enforcement of a dress code policy is not a violation of section 280.22.

279.66. Discipline and personal conduct standards.

The board of directors of a school district shall review and modify existing policies related to student discipline and student conduct that are designed to promote responsible behavior on school property and at school functions in order that the policy shall govern the conduct of students, teachers and other school personnel, and visitors; provide opportunities for students to exercise self-discipline and practice cooperative classroom behavior; and encourage students and practitioners to model fairness, equity, and respect. The policy shall specify the responsibilities of students, parents and guardians, and practitioners in creating an atmosphere where all individuals feel a sense of respect, safety, and belonging, and shall set forth the consequences for unacceptable behavior. The policy shall be published in the student handbook.

280.24. Procedures for reporting drug or alcohol possession or use.

The board of directors of each public school and the authorities in charge of each accredited nonpublic school shall prescribe procedures to report any use or possession of alcoholic liquor, wine, or beer or any controlled substance on school premises to local law enforcement agencies, if the use or possession is in violation of school policy or state law. The procedures may include a provision which does not require a report when the school officials have determined that a school at-risk or other student assistance program would be jeopardized if a student self reports.

280.28. Harassment and bullying prohibited — policy — immunity.

3. Policy. On or before September 1, 2007, the board of directors of a school district and the authorities in charge of each accredited nonpublic school shall adopt a policy declaring harassment and bullying in schools, on school property, and at any school function, or school-sponsored activity regardless of its location, in a manner consistent with this section, as against state and school policy.

299.9. Truants — rules for punishment.

The board of directors of a public school district or the authorities in charge of an accredited nonpublic school shall prescribe reasonable rules for the punishment of truants.

Scope

STATUTES

279.66. Discipline and personal conduct standards.

The board of directors of a school district shall review and modify existing policies related to student discipline and student conduct that are designed to promote responsible behavior on school property and at school functions in order that the policy shall govern the conduct of students, teachers and other school personnel, and visitors; provide opportunities for students to exercise self-discipline and practice cooperative classroom behavior; and encourage students and practitioners to model fairness, equity, and respect. The policy shall specify the responsibilities of students, parents and guardians, and practitioners in creating an atmosphere where all individuals feel a sense of respect, safety, and belonging, and shall set forth the consequences for unacceptable behavior. The policy shall be published in the student handbook.

282.4. Suspension — expulsion.

2. a. A student who commits an assault, as defined under section 708.1, against a school employee in a school building, on school grounds, or at a school-sponsored function shall be suspended for a time to be determined by the principal. Notice of the suspension shall be immediately sent to the president of the board. By special meeting or at the next regularly scheduled board meeting, the board shall review the suspension and decide whether to hold a disciplinary hearing to determine whether or not to order further sanctions against the student, which may include expelling the student. In making its decision, the board shall consider the best interests of the school district, which shall include what is best to protect and ensure the safety of the school employees and students from the student committing the assault.

Communication of policy

STATUTES

280.28. Harassment and bullying prohibited — policy — immunity.

3. Policy. On or before September 1, 2007, the board of directors of a school district and the authorities in charge of each accredited nonpublic school shall adopt a policy declaring harassment and bullying in schools, on school property, and at any school function, or school-sponsored activity regardless of its location, in a manner consistent with this section, as against state and school policy. The board and the authorities shall make a copy of the policy available to all school employees, volunteers, students, and parents or guardians and shall take all appropriate steps to bring the policy against harassment and bullying and the responsibilities set forth in the policy to the attention of school employees, volunteers, students, and parents or guardians.

In-School Discipline

Use of multi-tiered discipline approaches

No relevant statutes found.

Teacher authority to remove students from classrooms

No relevant statutes found.

Alternatives to suspension

No relevant statutes found.

Use of corporal punishment

STATUTES

280.21. Corporal punishment — burden of proof.

1. An employee of an accredited public school district, accredited nonpublic school, or area education agency shall not inflict, or cause to be inflicted, corporal punishment upon a student. For purposes of this section, “corporal punishment” means the intentional physical punishment of a student. An employee’s physical contact with the body of a student shall not be considered corporal punishment if it is reasonable and necessary under the circumstances and is not designed or intended to cause pain or if the employee uses reasonable force, as defined under section 704.1, for the protection of the employee, the student, or other students; to obtain the possession of a weapon or other dangerous object within a student’s control; or for the protection of property. The department of education shall adopt rules to implement this section.

ADMINISTRATIVE CODE

281—103.1(256B,280). Purpose.

In conjunction with Iowa Code section 280.21, the purpose of this chapter is to define and exemplify generally the limitations placed on employees of public schools, accredited nonpublic schools, and area education agencies in applying physical contact or force to enrolled students, and to require that any such force or contact is reasonable and necessary under the circumstances. These rules also provide requirements for administrators and staff of public schools, accredited nonpublic schools, and area education agencies regarding the use of physical restraints and physical confinement and detention. The applicability of this chapter to physical restraint or physical confinement and detention does not depend on the terminology employed by the organization to describe physical restraint or physical confinement and detention.

281—103.2(256B,280). Ban on corporal punishment.

An employee of a public school district, accredited nonpublic school, or area education agency shall not inflict, or cause to be inflicted, corporal punishment upon a student. “Corporal punishment” is defined to mean the intentional physical punishment of a student. It includes the use of unreasonable or unnecessary physical force, or physical contact made with the intent to harm or cause pain.

281—103.3(256B,280). Exclusions.

Corporal punishment does not include the following:

1. Verbal recrimination or chastisement directed toward a student;

2. Reasonable requests or requirements of a student engaged in activities associated with physical education class or extracurricular athletics;

3. Actions consistent with and included in an individualized education program developed under the Individuals with Disabilities Education Act, as reauthorized, Iowa Code chapter 256B, and 281—Chapter 41; however, under no circumstance shall an individualized education program violate the provisions of this chapter;

4. Reasonable periods of detention, not in excess of school hours, or brief periods of before- and after-school detention, in a seat, classroom or other part of a school facility, unless the detention is accomplished by the use of material restraints applied to the person. If detention meets this chapter's definition of "physical confinement and detention," the provisions of this chapter on physical confinement and detention must be followed. For purposes of this chapter, material restraints do not include devices, objects, or techniques required or ordered for reasons of safety (e.g., safety harnesses on school buses) or for therapeutic or medical treatment (e.g., devices used for physical or occupational therapy), provided those devices, objects, or techniques are so used, and used for no other purpose;

5. Actions by an employee subject to these rules toward a person who is not a student of the school or receiving the services of an area education agency employing or utilizing the services of the employee.

281—103.4(256B,280). Exceptions and privileges.

Notwithstanding rule 103.2(256B,280), no employee subject to these rules is prohibited from:

1. Using reasonable and necessary force, not designed or intended to cause pain, in order to accomplish any of the following:

   To quell a disturbance or prevent an act that threatens physical harm to any person.

   To obtain possession of a weapon or other dangerous object within a pupil's control.

   For the purposes of self-defense or defense of others as provided for in Iowa Code section 704.3.

   For the protection of property as provided for in Iowa Code section 704.4 or 704.5.

   To remove a disruptive pupil from class or any area of school premises, or from school-sponsored activities off school premises.

   To prevent a student from the self-infliction of harm.

   To protect the safety of others.

2. Using incidental, minor, or reasonable physical contact to maintain order and control.

An employee subject to these rules is not privileged to use unreasonable force to accomplish any of the purposes listed above.

Use of student and locker searches

STATUTES

808A.2. Searches of students, protected student areas, lockers, desks, and other facilities or spaces.

1. The school board of each public school and the authorities in charge of each nonpublic school shall establish and may search a student or protected student area pursuant to a student search rule. The student search rule shall be published in each public school's and each nonpublic school's student handbook. A school official may search individual students and individual protected student areas if both of the following apply:

a. The official has reasonable grounds for suspecting that the search will produce evidence that a student has violated or is violating either the law or a school rule or regulation.

b. The search is conducted in a manner which is reasonably related to the objectives of the search and which is not excessively intrusive in light of the age and gender of the student and the nature of the infraction.

2. School officials may conduct periodic inspections of all, or a randomly selected number of, school lockers, desks, and other facilities or spaces owned by the school and provided as a courtesy to a student. The furnishing of a school locker , desk, or other facility or space owned by the school and provided as a courtesy to a student shall not create a protected student area, and shall not give rise to an expectation of privacy on a student's part with respect to that locker , desk, facility, or space. Allowing students to use a separate lock on a locker , desk, or other facility or space owned by the school and provided to the student shall also not give rise to an expectation of privacy on a student's part with respect to that locker , desk, facility, or space. However, each year when school begins, the school district shall provide written notice to all students and the students' parents, guardians, or legal custodians, that school officials may conduct periodic inspections of school lockers, desks, and other facilities or spaces owned by the school and provided as a courtesy to a student without prior notice. An inspection under this subsection shall either occur in the presence of the students whose lockers are being inspected or the inspection shall be conducted in the presence of at least one other person.

Other in-school disciplinary approaches

No relevant statutes found.

Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements

Grounds for possible suspension or expulsion

STATUTES

279.9. Use of tobacco, alcoholic beverages, or controlled substances.

The rules shall prohibit the use of tobacco and the use or possession of alcoholic liquor, wine, or beer or any controlled substance as defined in section 124.101, subsection 5, by any student of the schools and the board may suspend or expel a student for a violation of a rule under this section.

282.4. Suspension — expulsion.

1. The board may, by a majority vote, expel any student from school for a violation of the regulations or rules established by the board, or when the presence of the student is detrimental to the best interests of the school. The board may confer upon any teacher, principal, or superintendent the power temporarily to suspend a student, notice of the suspension being at once given in writing to the president of the board.

Grounds for mandatory suspension or expulsion

STATUTES

280.17B. Students suspended or expelled for possession of dangerous weapons.

The board of directors of a public school and the authorities in control of a nonpublic school shall prescribe procedures for continued school involvement with a student who is suspended or expelled for possession of a dangerous weapon, as defined in section 702.7, on school premises in violation of state law and for the reintegration of the student into the school following the suspension or expulsion .

280.21B. Expulsion — weapons in school.

The board of directors of a school district and the authorities in charge of a nonpublic school which receives services supported by federal funds shall expel from school for a period of not less than one year a student who is determined to have brought a weapon to a school or knowingly possessed a weapon at a school under the jurisdiction of the board or the authorities. However, the superintendent or chief administering officer of a school or school district may modify expulsion requirements on a case-by-case basis. This section shall not be construed to prevent the board of directors of a school district or the authorities in charge of a nonpublic school that have expelled a student from the student's regular school setting from providing educational services to the student in an alternative setting. If both this section and section 282.4 apply, this section takes precedence over section 282.4. For purposes of this section, "weapon" means a firearm as defined in 18 U.S.C. § 921. This section shall be construed in a manner consistent with the federal Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq.

282.4. Suspension — expulsion.

2. a. A student who commits an assault, as defined under section 708.1, against a school employee in a school building, on school grounds, or at a school-sponsored function shall be suspended for a time to be determined by the principal. Notice of the suspension shall be immediately sent to the president of the board. By special meeting or at the next regularly scheduled board meeting, the board shall review the suspension and decide whether to hold a disciplinary hearing to determine whether or not to order further

sanctions against the student, which may include expelling the student. In making its decision, the board shall consider the best interests of the school district, which shall include what is best to protect and ensure the safety of the school employees and students from the student committing the assault.

Limitations, conditions or exclusions for use of suspension and expulsion

STATUTES

282.4. Suspension — expulsion.

b. A student shall not be suspended or expelled pursuant to this section if the suspension or expulsion would violate the federal Individuals with Disabilities Education Act.

Administrative procedures related to suspension and expulsion

STATUTES

279.9A. Information sharing.

The rules referred to in section 279.9 shall provide that upon the request of school officials of a school to which the student seeks to transfer or has transferred, school officials of the sending school shall provide an accurate record of any suspension or expulsion actions taken, and the basis for those actions taken, against the student under sections 279.9, 280.19A, 282.3, 282.4, and 282.5. The designated representative shall disclose this information only to those school employees whose duties require them to be involved with the student. For purposes of this section, “school employees” means persons employed by a nonpublic school or school district, or any area education agency staff member who provides services to a school or school district.

279.9B. Reports to juvenile authorities.

The rules adopted under section 279.8 shall require, once school officials have been notified by a juvenile court officer that a student attending the school is under supervision or has been placed on probation, that school officials shall notify the juvenile court of each unexcused absence or suspension or expulsion of the student.

280.17B. Students suspended or expelled for possession of dangerous weapons.

The board of directors of a public school and the authorities in control of a nonpublic school shall prescribe procedures for continued school involvement with a student who is suspended or expelled for possession of a dangerous weapon, as defined in section 702.7, on school premises in violation of state law and for the reintegration of the student into the school following the suspension or expulsion .

In-school suspension

No relevant statutes found.

Return to school following removal

STATUTES

280.17B. Students suspended or expelled for possession of dangerous weapons.

The board of directors of a public school and the authorities in control of a nonpublic school shall prescribe procedures for continued school involvement with a student who is suspended or expelled for

possession of a dangerous weapon, as defined in section 702.7, on school premises in violation of state law and for the reintegration of the student into the school following the suspension or expulsion .

282.4. Suspension — expulsion.

3. Notwithstanding section 282.6, if a student has been expelled or suspended from school and has not met the conditions of the expulsion or suspension, the student shall not be permitted to enroll in a school district until the board of directors of the school district approves, by a majority vote, the enrollment of the student.

282.5. Readmission of student.

When a student is suspended by a teacher, principal, or superintendent, pursuant to section 282.4, the student may be readmitted by the teacher, principal, or superintendent when the conditions of the suspension have been met, but when expelled by the board the student may be readmitted only by the board or in the manner prescribed by the board.

Use of restraint and seclusion

ADMINISTRATIVE CODE

281—103.1(256B,280). Purpose.

In conjunction with Iowa Code section 280.21, the purpose of this chapter is to define and exemplify generally the limitations placed on employees of public schools, accredited nonpublic schools, and area education agencies in applying physical contact or force to enrolled students, and to require that any such force or contact is reasonable and necessary under the circumstances. These rules also provide requirements for administrators and staff of public schools, accredited nonpublic schools, and area education agencies regarding the use of physical restraints and physical confinement and detention. The applicability of this chapter to physical restraint or physical confinement and detention does not depend on the terminology employed by the organization to describe physical restraint or physical confinement and detention.

281—103.6(256B,280). Physical confinement and detention.

If a student is physically confined and detained in a portion of a school facility, the following conditions shall be observed. For the purposes of this chapter, “physical confinement and detention” means the confinement of a student in a time-out room or some other enclosure, whether within or outside the classroom, from which the student’s egress is restricted.

1. The area of confinement and detention shall be of reasonable dimensions, and shall be free from hazards and dangerous objects or instruments, considering the age, size, and physical and mental condition of the student subject to confinement and detention;
2. There shall be sufficient light and adequate ventilation for human habitation;
3. A comfortable temperature shall be maintained, consistent with the facility that includes the confinement and detention area;
4. Reasonable break periods shall be afforded the student to attend to bodily needs. However, sleep shall not be considered a “bodily need” for purposes of this subrule;
5. The period of detention and confinement is reasonable, considering the age, size, and physical and mental condition of the student subject to confinement and detention, and not in excess of the hours in a school day as defined by local board policy or rule; however, reasonable periods of before- and after-school detention are permissible. If a period of physical confinement and detention exceeds the shorter of 60 minutes or the school’s typical class period, staff members shall evaluate the continued need for

physical confinement and detention, shall obtain administrator (or designee) approval for any continued confinement and detention, and shall comply with any administrator (or designee) directives concerning any continued confinement and detention;

6. Adequate and continuous adult supervision is provided;

7. Material restraints applied to the person are not used to effect confinement;

8. If a room or enclosure used for physical confinement and detention has a locking mechanism, such room and mechanism shall comply with all applicable building code requirements and the following additional requirements:

If a locking mechanism is used, it shall be constructed so it will engage only when a handle, knob, or other device is held in position by a person, unless the mechanism is electrically or electronically controlled and automatically releases when the building's fire alarm system is activated, the building's severe weather warning system is activated, or electrical power to the mechanism is interrupted.

When the locking mechanism is released, the door must be able to be readily opened from the inside.

If a locking mechanism requires a handle, knob, or other device to be held in position by a person before the mechanism is engaged, no person shall take any action, or cause such action to be taken, or employ any object, device, or instrument, or cause such to be employed, that disables the handle, knob, or other device such that the locking mechanism engages or remains engaged without the handle, knob, or other device being held in position by a person.

281—103.7(256B,280). Additional minimum mandatory procedures.

If a public school, accredited nonpublic school, or area education agency seeks to use physical restraint or physical confinement and detention, or both, it shall do so in compliance with the minimum requirements of this chapter. The board of a public school, accredited nonpublic school, or area education agency may adopt policies and procedures regarding the use of physical restraint or physical confinement and detention, or both, that exceed the minimum requirements contained in this chapter. Additional minimum mandatory procedures are as follows:

1. Physical restraint and physical confinement and detention shall not be used as discipline for minor infractions and may be used only after other disciplinary techniques have been attempted, if reasonable under the circumstances;

2. All school employees, before using physical restraint or physical confinement and detention, shall receive adequate and periodic training, which shall be documented and which shall include training on these rules and the employer's policies and procedures; positive behavior interventions and supports; disciplinary alternatives to seclusion and restraint; crisis prevention, crisis intervention, and crisis de-escalation techniques; student and staff debriefing; and the safe and effective use of physical restraint and physical confinement and detention;

3. Parents and students are notified at least annually of the provisions of this chapter and of any additional policies and procedures of the public school, accredited nonpublic school, or area education agency on physical restraint and physical confinement and detention;

4. Any physical restraint shall be reasonable and necessary in duration, in light of the provisions of this chapter;

5. If a student is subjected to physical restraint or physical confinement and detention, the public school, accredited nonpublic school, or area education agency shall maintain documentation for each such occurrence, which shall contain at least the following information:

The names of the student and the employees involved in the restraint, confinement, or detention, as well as the administrator who authorizes any additional periods of confinement or detention pursuant to numbered paragraph "5" of rule 103.6(256B,280);

The date, time, and duration of the occurrence;

The actions of the student before, during, and after the occurrence;

The actions of the employees involved in the occurrence before, during, and after the occurrence, including student and staff debriefing;

The alternatives to physical restraint or physical confinement and detention attempted before the occurrence;

A description of any injuries (whether to the student or others) and any property damage;

A description of future approaches to the student's behavior;

6. The public school, accredited nonpublic school, or area education agency shall attempt to notify a child's parent or guardian on the same day the child is subjected to physical restraint or physical confinement and detention; and

7. The student's parent or guardian must be provided a written copy of the documentation required by numbered paragraph "5" of this rule, which shall be postmarked within three school days of the occurrence. The student's parent or guardian may elect, in writing, to receive the communication required by this numbered paragraph via electronic mail or facsimile transmission.

281—103.8(256B,280). Additional provisions concerning physical restraint.

If an employee of a public school, accredited nonpublic school, or area education agency employs physical restraint, the following provisions shall apply:

1. No employee shall use any prone restraints. For the purposes of this rule, "prone restraints" means those in which an individual is held face down on the floor. Employees who find themselves involved in the use of a prone restraint as the result of responding to an emergency must take immediate steps to end the prone restraint;

2. No employee shall use any restraint that obstructs the airway of any child;

3. If an employee physically restrains a student who uses sign language or an augmentative mode of communication as the student's primary mode of communication, the student shall be permitted to have the student's hands free of restraint for brief periods, unless an employee determines that such freedom appears likely to result in harm to self or others;

4. Nothing in this rule shall be construed as limiting or eliminating any immunity conferred by Iowa Code section 280.21 or any other provision of law;

5. An agency covered by this chapter shall investigate any complaint or allegation that one or more of its employees violated one or more of the provisions of this chapter. If an agency covered by this chapter determines that one or more of its employees violated one or more of the provisions of this chapter, the agency shall take appropriate corrective action. If any allegation involves a specific student, the agency shall transmit to the parents of the student the results of its investigation, including, to the extent permitted by law, any required corrective action;

6. If any alleged violation of this chapter is also an allegation of "abuse" as defined in rule 281—102.2(280), the procedures in 281—Chapter 102 shall be applicable.

Alternative placements

STATUTES

280.17B. Students suspended or expelled for possession of dangerous weapons.

The board of directors of a public school and the authorities in control of a nonpublic school shall prescribe procedures for continued school involvement with a student who is suspended or expelled for

possession of a dangerous weapon, as defined in section 702.7, on school premises in violation of state law and for the reintegration of the student into the school following the suspension or expulsion .

Disciplinary Approaches Addressing Specific Infractions and Conditions

Firearms (as required by the Guns-Free Schools Act)

STATUTES

280.17A. Procedures for handling dangerous weapons.

The board of directors of a public school and the authorities in control of a nonpublic school shall prescribe procedures requiring school officials to report to local law enforcement agencies any dangerous weapon, as defined in section 702.7, possessed on school premises in violation of school policy or state law.

280.17B. Students suspended or expelled for possession of dangerous weapons.

The board of directors of a public school and the authorities in control of a nonpublic school shall prescribe procedures for continued school involvement with a student who is suspended or expelled for possession of a dangerous weapon, as defined in section 702.7, on school premises in violation of state law and for the reintegration of the student into the school following the suspension or expulsion .

280.21B. Expulsion — weapons in school.

The board of directors of a school district and the authorities in charge of a nonpublic school which receives services supported by federal funds shall expel from school for a period of not less than one year a student who is determined to have brought a weapon to a school or knowingly possessed a weapon at a school under the jurisdiction of the board or the authorities. However, the superintendent or chief administering officer of a school or school district may modify expulsion requirements on a case-by-case basis. This section shall not be construed to prevent the board of directors of a school district or the authorities in charge of a nonpublic school that have expelled a student from the student's regular school setting from providing educational services to the student in an alternative setting. If both this section and section 282.4 apply, this section takes precedence over section 282.4. For purposes of this section, "weapon" means a firearm as defined in 18 U.S.C. § 921. This section shall be construed in a manner consistent with the federal Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq.

Other weapons

STATUTES

280.17A. Procedures for handling dangerous weapons.

The board of directors of a public school and the authorities in control of a nonpublic school shall prescribe procedures requiring school officials to report to local law enforcement agencies any dangerous weapon, as defined in section 702.7, possessed on school premises in violation of school policy or state law.

280.17B. Students suspended or expelled for possession of dangerous weapons.

The board of directors of a public school and the authorities in control of a nonpublic school shall prescribe procedures for continued school involvement with a student who is suspended or expelled for possession of a dangerous weapon, as defined in section 702.7, on school premises in violation of state law and for the reintegration of the student into the school following the suspension or expulsion.

Students with chronic disciplinary issues

No relevant statutes found.

Attendance and truancy

STATUTES

279.9B. Reports to juvenile authorities.

The rules adopted under section 279.8 shall require, once school officials have been notified by a juvenile court officer that a student attending the school is under supervision or has been placed on probation, that school officials shall notify the juvenile court of each unexcused absence or suspension or expulsion of the student.

299.1. Attendance requirements.

1. Except as provided in section 299.2, the parent, guardian, or legal or actual custodian of a child who is of compulsory attendance age, shall cause the child to attend some public school, an accredited nonpublic school, or competent private instruction in accordance with the provisions of chapter 299A, during a school year, as defined under section 279.10.

299.9. Truants — rules for punishment.

The board of directors of a public school district or the authorities in charge of an accredited nonpublic school shall prescribe reasonable rules for the punishment of truants.

299.10. Truancy officers — appointment.

The board of each school district may appoint a truancy officer. The board of each school district, which does not appoint a truancy officer for the district, shall designate a suitable person to collect information on the numbers of children in the district who are truant.

The board may appoint a member of the police force, marshal, teacher, school official, or other suitable person to serve as the district truancy officer.

299.11. Duties of truancy officer.

The truancy officer may take into custody without warrant any apparently truant child and place the child in the charge of the school principal, or the principal's designee, designated by the board of directors of the school district in which the child resides, or of any nonpublic school designated by the parent, guardian, or legal or actual custodian; but if it is other than a public school, the instruction and maintenance of the child shall be without expense to the school district. If a child is taken into custody under this section, the truancy officer shall make every reasonable attempt to immediately notify the parent, guardian, or legal or actual custodian of the child's location.

299.15. Reports by school officers and employees.

All school officers and employees shall promptly report to the secretary of the school corporation any violations of the truancy law of which they have knowledge, and the secretary shall inform the president of the board of directors who shall, if necessary, call a meeting of the board to take such action thereon as the facts justify.

ADMINISTRATIVE CODE

761—615.32(321). Suspension for juvenile's failure to attend school.

(1) The department shall suspend the license of a person under the age of 18 upon receipt of notification from the appropriate school authority that the person does not attend school.

(2) " School" means a public school, an accredited nonpublic school, competent private instruction in accordance with the provisions of Iowa Code chapter 299A, an alternative school or adult education classes.

(3) "Appropriate school authority" means the superintendent of a public school or the chief administrator of an accredited nonpublic school, an alternative school or adult education.

(4) The suspension shall continue until the person reaches the age of 18 or until the department receives notification from the appropriate school authority that the person is attending school.

Substance use

STATUTES

124.401B. Possession of controlled substances on certain real property — additional penalty.

In addition to any other penalties provided in this chapter or another chapter, a person who unlawfully possesses a substance listed in schedule I, II, or III, or a simulated controlled substance represented to be a controlled substance classified in schedule I, II, or III, in or on, or within one thousand feet of the real property comprising a public or private elementary or secondary school , public park, public swimming pool, public recreation center, or on a marked school bus, may be sentenced to one hundred hours of community service work for a public agency or a nonprofit charitable organization. The court shall provide the offender with a written statement of the terms and monitoring provisions of the community service.

279.9. Use of tobacco, alcoholic beverages, or controlled substances.

The rules shall prohibit the use of tobacco and the use or possession of alcoholic liquor, wine, or beer or any controlled substance as defined in section 124.101, subsection 5, by any student of the schools and the board may suspend or expel a student for a violation of a rule under this section.

280.24. Procedures for reporting drug or alcohol possession or use.

The board of directors of each public school and the authorities in charge of each accredited nonpublic school shall prescribe procedures to report any use or possession of alcoholic liquor, wine, or beer or any controlled substance on school premises to local law enforcement agencies, if the use or possession is in violation of school policy or state law. The procedures may include a provision which does not require a report when the school officials have determined that a school at-risk or other student assistance program would be jeopardized if a student self reports.

Bullying, harassment, or hazing

STATUTES

280.12. School improvement advisory committee.

The board of directors of each public school district and the authorities in charge of each nonpublic school shall do the following:

1. Appoint a school improvement advisory committee to make recommendations to the board or authorities. The advisory committee shall consist of members representing students, parents, teachers,

administrators, and representatives from the local community, which may include representatives of business, industry, labor, community agencies, higher education, or other community constituents. To the extent possible, committee membership shall have balanced representation with regard to race, gender, national origin, and disability.

2. Utilize the recommendations from the school improvement advisory committee to determine the following:

f . Harassment or bullying prevention goals, programs, training, and other initiatives.

280.28. Harassment and bullying prohibited — policy — immunity.

1. Purpose – findings – policy. The state of Iowa is committed to providing all students with a safe and civil school environment in which all members of the school community are treated with dignity and respect. The general assembly finds that a safe and civil school environment is necessary for students to learn and achieve at high academic levels. Harassing and bullying behavior can seriously disrupt the ability of school employees to maintain a safe and civil environment, and the ability of students to learn and succeed. Therefore, it is the policy of the state of Iowa that school employees, volunteers, and students in Iowa schools shall not engage in harassing or bullying behavior.

2. Definitions. For purposes of this section, unless the context otherwise requires:

a. “Electronic” means any communication involving the transmission of information by wire, radio, optical cable, electromagnetic, or other similar means. “Electronic” includes but is not limited to communication via electronic mail, internet-based communications, pager service, cell phones, and electronic text messaging.

b. “Harassment” and “bullying” shall be construed to mean any electronic, written, verbal, or physical act or conduct toward a student which is based on any actual or perceived trait or characteristic of the student and which creates an objectively hostile school environment that meets one or more of the following conditions:

(1) Places the student in reasonable fear of harm to the student’s person or property.

(2) Has a substantially detrimental effect on the student’s physical or mental health.

(3) Has the effect of substantially interfering with a student’s academic performance.

(4) Has the effect of substantially interfering with the student’s ability to participate in or benefit from the services, activities, or privileges provided by a school.

c. “Trait or characteristic of the student” includes but is not limited to age, color, creed, national origin, race, religion, marital status, sex, sexual orientation, gender identity, physical attributes, physical or mental ability or disability, ancestry, political party preference, political belief, socioeconomic status, or familial status.

d. “Volunteer” means an individual who has regular, significant contact with students.

3. Policy. On or before September 1, 2007, the board of directors of a school district and the authorities in charge of each accredited nonpublic school shall adopt a policy declaring harassment and bullying in schools, on school property, and at any school function, or school-sponsored activity regardless of its location, in a manner consistent with this section, as against state and school policy. The board and the authorities shall make a copy of the policy available to all school employees, volunteers, students, and parents or guardians and shall take all appropriate steps to bring the policy against harassment and bullying and the responsibilities set forth in the policy to the attention of school employees, volunteers, students, and parents or guardians. Each policy shall, at a minimum, include all of the following components:

a. A statement declaring harassment and bullying to be against state and school policy. The statement shall include but not be limited to the following provisions:

(1) School employees, volunteers, and students in school, on school property, or at any school function or school-sponsored activity shall not engage in harassing and bullying behavior.

(2) School employees, volunteers, and students shall not engage in reprisal, retaliation, or false accusation against a victim, witness, or an individual who has reliable information about such an act of harassment or bullying.

b. A definition of harassment and bullying as set forth in this section.

c. A description of the type of behavior expected from school employees, volunteers, parents or guardians, and students relative to prevention measures, reporting, and investigation of harassment or bullying.

d. The consequences and appropriate remedial action for a person who violates the antiharassment and antibullying policy.

e. A procedure for reporting an act of harassment or bullying, including the identification by job title of the school official responsible for ensuring that the policy is implemented, and the identification of the person or persons responsible for receiving reports of harassment or bullying.

f. A procedure for the prompt investigation of complaints, either identifying the school superintendent or the superintendent's designee as the individual responsible for conducting the investigation, including a statement that investigators will consider the totality of circumstances presented in determining whether conduct objectively constitutes harassment or bullying under this section.

g. A statement of the manner in which the policy will be publicized.

4. Programs encouraged. The board of directors of a school district and the authorities in charge of each accredited nonpublic school are encouraged to establish programs designed to eliminate harassment and bullying in schools. To the extent that funds are available for these purposes, school districts and accredited nonpublic schools shall do the following:

a. Provide training on antiharassment and antibullying policies to school employees and volunteers who have significant contact with students.

b. Develop a process to provide school employees, volunteers, and students with the skills and knowledge to help reduce incidents of harassment and bullying.

5. Immunity. A school employee, volunteer, or student, or a student's parent or guardian who promptly, reasonably, and in good faith reports an incident of harassment or bullying, in compliance with the procedures in the policy adopted pursuant to this section, to the appropriate school official designated by the school district or accredited nonpublic school, shall be immune from civil or criminal liability relating to such report and to participation in any administrative or judicial proceeding resulting from or relating to the report.

6. Collection requirement. The board of directors of a school district and the authorities in charge of each nonpublic school shall develop and maintain a system to collect harassment and bullying incidence data.

7. Integration of policy and reporting. The board of directors of a school district and the authorities in charge of each nonpublic school shall integrate its antiharassment and antibullying policy into the comprehensive school improvement plan required under section 256.7, subsection 21, and shall report data collected under subsection 6, as specified by the department, to the local community.

8. Existing remedies not affected. This section shall not be construed to preclude a victim from seeking administrative or legal remedies under any applicable provision of law.

708.10. Hazing.

1. a. A person commits an act of hazing when the person intentionally or recklessly engages in any act or acts involving forced activity which endanger the physical health or safety of a student for the purpose

of initiation or admission into, or affiliation with, any organization operating in connection with a school, college, or university. Prohibited acts include, but are not limited to, any brutality of a physical nature such as whipping, forced confinement, or any other forced activity which endangers the physical health or safety of the student.

b. For purposes of this section, “forced activity” means any activity which is a condition of initiation or admission into, or affiliation with, an organization, regardless of a student’s willingness to participate in the activity.

2. A person who commits an act of hazing is guilty of a simple misdemeanor.

3. A person who commits an act of hazing which causes serious bodily injury to another is guilty of a serious misdemeanor.

Other special infractions or conditions

STATUTES

279.58. School dress code policies.

2. The board of directors of a school district may adopt, for the district or for an individual school within the district, a dress code policy that prohibits students from wearing gang-related or other specific apparel if the board determines that the policy is necessary for the health, safety, or positive educational environment of students and staff in the school environment or for the appropriate discipline and operation of the school. Adoption and enforcement of a dress code policy is not a violation of section 280.22.

Prevention and Behavioral Interventions (Non-Punitive)

Prevention

STATUTES

280.9B. Violence prevention curriculum.

The department of education shall develop a statewide violence prevention program based on law-related education. The department shall contract with a law-related education agency that serves the state and provides a comprehensive plan to develop violence prevention curricula for grades kindergarten through twelve, provide training to teachers and school administrators on violence prevention, and develop school-community partnerships for violence prevention.

Behavioral interventions and student support services

STATUTES

280.19. Plans for at-risk children.

The board of directors of each public school district shall incorporate, into the kindergarten admissions program, criteria and procedures for identification and integration of at-risk children and their developmental needs. This incorporation shall be part of the comprehensive school improvement plan developed and implemented in accordance with section 256.7, subsection 21, paragraphs “a” and “c”.

Professional development

No relevant statutes found.

Monitoring and Accountability

Formal incident reporting of conduct violations

STATUTES

280.26. Intervention in altercations.

2. A person who is not an employee of an accredited public school district, accredited nonpublic school, or area education agency may intervene in a fight or physical struggle occurring among students, or between students and nonstudents, that takes place in the presence of the nonemployee in a school building, on school premises, or at any school function or school-sponsored activity regardless of its location. The intervention may occur in the absence of an employee of an accredited public school district, accredited nonpublic school, or area education agency, or at the request of such an employee, utilizing the degree and force of intervention reasonably necessary to restore order and protect the safety of the individuals involved in the altercation and others in the vicinity of the altercation. However, a person who intervenes in the absence of an employee of an accredited public school district, accredited nonpublic school, or area education agency shall report the intervention and all relevant information regarding the situation as soon as reasonably possible to such an employee.

299.15. Reports by school officers and employees.

All school officers and employees shall promptly report to the secretary of the school corporation any violations of the truancy law of which they have knowledge, and the secretary shall inform the president of the board of directors who shall, if necessary, call a meeting of the board to take such action thereon as the facts justify.

Parental notification

STATUTES

808A.2. Searches of students, protected student areas, lockers, desks, and other facilities or spaces.

2. School officials may conduct periodic inspections of all, or a randomly selected number of, school lockers, desks, and other facilities or spaces owned by the school and provided as a courtesy to a student. The furnishing of a school locker , desk, or other facility or space owned by the school and provided as a courtesy to a student shall not create a protected student area, and shall not give rise to an expectation of privacy on a student's part with respect to that locker , desk, facility, or space. Allowing students to use a separate lock on a locker , desk, or other facility or space owned by the school and provided to the student shall also not give rise to an expectation of privacy on a student's part with respect to that locker , desk, facility, or space. However, each year when school begins, the school district shall provide written notice to all students and the students' parents, guardians, or legal custodians, that school officials may conduct periodic inspections of school lockers, desks, and other facilities or spaces owned by the school and provided as a courtesy to a student without prior notice. An inspection under this subsection shall either occur in the presence of the students whose lockers are being inspected or the inspection shall be conducted in the presence of at least one other person.

ADMINISTRATIVE CODE

281—103.7(256B,280). Additional minimum mandatory procedures.

6. The public school, accredited nonpublic school, or area education agency shall attempt to notify a child's parent or guardian on the same day the child is subjected to physical restraint or physical confinement and detention; and

7. The student's parent or guardian must be provided a written copy of the documentation required by numbered paragraph "5" of this rule, which shall be postmarked within three school days of the occurrence. The student's parent or guardian may elect, in writing, to receive the communication required by this numbered paragraph via electronic mail or facsimile transmission.

Reporting and referrals between schools and law enforcement

STATUTES

279.9B. Reports to juvenile authorities.

The rules adopted under section 279.8 shall require, once school officials have been notified by a juvenile court officer that a student attending the school is under supervision or has been placed on probation, that school officials shall notify the juvenile court of each unexcused absence or suspension or expulsion of the student.

280.17A. Procedures for handling dangerous weapons.

The board of directors of a public school and the authorities in control of a nonpublic school shall prescribe procedures requiring school officials to report to local law enforcement agencies any dangerous weapon, as defined in section 702.7, possessed on school premises in violation of school policy or state law.

280.24. Procedures for reporting drug or alcohol possession or use.

The board of directors of each public school and the authorities in charge of each accredited nonpublic school shall prescribe procedures to report any use or possession of alcoholic liquor, wine, or beer or any controlled substance on school premises to local law enforcement agencies, if the use or possession is in violation of school policy or state law. The procedures may include a provision which does not require a report when the school officials have determined that a school at-risk or other student assistance program would be jeopardized if a student self reports.

280.25. Information sharing — interagency agreements.

1. The board of directors of each public school and the authorities in charge of each accredited nonpublic school shall adopt a policy and the superintendent of each public school shall adopt rules which provide that the school district or school may share information contained within a student's permanent record pursuant to an interagency agreement with state and local agencies that are part of the juvenile justice system. These agencies include, but are not limited to, juvenile court services, the department of human services, and local law enforcement authorities. The disclosure of information shall be directly related to the juvenile justice system's ability to effectively serve, prior to adjudication, the student whose records are being released.

2. The purpose of the agreement shall be to reduce juvenile crime by promoting cooperation and collaboration and the sharing of appropriate information among the parties in a joint effort to improve school safety, reduce alcohol and illegal drug use, reduce truancy, reduce in-school and out-of-school suspensions, and to support alternatives to in-school and out-of-school suspensions and expulsions

which provide structured and well-supervised educational programs supplemented by coordinated and appropriate services designed to correct behaviors that lead to truancy, suspension, and expulsions and to support students in successfully completing their education.

Disclosure of school records

STATUTES

279.9A. Information sharing.

The rules referred to in section 279.9 shall provide that upon the request of school officials of a school to which the student seeks to transfer or has transferred, school officials of the sending school shall provide an accurate record of any suspension or expulsion actions taken, and the basis for those actions taken, against the student under sections 279.9, 280.19A, 282.3, 282.4, and 282.5. The designated representative shall disclose this information only to those school employees whose duties require them to be involved with the student. For purposes of this section, “school employees” means persons employed by a nonpublic school or school district, or any area education agency staff member who provides services to a school or school district.

280.25. Information sharing — interagency agreements.

1. The board of directors of each public school and the authorities in charge of each accredited nonpublic school shall adopt a policy and the superintendent of each public school shall adopt rules which provide that the school district or school may share information contained within a student’s permanent record pursuant to an interagency agreement with state and local agencies that are part of the juvenile justice system. These agencies include, but are not limited to, juvenile court services, the department of human services, and local law enforcement authorities. The disclosure of information shall be directly related to the juvenile justice system’s ability to effectively serve, prior to adjudication, the student whose records are being released.

2. The purpose of the agreement shall be to reduce juvenile crime by promoting cooperation and collaboration and the sharing of appropriate information among the parties in a joint effort to improve school safety, reduce alcohol and illegal drug use, reduce truancy, reduce in-school and out-of-school suspensions, and to support alternatives to in-school and out-of-school suspensions and expulsions which provide structured and well-supervised educational programs supplemented by coordinated and appropriate services designed to correct behaviors that lead to truancy, suspension, and expulsions and to support students in successfully completing their education.

Data collection, review, and reporting of disciplinary policies and actions

No relevant statutes found.

School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers

Authority and power to implement school arrest

STATUTES

299.10. Truancy officers — appointment.

The board of each school district may appoint a truancy officer. The board of each school district, which does not appoint a truancy officer for the district, shall designate a suitable person to collect information on the numbers of children in the district who are truant.

The board may appoint a member of the police force, marshal, teacher, school official, or other suitable person to serve as the district truancy officer.

299.11. Duties of truancy officer.

The truancy officer may take into custody without warrant any apparently truant child and place the child in the charge of the school principal, or the principal's designee, designated by the board of directors of the school district in which the child resides, or of any nonpublic school designated by the parent, guardian, or legal or actual custodian; but if it is other than a public school, the instruction and maintenance of the child shall be without expense to the school district. If a child is taken into custody under this section, the truancy officer shall make every reasonable attempt to immediately notify the parent, guardian, or legal or actual custodian of the child's location.

Certification or training

No relevant statutes found.

MOUs, authorization, and/or funding

No relevant statutes found.

State Education Agency Support

State model policies and implementation support

No relevant statutes found.

Funding appropriations

No relevant statutes found.

Other/Uncategorized

Professional immunity or liability

STATUTES

280.21. Corporal punishment — burden of proof.

2. A school employee who, in the reasonable course of the employee's employment responsibilities, comes into physical contact with a student shall be granted immunity from any civil or criminal liability which might otherwise be incurred or imposed as a result of such physical contact, if the physical contact is reasonable under the circumstances and involves the following:

a. Encouraging, supporting, or disciplining the student.

b. Protecting the employee, the student, or other students.

c. Obtaining possession of a weapon or other dangerous object within a student's control.

d. Protecting employee, student, or school property.

e. Quelling a disturbance or preventing an act threatening physical harm to any person.

f. Removing a disruptive student from class or any area of the school premises, or from school-sponsored activities off school premises.

g. Preventing a student from the self-infliction of harm.

h. Self-defense.

i. Any other legitimate educational activity.

280.27. Reporting violence — immunity.

An employee of a school district, an accredited nonpublic school, or an area education agency who participates in good faith and acts reasonably in the making of a report to, or investigation by, an appropriate person or agency regarding violence, threats of violence, physical or sexual abuse of a student, or other inappropriate activity against a school employee or student in a school building, on school grounds, or at a school-sponsored function shall be immune from civil or criminal liability relating to such action, as well as for participating in any administrative or judicial proceeding resulting from or relating to the report or investigation.

280.28. Harassment and bullying prohibited — policy — immunity.

5. Immunity. A school employee, volunteer, or student, or a student's parent or guardian who promptly, reasonably, and in good faith reports an incident of harassment or bullying, in compliance with the procedures in the policy adopted pursuant to this section, to the appropriate school official designated by the school district or accredited nonpublic school, shall be immune from civil or criminal liability relating to such report and to participation in any administrative or judicial proceeding resulting from or relating to the report.

Community input or involvement

No relevant statutes found.

Other/Uncategorized

No relevant statutes found.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by Iowa provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
Website		
Anti-Bullying/Anti-Harassment	Provides technical assistance on Iowa's anti-bullying/anti-harassment statute	http://educateiowa.gov/index.php?option=com_content&view=article&id=1030&Itemid=3329
Learning Supports Initiative	Provides an overview about Iowa's learning supports efforts.	http://educateiowa.gov/index.php?option=com_content&view=article&id=498&Itemid=3337
Positive Behavioral Interventions and Supports	Provides an overview of Iowa's PBIS efforts.	http://educateiowa.gov/index.php?option=com_content&view=article&id=751&Itemid=3339
Safe Schools	Provides an overview of Iowa's school safety efforts	http://educateiowa.gov/index.php?option=com_content&view=article&id=769&Itemid=3340
Timeout, Seclusion & Restraint	Provides an overview of Iowa's law banning corporal punishment and placing limits on seclusion and restraint.	http://educateiowa.gov/index.php?option=com_content&view=article&id=1002&Itemid=3342
Legal Lessons	Provides many short articles legal topics of interest to school administrators, including student discipline.	http://educateiowa.gov/index.php?option=com_content&view=category&id=411&Itemid=2656
School Counseling	Provides a comprehensive overview of school counseling services in Iowa	http://educateiowa.gov/index.php?option=com_content&view=article&id=716&Itemid=3463
Documents		
No relevant resources found		
Other Resources		
No relevant resources found		

Kansas
Compilation of School Discipline Laws and Regulations

Prepared: August 12, 2013

Introduction

This compilation presents school discipline-related state statutes, school discipline-related regulations, and, where available, links to state-sponsored websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSLE). For example, one major category encompasses all state laws or regulations mandating specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of state legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in each state.

Discipline categories were not mutually exclusive. Statutes and regulations often appeared across multiple categories. For states with more extensive statutes covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. State laws, ordered by chapter and section number, appear first within each category followed by state regulations. All statutes and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists statutes by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to state-sponsored websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of May 2013, with the exception of the state laws related to seclusion and restraint, which are complete and current as of December 2012. Readers should also note that the information in this document was compiled from individual state sources that are created by each state and which are maintained and updated with varying frequencies. Readers should consult the source information provided for each state directly in order to check for updates to this state's laws and regulations or conduct further research.

For further information, including definitions of the different policy categories, please refer to the Discipline Laws and Regulations Compendium posted on the Center's website.

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Safe Supportive Learning
Engagement | Safety | Environment

Table of Contents

Kansas State Codes Cited **1**

General Provisions **3**

Authority to develop and establish rules of conduct 3
Scope 5
Communication of policy 5

In-School Discipline **6**

Use of multi-tiered discipline approaches 6
Teacher authority to remove students from classrooms 6
Alternatives to suspension 6
Use of corporal punishment 6
Use of student and locker searches 6
Other in-school disciplinary approaches 6

Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements **7**

Grounds for possible suspension or expulsion 7
Grounds for mandatory suspension or expulsion 7
Limitations, conditions or exclusions for use of suspension or expulsion 8
Administrative procedures related to suspension and expulsion 8
In school suspension 10
Return to school following removal 10
Use of restraint and seclusion 11
Alternative placements 13

Disciplinary Approaches Addressing Specific Infractions and Conditions **14**

Firearms (as required by the Guns-Free Schools Act) 14
Other weapons 15
Students with chronic disciplinary issues 15
Attendance and truancy 15
Substance use 15
Bullying, harassment, or hazing 15
Other special infractions or conditions 16

Prevention and Behavioral Interventions (Non-Punitive) **17**

Prevention 17
Behavioral interventions and student support services 17
Professional development 17

Monitoring and Accountability **18**

Formal incident reporting of conduct violations 18
Parental notification 20
Reporting and referrals between schools and law enforcement 21
Disclosure of school records 22
Data collection, review, and reporting of disciplinary policies and actions 22

School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers 24
Authority and power to implement school arrest 24
Certification or training 25
MOUs, authorization, and/or funding 25
State Education Agency Support 26
State model policies and implementation support 26
Funding appropriations 26
Other/Uncategorized 27
Professional immunity or liability 27
Community input or involvement 27
Other/Uncategorized 28
State-Sponsored, Publicly Available Websites or Other Resources on School Discipline 30

Kansas State Codes Cited

Kansas Revised Statutes

Chapter 72. Schools code

Article 9. Special Education

72-991a. Change in placement of child with disability to alternative setting as disciplinary action for certain behavior; duties of IEP team and hearing officer; behavioral assessment and intervention plan; determination and review procedure

Article 11. School Attendance, Curriculum, and Accreditation

72-1113. Same; noncompliance; duties of boards of education, secretary of social and rehabilitation services, county and district attorneys; agreements between secretary and county or district attorneys, duties; notification of absence to parents

Article 75. State Board of Education Regulation of School Buses

72-7538. Disability history and awareness; objectives, guidelines and goals

Article 82. Organization, Powers and Finances of Boards of Education

72-8256. Bullying, school district policies

72-8222. School security officers and campus police officers

Article 89. Suspension and Expulsion of Pupils

72-8901. Grounds for suspension or expulsion; who may suspend or expel
72-8902. Duration of suspension or expulsion; notice; hearings, opportunity afforded, waiver, time, who may conduct
72-8903. Procedural due process requirements; record of appeal, costs; report of findings and result of hearing; information regarding behavior improvement programs
72-8904. Notice of hearing results; appeal to board of education; hearing officers; procedure
72-8905. Nonapplication of compulsory attendance law
72-8906. Powers and duties of persons conducting hearings
72-8907. Refusal to admit suspended or expelled pupil authorized
72-8908. Definitions

Article 89a. Weapon-Free Schools

72-89a01. Definitions
72-89a02. Policies requiring expulsion of pupils for possession of weapons, adoption, filing; hearings; modification of requirement authorized; referral procedure; annual report; circumstances when policy not applicable
72-89a03. Duties of state board of education; failure of boards to adopt and file policies, penalties

Article 89b. School Safety and Security Act

72-89b02. Definitions
72-89b03. Information regarding identity of specified pupils, disclosure requirements; criminal acts, reports to law enforcement agencies and state board of education; school safety and security policies, availability; civil liability, immunity

72-89b04. Penalties for failure to make reports, preventing or interfering with reports; sanctions for making reports prohibited; immunity from liability

Article 89c. School Safety Violations, Suspension of Driving Privileges

72-89c01. Definitions
72-89c02. Suspension or revocation of driver's license or privilege upon certain school safety violations; procedure

Kansas Administrative Code

Kansas State Department of Education Regulations

Chapter 91. Education Related Regulations

Article 15. School Conduct rules

91-15-1. Policies or rules governing employees' and students' conduct

Article 40. Special Education

91-40-34. Short-term suspensions and interim placements; suspension of gifted children
91-40-36. Determination of services for children with disabilities suspended from school or placed in interim alternative educational settings

Article 42. Emergency Safety Interventions

91-42-1. Definitions
91-42-2. Policy, documentation, and reporting requirements

General Provisions

Authority to develop and establish rules of conduct

STATUTES

72-1113. Same; noncompliance; duties of boards of education, secretary of social and rehabilitation services, county and district attorneys; agreements between secretary and county or district attorneys, duties; notification of absence to parents.

(c)(2) Each board of education shall adopt rules for determination of valid excuse for absence from school and for determination of what shall constitute a "significant part of a school day" for the purpose of this section.

(c)(3) Each board of education shall designate one or more employees, who shall each be responsible for determining the acceptability and validity of offered excuses for absence from school of specified children, so that a designee is responsible for making such determination for each child enrolled in school.

72-89a03. Duties of state board of education; failure of boards to adopt and file policies, penalties.

(b) The state board of education shall provide boards of education with assistance in the preparation of policies required to be adopted under subsection (a) of K.S.A. 72-89a02, and amendments thereto. If any board of education fails to adopt and file a policy required to be adopted under subsection (a) of K.S.A. 72-89a02, and amendments thereto, the state board of education shall withhold funds made available under the elementary and secondary education act of 1965, as amended, and shall exclude pupils enrolled in any accredited nonpublic school under the jurisdiction of any such board of education from participation in any federal program provided for under such act.

72-89b03. Information regarding identity of specified pupils, disclosure requirements; criminal acts, reports to law enforcement agencies and state board of education; school safety and security policies, availability; civil liability, immunity.

(b) Each board of education shall adopt a policy that includes:

(1) A requirement that an immediate report be made to the appropriate state or local law enforcement agency by or on behalf of any school employee who knows or has reason to believe that an act has been committed at school, on school property, or at a school supervised activity and that the act involved conduct which constitutes the commission of a felony or misdemeanor or which involves the possession, use or disposal of explosives, firearms or other weapons; and

(2) the procedures for making such a report.

ADMINISTRATIVE CODE

91-15-1. Policies or rules governing employees' and students' conduct.

(a) The board of education of each unified school district shall adopt policies or rules that govern the conduct of the employees and students of the school district and that include procedures for enforcement of the policies or rules.

(b) Before adopting the policies or rules, each board of education shall submit the policies or rules to legal counsel for review.

(c) After the adoption of the policies or rules, the clerk of the board of education shall maintain the policies or rules in the permanent files of the school district. (Authorized by and implementing Article 6, Section 2(a) of the Kansas Constitution)

91-42-2. Policy, documentation, and reporting requirements.

(a) Each district shall develop and implement written policies to govern the use of emergency safety interventions over all schools. At a minimum, written district policies shall conform to the definitions and requirements of these regulations, including that seclusion and physical restraint shall be used only when student conduct meets the definition of necessitating an emergency safety intervention. Parents shall be annually provided with the written policies on the use of emergency safety interventions. The written policies shall include the following:

(1) Policies and procedures for the use of emergency safety interventions:

(A) Policies and procedures shall prohibit the following:

(i) The use of prone, or face-down, physical restraint; supine, or face-up, physical restraint; physical restraint that obstructs the airway of a student; or any physical restraint that impacts a student's primary mode of communication;

(ii) the use of chemical restraint, except as prescribed treatments for a student's medical or psychiatric condition by a person appropriately licensed to issue these treatments; and

(iii) the use of mechanical restraint, except those protective or stabilizing devices either ordered by a person appropriately licensed to issue the order for the device or required by law, any device used by a law enforcement officer in carrying out law enforcement duties, and seatbelts and any other safety equipment when used to secure students during transportation; and

(B) written policies developed pursuant to this regulation shall be accessible on each school's web site and shall be included in each school's code of conduct, school safety plan, or student handbook, or any combination of these;

(2) school personnel training consistent with nationally recognized training programs on the use of emergency safety interventions:

(A) Training shall address prevention techniques, de-escalation techniques, and positive behavioral intervention strategies;

(B) training shall be designed to meet the needs of personnel as appropriate to their duties and potential need for emergency safety interventions; and

(C) schools and programs shall maintain written or electronic documentation on training provided and lists of participants in each training;

(3) written parental notification whenever an emergency safety intervention is used. This notification shall be provided within two school days;

(4) documentation of any incident of emergency safety intervention, which shall include the date and time of the intervention, the type of intervention, the length of time the intervention was used, and the school personnel who participated in or supervised the intervention;

(5) procedures for the collection, maintenance, and periodic review of the use of emergency safety intervention at each school, which shall include the documentation described in paragraph(a)(4); and

(6) local dispute resolution processes. Each district shall develop policies that, at a minimum, shall include the following:

(A) A complaint investigation procedure;

(B) a procedure for parents to present written complaints to the local board of education to initiate complaint investigation by the local board of education; and

(C) a procedure for parents, the school, and the Kansas state department of education to receive written findings of fact and, if necessary, corrective action from the local board of education within 30 days of filing of a complaint by a parent.

Scope

No relevant statutes found.

Communication of policy

STATUTES

72-89b03. Information regarding identity of specified pupils, disclosure requirements; criminal acts, reports to law enforcement agencies and state board of education; school safety and security policies, availability; civil liability, immunity.

(e) Each board of education shall make available to pupils and their parents, to school employees and, upon request, to others, district policies and reports concerning school safety and security, except that the provisions of this subsection shall not apply to reports made by a superintendent of schools and school employees pursuant to subsection (a).

ADMINISTRATIVE CODE

91-42-2. Policy, documentation, and reporting requirements.

(a) Each district shall develop and implement written policies to govern the use of emergency safety interventions over all schools. […] Parents shall be annually provided with the written policies on the use of emergency safety interventions. The written policies shall include the following:

(1) Policies and procedures for the use of emergency safety interventions:

(B) written policies developed pursuant to this regulation shall be accessible on each school's web site and shall be included in each school's code of conduct, school safety plan, or student handbook, or any combination of these;

(3) written parental notification whenever an emergency safety intervention is used. This notification shall be provided within two school days;

(6) local dispute resolution processes. Each district shall develop policies that, at a minimum, shall include the following:

(A) A complaint investigation procedure;

(B) a procedure for parents to present written complaints to the local board of education to initiate complaint investigation by the local board of education; and

(C) a procedure for parents, the school, and the Kansas state department of education to receive written findings of fact and, if necessary, corrective action from the local board of education within 30 days of filing of a complaint by a parent.

In-School Discipline

Use of multi-tiered discipline approaches

No relevant statutes found.

Teacher authority to remove students from classrooms

No relevant statutes found.

Alternatives to suspension

No relevant statutes found.

Use of corporal punishment

No relevant statutes found.

Use of student and locker searches

No relevant statutes found.

Other in-school disciplinary approaches

No relevant statutes found.

Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements

Grounds for possible suspension or expulsion

STATUTES

72-8901. Grounds for suspension or expulsion; who may suspend or expel.

The board of education of any school district may suspend or expel, or by regulation authorize any certificated employee or committee of certificated employees to suspend or expel, any pupil guilty of any of the following:

(a) Willful violation of any published regulation for student conduct adopted or approved by the board of education;

(b) conduct which substantially disrupts, impedes or interferes with the operation of any public school;

(c) conduct which endangers the safety of others or which substantially impinges upon or invades the rights of others at school, on school property, or at a school supervised activity;

(d) conduct which, if the pupil is an adult, constitutes the commission of a felony or, if the pupil is a juvenile, would constitute the commission of a felony if committed by an adult;

(e) conduct at school, on school property, or at a school supervised activity which, if the pupil is an adult, constitutes the commission of a misdemeanor or, if the pupil is a juvenile, would constitute the commission of a misdemeanor if committed by an adult; or

(f) disobedience of an order of a teacher, peace officer, school security officer or other school authority when such disobedience can reasonably be anticipated to result in disorder, disruption or interference with the operation of any public school or substantial and material impingement upon or invasion of the rights of others.

Grounds for mandatory suspension or expulsion

STATUTES

72-89a02. Policies requiring expulsion of pupils for possession of weapons, adoption, filing; hearings; modification of requirement authorized; referral procedure; annual report; circumstances when policy not applicable.

(a) Notwithstanding the provisions of subsection (a) of K.S.A. 72-8902, and amendments thereto, and subject to the other provisions of this section, each board of education in this state shall adopt a written policy requiring the expulsion from school for a period of not less than one year any pupil determined to be in possession of a weapon at school, on school property, or at a school supervised activity. The policy shall be filed with the state board of education in such manner as the state board shall require and at a time to be determined and specified by the state board.

Limitations, conditions or exclusions for use of suspension or expulsion

STATUTES

72-8902. Duration of suspension or expulsion; notice; hearings, opportunity afforded, waiver, time, who may conduct.

(a) A suspension may be for a short term not exceeding 10 school days, or for an extended term not exceeding 90 school days. An expulsion may be for a term not exceeding 186 school days. If a suspension or expulsion is for a term exceeding the number of school days remaining in the school year, any remaining part of the term of the suspension or expulsion may be applied to the succeeding school year.

ADMINISTRATIVE CODE

91-40-34 Short-term suspensions and interim placements; suspension of gifted children.

(a) As authorized by K.S.A. 72-8902(a) and amendments thereto, school personnel may impose one or more short-term suspensions upon a child with a disability during a school year for violations of any school rule if these short-term suspensions do not constitute a pattern amounting to a change in placement for disciplinary reasons as specified in paragraph (a)(1)(B) of K.A.R. 91-40-33. (b) As authorized in K.S.A. 72-991a and amendments thereto, school personnel may order a change in placement of a child with a disability to an interim alternative educational setting. (c) Gifted children shall be subject to suspension or expulsion from school as authorized by K.S.A. 72-8902 and amendments thereto. While a gifted child is suspended or expelled from school, an agency shall not be required to provide special education or related services to the child.

Administrative procedures related to suspension and expulsion

STATUTES

72-8902. Duration of suspension or expulsion; notice; hearings, opportunity afforded, waiver, time, who may conduct.

(a) A suspension may be for a short term not exceeding 10 school days, or for an extended term not exceeding 90 school days. An expulsion may be for a term not exceeding 186 school days. If a suspension or expulsion is for a term exceeding the number of school days remaining in the school year, any remaining part of the term of the suspension or expulsion may be applied to the succeeding school year.

(b) (1) Except as authorized in provision (2), no suspension for a short term shall be imposed upon a pupil without giving the pupil notice of the charges and affording the pupil an opportunity for a hearing thereon. The notice may be oral or written and the hearing may be held immediately after the notice is given. The hearing may be conducted informally but shall include the following procedural due process requirements: (A) The right of the pupil to be present at the hearing; (B) the right of the pupil to be informed of the charges; (C) the right of the pupil to be informed of the basis for the accusation; and (D) the right of the pupil to make statements in defense or mitigation of the charges or accusations. Refusal of a pupil to be present at the hearing will constitute a waiver of the pupil's opportunity for a hearing.

(2) A short-term suspension may be imposed upon a pupil forthwith, and without affording the pupil a hearing if the presence of the pupil endangers other persons or property or substantially disrupts, impedes or interferes with the operation of the school.

(c) A written notice of any short-term suspension and the reason therefor shall be given to the pupil involved and to the pupil's parent or guardian within 24 hours after the suspension has been imposed and, in the event the pupil has not been afforded a hearing prior to any short-term suspension, an opportunity for an informal hearing shall be afforded the pupil as soon thereafter as practicable but in no event later than 72 hours after such short-term suspension has been imposed. Any notice of the imposition of a short-term suspension that provides an opportunity for an informal hearing after such suspension has been imposed shall state that failure of the pupil to attend the hearing will result in a waiver of the pupil's opportunity for the hearing.

(d) No suspension for an extended term and no expulsion shall be imposed upon a pupil until an opportunity for a formal hearing thereon is afforded the pupil. A written notice of any proposal to suspend for an extended term or to expel from school, and the charges upon which the proposal is based shall be given to the pupil proposed to be suspended or expelled from school, and to the pupil's parent or guardian. Any notice of a proposal to suspend for an extended term or to expel from school shall state the time, date and place that the pupil will be afforded an opportunity for a formal hearing, and that failure of the pupil and the pupil's parent or guardian to attend the hearing will result in a waiver of the pupil's opportunity for the hearing. The hearing shall be held not later than 10 days after the date of the notice. The notice shall be accompanied by a copy of this act and the regulations of the board of education adopted under K.S.A. 72-8903, and amendments thereto.

(e) Whenever any written notice is required under this act to be given to a pupil or to a pupil's parent or guardian, it shall be sufficient if the notice is mailed to the address on file in the school records of the pupil. In lieu of mailing the written notice, the notice may be personally delivered.

(f) A formal hearing on a suspension or expulsion may be conducted by any person or committee of persons authorized by the board of education to conduct the hearing.

72-89a02. Policies requiring expulsion of pupils for possession of weapons, adoption, filing; hearings; modification of requirement authorized; referral procedure; annual report; circumstances when policy not applicable.

(c) If a pupil required to be expelled pursuant to a policy adopted under subsection (a) is confined in the custody of the secretary of social and rehabilitation services, the commissioner of juvenile justice or the secretary of corrections as a result of the violation upon which the expulsion is to be based, the hearing required under the provisions of article 89 of chapter 72 of Kansas Statutes Annotated shall be delayed until the pupil is released from custody.

(d) A hearing afforded a pupil required to be expelled pursuant to a policy adopted under subsection (a) shall be conducted by the chief administrative officer or other certificated employee of the school in which the pupil is enrolled, by any committee of certificated employees of the school in which the pupil is enrolled, or by a hearing officer appointed by the board of education of the school in which the pupil is enrolled.

72-8903. Procedural due process requirements; record of appeal, costs; report of findings and result of hearing; information regarding behavior improvement programs.

(a) The formal hearing provided for in K.S.A. 72-8902, and amendments thereto, shall be conducted in accordance with regulations relating thereto adopted by the board of education. Such regulations shall afford procedural due process including, but not limited to, the following

(1) The right of the pupil to have counsel of the pupil's own choice present and to receive the advice of such counsel or other person whom the pupil may select;

(2) the right of the parents or guardians of the pupil to be present at the hearing;

(3) the right of the pupil and the pupil's counsel or advisor to hear or read a full report of testimony of witnesses against the pupil;

(4) the right of the pupil and the pupil's counsel to confront and cross-examine witnesses who appear in person at the hearing, either voluntarily or as a result of the issuance of a subpoena;

(5) the right of the pupil to present the pupil's own witnesses in person or their testimony by affidavit;

(6) the right of the pupil to testify in the pupil's own behalf and give reasons for the pupil's conduct;

(7) the right of the pupil to have an orderly hearing; and

(8) the right of the pupil to a fair and impartial decision based on substantial evidence.

(b) In all extended-term suspension and expulsion from school cases, there shall be made a record of the hearing of an appeal of the suspension or expulsion, whichever is applicable, by mechanical or electronic recording or by an official court reporter, and the costs thereof shall be paid by the school district.

(c) At the conclusion of a formal hearing which results in a suspension for an extended term or an expulsion, the person or committee conducting the hearing shall make a written report of the findings and results of the hearing. The report shall be directed to the board of education of the school district and shall be open to the inspection of the pupil who is suspended or expelled and, if the pupil is a juvenile, to the parents or guardians and counsel or other advisor of the pupil. If the pupil is an adult, the report shall be open to the inspection of the parents or guardians and counsel or other advisor of the pupil only upon written consent of the pupil. Whenever a formal hearing results in suspension for an extended term or expulsion, the person or committee conducting the hearing may make a finding that return to school by the pupil, pending appeal or during the period allowed for notice of appeal, is not reasonably anticipated to endanger the safety of others, to cause continuing repeated material disorder, disruption or interference with the operation of school, or to substantially or materially impinge upon or invade the rights of others, in which case the pupil may return to school until the period for filing a notice of appeal has expired with no notice filed, or until the determination of any appeal if a notice of appeal is filed. Whenever the person or committee conducting a hearing fails to make the findings specified above, the report of the hearing shall provide that the suspension or expulsion of the pupil shall continue until appeal therefrom is determined or until the period of suspension or expulsion has expired, whichever occurs sooner. Any such pupil shall be provided with information concerning services or programs offered by public and private agencies that work toward improving those aspects of the pupil's attitudes and behavior that contributed to the conduct upon which the suspension or expulsion was based. If the pupil is a juvenile, the information shall also be provided to the parents or guardians of the pupil.

72-8907. Refusal to admit suspended or expelled pupil authorized.

A pupil who has been suspended or expelled from school by any school district may be refused admission to school in any other school district, regardless of residency, until such time as the period of suspension or expulsion has expired.

In school suspension

No relevant statutes found.

Return to school following removal

No relevant statutes found.

Use of restraint and seclusion

ADMINISTRATIVE CODE

91-42-1. Definitions.

As used in this regulation and in K.A.R. 91-42-2, each of the following terms shall have the meaning specified in this regulation:

(a) "Chemical restraint" means the use of medication to control a student's violent physical behavior or restrict a student's freedom of movement.

(b) "District" means a school district organized under the laws of this state that is maintaining a public school for a school term pursuant to K.S.A. 72-1106, and amendments thereto. This term shall include the governing body of any accredited nonpublic school.

(c) "Emergency safety intervention" means the use of seclusion or physical restraint when a student presents an immediate danger to self or others. Violent action that is destructive of property may necessitate the use of an emergency safety intervention.

(d) "Mechanical restraint" means any device or object used to limit a student's movement.

(e) "Physical escort" means the temporary touching or holding the hand, wrist, arm, shoulder, or back of a student who is acting out, for the purpose of inducing the student to walk to a safe location.

(f) "Physical restraint" means bodily force used to substantially limit a student's movement.

(g) "School" means any physical learning environment, including any nonprofit institutional day or residential school and any accredited nonpublic school, that receives public funding or over which the Kansas state department of education has regulatory authority.

(h) "Seclusion," when used with a student, means that all of the following conditions are met:

(1) The student is placed in an enclosed area by school personnel.

(2) The student is purposefully isolated from adults and peers.

(3) The student is prevented from leaving, or reasonably believes that the student will be prevented from leaving, the enclosed area.

(i) "Time-out" means a behavioral intervention in which a student is temporarily removed from a learning activity without being confined.

91-42-2. Policy, documentation, and reporting requirements.

(a) Each district shall develop and implement written policies to govern the use of emergency safety interventions over all schools. At a minimum, written district policies shall conform to the definitions and requirements of these regulations, including that seclusion and physical restraint shall be used only when student conduct meets the definition of necessitating an emergency safety intervention. Parents shall be annually provided with the written policies on the use of emergency safety interventions. The written policies shall include the following:

(1) Policies and procedures for the use of emergency safety interventions:

(A) Policies and procedures shall prohibit the following:

(i) The use of prone, or face-down, physical restraint; supine, or face-up, physical restraint; physical restraint that obstructs the airway of a student; or any physical restraint that impacts a student's primary mode of communication;

(ii) the use of chemical restraint, except as prescribed treatments for a student's medical or psychiatric condition by a person appropriately licensed to issue these treatments; and

(iii) the use of mechanical restraint, except those protective or stabilizing devices either ordered by a person appropriately licensed to issue the order for the device or required by law, any device used by a law enforcement officer in carrying out law enforcement duties, and seatbelts and any other safety equipment when used to secure students during transportation; and

(B) written policies developed pursuant to this regulation shall be accessible on each school's web site and shall be included in each school's code of conduct, school safety plan, or student handbook, or any combination of these;

(2) school personnel training consistent with nationally recognized training programs on the use of emergency safety interventions:

(A) Training shall address prevention techniques, de-escalation techniques, and positive behavioral intervention strategies;

(B) training shall be designed to meet the needs of personnel as appropriate to their duties and potential need for emergency safety interventions; and

(C) schools and programs shall maintain written or electronic documentation on training provided and lists of participants in each training;

(3) written parental notification whenever an emergency safety intervention is used. This notification shall be provided within two school days;

(4) documentation of any incident of emergency safety intervention, which shall include the date and time of the intervention, the type of intervention, the length of time the intervention was used, and the school personnel who participated in or supervised the intervention;

(5) procedures for the collection, maintenance, and periodic review of the use of emergency safety intervention at each school, which shall include the documentation described in paragraph(a)(4); and

(6) local dispute resolution processes. Each district shall develop policies that, at a minimum, shall include the following:

(A) A complaint investigation procedure;

(B) a procedure for parents to present written complaints to the local board of education to initiate complaint investigation by the local board of education; and

(C) a procedure for parents, the school, and the Kansas state department of education to receive written findings of fact and, if necessary, corrective action from the local board of education within 30 days of filing of a complaint by a parent.

(b) Each district shall develop a system to collect and maintain documentation for each use of an emergency safety intervention, which shall include the information described in paragraph (a)(4).

(1) Information maintained by the school shall be compiled and submitted, at least biannually, to the district superintendent or district designee.

(2) Documentation of any school's or district's use of emergency safety intervention shall be provided to the Kansas state department of education upon written request of the Kansas state department of education.

(3) Each district shall report all incidents of emergency safety intervention to the Kansas state department of education by the date and in the form specified by the Kansas state department of education. An annual report shall be provided by the Kansas state department of education to the Kansas state board of education.

Alternative placements

ADMINISTRATIVE CODE

91-40-36. Determination of services for children with disabilities suspended from school or placed in interim alternative educational settings.

(a) If a child with a disability is properly suspended from school for more than 10 cumulative school days in any school year, the special education and related services to be provided to the child during any period of suspension shall be determined by school officials of the agency responsible for the education of the child.

(b) If a child with a disability is suspended from school for more than 10 consecutive school days or is expelled from school for behavior that has been determined not to be a manifestation of the child's disability, the child's IEP team shall determine the special education and related services that will be provided to the child.

(c) If a child with a disability is placed in an interim alternative educational setting as a result of the child's possession of a weapon or illegal drug, the child's IEP team shall determine the following:

(1) The special education and related services to be provided to the child in the interim alternative educational setting; and

(2) those services and modifications that will be provided to address the misbehavior of the child and that are designed to prevent the misbehavior from recurring.

(d) (1) If a child with a disability is to be placed in an interim alternative educational setting by a due process hearing officer because the child is substantially likely to cause injury to self or others, school officials shall propose to the hearing officer the special education and related services to be provided to the child, and those services and modifications to be provided to address the behavior and prevent its recurrence.

(2) The hearing officer shall determine whether the services proposed by the school officials are appropriate. If so determined, those services shall be provided to the child. If determined to be inappropriate, the hearing officer shall order any modification in the services to be provided that the hearing officer determines necessary to provide the child with an appropriate education.

(e) An agency shall convene IEP meetings under this regulation as expeditiously as possible and shall be required to give only 24 hours' prior notice of an IEP meeting to the child's parents.

Disciplinary Approaches Addressing Specific Infractions and Conditions

Firearms (as required by the Guns-Free Schools Act)

STATUTES

72-89a02. Policies requiring expulsion of pupils for possession of weapons, adoption, filing; hearings; modification of requirement authorized; referral procedure; annual report; circumstances when policy not applicable.

(a) Notwithstanding the provisions of subsection (a) of K.S.A. 72-8902, and amendments thereto, and subject to the other provisions of this section, each board of education in this state shall adopt a written policy requiring the expulsion from school for a period of not less than one year any pupil determined to be in possession of a weapon at school, on school property, or at a school supervised activity. The policy shall be filed with the state board of education in such manner as the state board shall require and at a time to be determined and specified by the state board.

(b) To the extent that the provisions contained in article 89 of chapter 72 of Kansas Statutes Annotated do not conflict with the requirements of this act, such provisions shall apply to and be incorporated in the policy required to be adopted under subsection (a).

(c) If a pupil required to be expelled pursuant to a policy adopted under subsection (a) is confined in the custody of the secretary of social and rehabilitation services, the commissioner of juvenile justice or the secretary of corrections as a result of the violation upon which the expulsion is to be based, the hearing required under the provisions of article 89 of chapter 72 of Kansas Statutes Annotated shall be delayed until the pupil is released from custody.

(d) A hearing afforded a pupil required to be expelled pursuant to a policy adopted under subsection (a) shall be conducted by the chief administrative officer or other certificated employee of the school in which the pupil is enrolled, by any committee of certificated employees of the school in which the pupil is enrolled, or by a hearing officer appointed by the board of education of the school in which the pupil is enrolled.

(e) The chief administrative officer of the school in which a pupil required to be expelled pursuant to a policy adopted under subsection (a) is enrolled may modify the expulsion requirement in a manner which is consistent with the requirements of federal law. Nothing in this subsection shall be applied or construed in any manner so as to require the chief administrative officer of a school to modify the expulsion requirement of a policy adopted by a board of education pursuant to the provisions of subsection (a).

(f) The policy adopted by a board of education under subsection (a) shall contain a procedure for the referral of any pupil determined to be in possession of a weapon at school, on school property, or at a school supervised activity to the appropriate state and local law enforcement agencies and, if the pupil is a juvenile, to the secretary of social and rehabilitation services or the commissioner of juvenile justice.

(g) Each board of education shall prepare an annual report on a form prescribed and furnished by the state board of education that contains a description of the circumstances surrounding any expulsions imposed on pupils pursuant to a policy adopted under subsection (a), including the name of the school or schools concerned, the number of pupils expelled, and the type of weapons concerned. The report shall be submitted to the state board of education in such manner as the state board shall require and at a time to be determined and specified by the state board.

(h) The provisions of this section do not apply to the possession by pupils of weapons at school, on school property, or at a school supervised activity if the possession of weapons by pupils is connected with a weapons safety course of instruction or a weapons education course approved and authorized by the school or if the possession of weapons by pupils is specifically authorized in writing by the chief administrative officer of the school.

Other weapons

No relevant statutes found.

Students with chronic disciplinary issues

No relevant statutes found.

Attendance and truancy

STATUTES

72-1113. Same; noncompliance; duties of boards of education, secretary of social and rehabilitation services, county and district attorneys; agreements between secretary and county or district attorneys, duties; notification of absence to parents.

(c) (1) Whenever a child is required by law to attend school and is enrolled in school, and the child is inexcusably absent therefrom on either three consecutive school days or five school days in any semester or seven school days in any school year, whichever of the foregoing occurs first, the child shall be considered to be not attending school as required by law. A child is inexcusably absent from school if the child is absent therefrom all or a significant part of a school day without a valid excuse acceptable to the school employee designated by the board of education to have responsibility for the school attendance of such child.

Substance use

No relevant statutes found.

Bullying, harassment, or hazing

STATUTES

72-7538. Disability history and awareness; objectives, guidelines and goals.

(c) The goals of disability history and awareness instruction include:

(1) Encouraging the better treatment of individuals with disabilities, especially for school-age children.

(2) Increasing attention to the prevention of bullying or harassment of students with disabilities.

72-8256. Bullying, school district policies.

(a) As used in this section:

(1) "Bullying" means:

(A) Any intentional gesture or any intentional written, verbal, electronic or physical act or threat that is sufficiently severe, persistent or pervasive that it creates an intimidating, threatening or abusive educational environment for a student or staff member that a reasonable person, under the circumstances, knows or should know will have the effect of:

(i) Harming a student or staff member, whether physically or mentally;

(ii) damaging a student's or staff member's property;

(iii) placing a student or staff member in reasonable fear of harm to the student or staff member; or

(iv) placing a student or staff member in reasonable fear of damage to the student's or staff member's property;

(B) cyberbullying; or

(C) any other form of intimidation or harassment prohibited by the board of education of the school district in policies concerning bullying adopted pursuant to this section or subsection (e) of K.S.A. 72-8205, and amendments thereto.

(2) "Cyberbullying" means bullying by use of any electronic communication device through means including, but not limited to, e-mail, instant messaging, text messages, blogs, mobile phones, pagers, online games and websites.

(3) "School vehicle" means any school bus, school van, other school vehicle and private vehicle used to transport students or staff members to and from school or any school-sponsored activity or event.

(b) The board of education of each school district shall adopt a policy to prohibit bullying on or while utilizing school property, in a school vehicle or at a school-sponsored activity or event.

(c) The board of education of each school district shall adopt and implement a plan to address bullying on school property, in a school vehicle or at a school-sponsored activity or event. Such plan shall include provisions for the training and education for staff members and students.

(d) The board of education of each school district may adopt additional policies relating to bullying pursuant to subsection (e) of K.S.A. 72-8205, and amendments thereto.

Other special infractions or conditions

No relevant statutes found.

Prevention and Behavioral Interventions (Non-Punitive)

Prevention

STATUTES

72-7538. Disability history and awareness; objectives, guidelines and goals.

(c) The goals of disability history and awareness instruction include:

(1) Encouraging the better treatment of individuals with disabilities, especially for school-age children.

(2) Increasing attention to the prevention of bullying or harassment of students with disabilities.

Behavioral interventions and student support services

No relevant statutes found.

Professional development

STATUTES

91-42-2. Policy, documentation, and reporting requirements.

(a) Each district shall develop and implement written policies to govern the use of emergency safety interventions over all schools. At a minimum, written district policies shall conform to the definitions and requirements of these regulations, including that seclusion and physical restraint shall be used only when student conduct meets the definition of necessitating an emergency safety intervention. Parents shall be annually provided with the written policies on the use of emergency safety interventions. The written policies shall include the following:

(2) school personnel training consistent with nationally recognized training programs on the use of emergency safety interventions:

(A) Training shall address prevention techniques, de-escalation techniques, and positive behavioral intervention strategies;

(B) training shall be designed to meet the needs of personnel as appropriate to their duties and potential need for emergency safety interventions; and

(C) schools and programs shall maintain written or electronic documentation on training provided and lists of participants in each training;

Monitoring and Accountability

Formal incident reporting of conduct violations

STATUTES

72-1113. Same; noncompliance; duties of boards of education, secretary of social and rehabilitation services, county and district attorneys; agreements between secretary and county or district attorneys, duties; notification of absence to parents.

(c)(4) Whenever a determination is made in accordance with the provisions of this subsection that a child is not attending school as required by law, the designated employee who is responsible for such determination shall make a report thereof in accordance with the provisions of subsection (a).

(d)(1) Prior to making any report under this section that a child is not attending school as required by law, the designated employee of the board of education shall serve written notice thereof, by personal delivery or by first class mail, upon a parent or person acting as parent of the child. The notice shall inform the parent or person acting as parent that continued failure of the child to attend school without a valid excuse will result in a report being made to the secretary of social and rehabilitation services or to the county or district attorney. Upon failure, on the school day next succeeding personal delivery of the notice or within three school days after the notice was mailed, of attendance at school by the child or of an acceptable response, as determined by the designated employee, to the notice by a parent or person acting as parent of the child, the designated employee shall make a report thereof in accordance with the provisions of subsection (a). The designated employee shall submit with the report a certificate verifying the manner in which notice was provided to the parent or person acting as parent.

72-89a02. Policies requiring expulsion of pupils for possession of weapons, adoption, filing; hearings; modification of requirement authorized; referral procedure; annual report; circumstances when policy not applicable.

(g) Each board of education shall prepare an annual report on a form prescribed and furnished by the state board of education that contains a description of the circumstances surrounding any expulsions imposed on pupils pursuant to a policy adopted under subsection (a), including the name of the school or schools concerned, the number of pupils expelled, and the type of weapons concerned. The report shall be submitted to the state board of education in such manner as the state board shall require and at a time to be determined and specified by the state board.

72-8903. Procedural due process requirements; record of appeal, costs; report of findings and result of hearing; information regarding behavior improvement programs.

(c) At the conclusion of a formal hearing which results in a suspension for an extended term or an expulsion, the person or committee conducting the hearing shall make a written report of the findings and results of the hearing. The report shall be directed to the board of education of the school district and shall be open to the inspection of the pupil who is suspended or expelled and, if the pupil is a juvenile, to the parents or guardians and counsel or other advisor of the pupil. If the pupil is an adult, the report shall be open to the inspection of the parents or guardians and counsel or other advisor of the pupil only upon written consent of the pupil. Whenever a formal hearing results in suspension for an extended term or expulsion, the person or committee conducting the hearing may make a finding that return to school by the pupil, pending appeal or during the period allowed for notice of appeal, is not reasonably anticipated to endanger the safety of others, to cause continuing repeated material disorder, disruption or interference with the operation of school, or to substantially or materially impinge upon or invade the

rights of others, in which case the pupil may return to school until the period for filing a notice of appeal has expired with no notice filed, or until the determination of any appeal if a notice of appeal is filed. Whenever the person or committee conducting a hearing fails to make the findings specified above, the report of the hearing shall provide that the suspension or expulsion of the pupil shall continue until appeal therefrom is determined or until the period of suspension or expulsion has expired, whichever occurs sooner. Any such pupil shall be provided with information concerning services or programs offered by public and private agencies that work toward improving those aspects of the pupil's attitudes and behavior that contributed to the conduct upon which the suspension or expulsion was based. If the pupil is a juvenile, the information shall also be provided to the parents or guardians of the pupil.

72-89a03. Duties of state board of education; failure of boards to adopt and file policies, penalties.

(a) The state board of education shall compile the reports required of boards of education under subsection (f) of K.S.A. 72-89a02, and amendments thereto, and shall submit the compilation to the secretary of education on an annual basis as specified by the secretary.

72-89b03. Information regarding identity of specified pupils, disclosure requirements; criminal acts, reports to law enforcement agencies and state board of education; school safety and security policies, availability; civil liability, immunity.

(a) If a school employee has information that a pupil is a pupil to whom the provisions of this subsection apply, the school employee shall report such information and identify the pupil to the superintendent of schools. The superintendent of schools shall investigate the matter and, upon determining that the identified pupil is a pupil to whom the provisions of this subsection apply, shall provide the reported information and identify the pupil to all school employees who are directly involved or likely to be directly involved in teaching or providing other school related services to the pupil. The provisions of this subsection apply to:

(1) Any pupil who has been expelled for the reason provided by subsection (c) of K.S.A. 72-8901, and amendments thereto, for conduct which endangers the safety of others;

(2) any pupil who has been expelled for the reason provided by subsection (d) of K.S.A. 72-8901, and amendments thereto;

(3) any pupil who has been expelled under a policy adopted pursuant to K.S.A. 72-89a02, and amendments thereto;

(4) any pupil who has been adjudged to be a juvenile offender and whose offense, if committed by an adult, would constitute a felony under the laws of Kansas or the state where the offense was committed, except any pupil adjudicated as a juvenile offender for a felony theft offense involving no direct threat to human life; and

(5) any pupil who has been tried and convicted as an adult of any felony, except any pupil convicted of a felony theft crime involving no direct threat to human life.

A school employee and the superintendent of schools shall not be required to report information concerning a pupil specified in this subsection if the expulsion, adjudication as a juvenile offender or conviction of a felony occurred more than 365 days prior to the school employee's report to the superintendent of schools.

(b) Each board of education shall adopt a policy that includes:

(1) A requirement that an immediate report be made to the appropriate state or local law enforcement agency by or on behalf of any school employee who knows or has reason to believe that an act has been committed at school, on school property, or at a school supervised activity and that the act involved conduct which constitutes the commission of a felony or misdemeanor or which involves the possession, use or disposal of explosives, firearms or other weapons; and

(2) the procedures for making such a report.

(c) School employees shall not be subject to the provisions of subsection (b) of K.S.A. 72-89b04 and amendments thereto if:

(1) They follow the procedures from a policy adopted pursuant to the provisions of subsection (b); or

(2) their board of education fails to adopt such policy.

(d) Each board of education shall annually compile and report to the state board of education at least the following information relating to school safety and security: The types and frequency of criminal acts that are required to be reported pursuant to the provisions of subsection (b), disaggregated by occurrences at school, on school property and at school supervised activities. The report shall be incorporated into and become part of the current report required under the quality performance accreditation system.

(e) Each board of education shall make available to pupils and their parents, to school employees and, upon request, to others, district policies and reports concerning school safety and security, except that the provisions of this subsection shall not apply to reports made by a superintendent of schools and school employees pursuant to subsection (a).

(f) Nothing in this section shall be construed or operate in any manner so as to prevent any school employee from reporting criminal acts to school officials and to appropriate state and local law enforcement agencies.

(g) The state board of education shall extract the information relating to school safety and security from the quality performance accreditation report and transmit the information to the governor, the legislature, the attorney general, the secretary of health and environment, the secretary of social and rehabilitation services and the commissioner of juvenile justice.

ADMINISTRATIVE CODE

91-42-2. Policy, documentation, and reporting requirements.

(a) Each district shall develop and implement written policies to govern the use of emergency safety interventions over all schools. At a minimum, written district policies shall conform to the definitions and requirements of these regulations, including that seclusion and physical restraint shall be used only when student conduct meets the definition of necessitating an emergency safety intervention. Parents shall be annually provided with the written policies on

(4) documentation of any incident of emergency safety intervention, which shall include the date and time of the intervention, the type of intervention, the length of time the intervention was used, and the school personnel who participated in or supervised the intervention;

Parental notification

STATUTES

72-1113. Same; noncompliance; duties of boards of education, secretary of social and rehabilitation services, county and district attorneys; agreements between secretary and county or district attorneys, duties; notification of absence to parents.

(c)(4) Whenever a determination is made in accordance with the provisions of this subsection that a child is not attending school as required by law, the designated employee who is responsible for such determination shall make a report thereof in accordance with the provisions of subsection (a).

(d)(1) Prior to making any report under this section that a child is not attending school as required by law, the designated employee of the board of education shall serve written notice thereof, by personal delivery or by first class mail, upon a parent or person acting as parent of the child. The notice shall inform the

parent or person acting as parent that continued failure of the child to attend school without a valid excuse will result in a report being made to the secretary of social and rehabilitation services or to the county or district attorney. Upon failure, on the school day next succeeding personal delivery of the notice or within three school days after the notice was mailed, of attendance at school by the child or of an acceptable response, as determined by the designated employee, to the notice by a parent or person acting as parent of the child, the designated employee shall make a report thereof in accordance with the provisions of subsection (a). The designated employee shall submit with the report a certificate verifying the manner in which notice was provided to the parent or person acting as parent.

72-8902. Duration of suspension or expulsion; notice; hearings, opportunity afforded, waiver, time, who may conduct.

(2)(c) A written notice of any short-term suspension and the reason therefore shall be given to the pupil involved and to the pupil's parent or guardian within 24 hours after the suspension has been imposed and, in the event the pupil has not been afforded a hearing prior to any short-term suspension, an opportunity for an informal hearing shall be afforded the pupil as soon thereafter as practicable but in no event later than 72 hours after such short-term suspension has been imposed. Any notice of the imposition of a short-term suspension that provides an opportunity for an informal hearing after such suspension has been imposed shall state that failure of the pupil to attend the hearing will result in a waiver of the pupil's opportunity for the hearing.

(2)(e) Whenever any written notice is required under this act to be given to a pupil or to a pupil's parent or guardian, it shall be sufficient if the notice is mailed to the address on file in the school records of the pupil. In lieu of mailing the written notice, the notice may be personally delivered.

72-8222. School security officers and campus police officers.

(f) The board of education of each school district shall adopt a policy providing for notification of a student's parents or guardians whenever the student is taken into custody by a campus police officer.

72-8904. Notice of hearing results; appeal to board of education; hearing officers; procedure.

(a) Written notice of the result of any hearing imposing an extended-term suspension or an expulsion from school shall be given to the pupil suspended or expelled from school, and to the parents or guardians of the pupil within 24 hours after determination of such result.

See also subsections (b) and (c) for information on appeal procedures.

Reporting and referrals between schools and law enforcement

STATUTES

72-89c02. Suspension or revocation of driver's license or privilege upon certain school safety violations; procedure.

(a) Whenever a pupil who has attained the age of 13 years has been found in possession of a weapon or illegal drug at school, upon school property or at a school supervised activity or has engaged in an act or behavior, committed at school, upon school property, or at a school-supervised activity which resulted in, or was substantially likely to have resulted in, serious bodily injury to others, the chief administrative officer of the school shall make a report of the pupil's act to the appropriate law enforcement agency. The report shall be given as soon as practicable, but not to exceed 10 days from the date of the pupil's act, excluding holidays and weekends, to the appropriate law enforcement agency. Upon receipt of the report, the law enforcement agency shall investigate the matter and give written notice to the division of the act committed by the pupil. The notice shall be given to the division of vehicles by the law enforcement

agency as soon as practicable but not to exceed 10 days, excluding holidays and weekends, after receipt of the report and shall include the pupil's name, address, date of birth, driver's license number, if available, and a description of the act committed by the pupil. A copy of the notice also shall be given to the pupil and to the parent or guardian of the pupil.

72-89b03. Information regarding identity of specified pupils, disclosure requirements; criminal acts, reports to law enforcement agencies and state board of education; school safety and security policies, availability; civil liability, immunity.

(b) Each board of education shall adopt a policy that includes:

(1) A requirement that an immediate report be made to the appropriate state or local law enforcement agency by or on behalf of any school employee who knows or has reason to believe that an act has been committed at school, on school property, or at a school supervised activity and that the act involved conduct which constitutes the commission of a felony or misdemeanor or which involves the possession, use or disposal of explosives, firearms or other weapons; and

(2) the procedures for making such a report.

Disclosure of school records

No relevant statutes found.

Data collection, review, and reporting of disciplinary policies and actions

STATUTES

72-89a03. Duties of state board of education; failure of boards to adopt and file policies, penalties.

(a) The state board of education shall compile the reports required of boards of education under subsection (f) of K.S.A. 72-89a02, and amendments thereto, and shall submit the compilation to the secretary of education on an annual basis as specified by the secretary.

ADMINISTRATIVE CODE

91-15-1. Policies or rules governing employees' and students' conduct.

(a) The board of education of each unified school district shall adopt policies or rules that govern the conduct of the employees and students of the school district and that include procedures for enforcement of the policies or rules.

(b) Before adopting the policies or rules, each board of education shall submit the policies or rules to legal counsel for review.

(c) After the adoption of the policies or rules, the clerk of the board of education shall maintain the policies or rules in the permanent files of the school district. (Authorized by and implementing Article 6, Section 2(a) of the Kansas Constitution)

91-42-2. Policy, documentation, and reporting requirements.

(a) Each district shall develop and implement written policies to govern the use of emergency safety interventions over all schools. At a minimum, written district policies shall conform to the definitions and requirements of these regulations, including that seclusion and physical restraint shall be used only when student conduct meets the definition of necessitating an emergency safety intervention. Parents shall be annually provided with the written policies on the use of emergency safety interventions. The written policies shall include the following:

(5) procedures for the collection, maintenance, and periodic review of the use of emergency safety intervention at each school, which shall include the documentation described in paragraph(a)(4); and

(6) local dispute resolution processes. Each district shall develop policies that, at a minimum, shall include the following:

(A) A complaint investigation procedure;

(B) a procedure for parents to present written complaints to the local board of education to initiate complaint investigation by the local board of education; and

(C) a procedure for parents, the school, and the Kansas state department of education to receive written findings of fact and, if necessary, corrective action from the local board of education within 30 days of filing of a complaint by a parent.

(b) Each district shall develop a system to collect and maintain documentation for each use of an emergency safety intervention, which shall include the information described in paragraph (a)(4).

(1) Information maintained by the school shall be compiled and submitted, at least biannually, to the district superintendent or district designee.

(2) Documentation of any school's or district's use of emergency safety intervention shall be provided to the Kansas state department of education upon written request of the Kansas state department of education.

(3) Each district shall report all incidents of emergency safety intervention to the Kansas state department of education by the date and in the form specified by the Kansas state department of education. An annual report shall be provided by the Kansas state department of education to the Kansas state board of education.

School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers

Authority and power to implement school arrest

STATUTES

72-8222. School security officers and campus police officers.

(a) The board of education of any school district or the board of trustees of any community college may employ school security officers, and may designate any one or more of such school security officers as a campus police officer, to aid and supplement law enforcement agencies of the state and of the city and county in which the school district or community college is located.

(b) The protective function of school security officers shall extend to all property of the school district or community college and the protection of students, teachers and other employees together with the property of such persons on or in any school or community college property or areas adjacent thereto, or while attending or located at the site of any school or community college-sponsored function. While engaged in the protective functions specified in this section, each school security officer shall possess and exercise all general law enforcement powers, rights, privileges, protections and immunities in every county in which there is located any part of the territory of the school district or community college.

(c) The protective function of campus police officers shall extend to all property of the school district or community college and the protection of students, teachers and other employees together with the property of such persons on or in any school or community college property or areas adjacent thereto, or while attending or located at the site of any school or community college-sponsored function. While engaged in the protective functions specified in this section, each campus police officer shall possess and exercise all general law enforcement powers, rights, privileges, protections and immunities in every county in which there is located any part of the territory of the school district or community college.

(d) Campus police officers shall have the power and authority of law enforcement officers:

(1) On property owned, occupied or operated by the school district or community college or at the site of a function sponsored by the school district or community college;

(2) on the streets, property and highways immediately adjacent to and coterminous with property described in subsection (d)(1);

(3) within the city or county where property described in subsection (d)(1) is located, as necessary to protect the health, safety and welfare of students and faculty of the school district or community college, with appropriate agreement by local law enforcement agencies. Such agreements shall include provisions, defining the geographical scope of the jurisdiction conferred, circumstances requiring the extended jurisdiction, scope of law enforcement powers and duration of the agreement. Before any agreement entered into pursuant to this section shall take effect, it shall be approved by the governing body of the city or county, or both, having jurisdiction where such property is located, and the board of education or board of trustees involved;

(4) with appropriate notification of and coordination with local law enforcement agencies, within the city or county where property described in subsection (d)(1) or (d)(2) is located, when there is reason to believe that a violation of a state law, county resolution or city ordinance has occurred on such property, as necessary to investigate and arrest persons for such a violation;

(5) when in fresh pursuit of a person; and

(6) when transporting persons in custody to an appropriate facility, wherever it may be located.

(e) In addition to enforcement of state law, county resolutions and city ordinances, campus police officers shall enforce rules and regulations and rules and policies of the board of trustees or school board, whether or not violation thereof constitutes a criminal offense. While on duty, campus police officers shall wear and display publicly a badge of office. No such badge shall be required to be worn by any plain clothes investigator or departmental administrator, but any such officer shall present proper credentials and identification when required in the performance of such officer's duties. In performance of any of the powers, duties and functions authorized by this section, K.S.A. 22-2401a, and amendments thereto, or any other law, campus police officers shall have the same rights, protections and immunities afforded other law enforcement officers.

(f) The board of education of each school district shall adopt a policy providing for notification of a student's parents or guardians whenever the student is taken into custody by a campus police officer.

Certification or training

No relevant statutes found.

MOUs, authorization, and/or funding

No relevant statutes found.

State Education Agency Support

State model policies and implementation support

No relevant statutes found.

Funding appropriations

No relevant statutes found.

Other/Uncategorized

Professional immunity or liability

STATUTES

72-89b03. Information regarding identity of specified pupils, disclosure requirements; criminal acts, reports to law enforcement agencies and state board of education; school safety and security policies, availability; civil liability, immunity.

(h) No board of education, member of any such board, superintendent of schools or school employee shall be liable for damages in a civil action resulting from a person's good faith acts or omissions in complying with the requirements or provisions of the Kansas school safety and security act.

72-89b04. Penalties for failure to make reports, preventing or interfering with reports; sanctions for making reports prohibited; immunity from liability.

(a) Willful and knowing failure of a school employee to make a report required by subsection (b)(1) of K.S.A. 72-89b03, and amendments thereto, is a class B nonperson misdemeanor. Preventing or interfering with, with the intent to prevent, the making of a report required by subsection (b)(1) of K.S.A. 72-89b03, and amendments thereto, is a class B nonperson misdemeanor.

(b) Willful and knowing failure of any employee designated by a board of education to transmit reports made by school employees to the appropriate state or local law enforcement agency as required by subsection (b)(1) of K.S.A. 72-89b03, and amendments thereto, is a class B nonperson misdemeanor. Preventing or interfering with, with the intent to prevent, the transmission of reports required by subsection (b)(1) of K.S.A. 72-89b03, and amendments thereto, is a class B nonperson misdemeanor.

(c) No board of education shall terminate the employment of, or prevent or impair the profession of, or impose any other sanction on any school employee because the employee made an oral or written report to, or cooperated with an investigation by, a law enforcement agency relating to any criminal act that the employee knows has been committed or reasonably believes will be committed at school, on school property, or at a school supervised activity.

(d) Any board of education, and any member or employee thereof, participating without malice in the making of an oral or written report to a law enforcement agency relating to any criminal act that is known to have been committed or reasonably is believed will be committed at school, on school property, or at a school supervised activity shall have immunity from any civil liability that might otherwise be incurred or imposed. Any such participant shall have the same immunity with respect to participation in any judicial proceedings resulting from the report.

Community input or involvement

No relevant statutes found.

Other/Uncategorized

STATUTES

72-991a. Change in placement of child with disability to alternative setting as disciplinary action for certain behavior; duties of IEP team and hearing officer; behavioral assessment and intervention plan; determination and review procedure.

(a) School personnel may order a change in the placement of a child with a disability:

(1) To an appropriate interim alternative educational setting or other setting, or the short-term suspension of the child;

(2) to an appropriate interim alternative educational setting for not more than 45 school days if: (A) The child carries or possesses a weapon to, or at, school, on school premises, or to, or at, a school function under the jurisdiction of an agency; (B) the child knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school, on school premises, or at a school function under the jurisdiction of an agency; or (C) the child has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of an agency; or

(3) To an appropriate interim alternative educational placement for not more than 186 school days, if it is determined that the conduct of the child violated the code of student conduct and was not a manifestation of the child's disability, if the relevant disciplinary procedures applicable to children without disabilities are applied in the same manner and the discipline is for the same duration as would be applied to a child without disabilities, except that services must continue to be provided to the child during the period of disciplinary action.

(b) Any child with a disability whose placement is changed under subsection (a)(2) or (a)(3) shall:

(1) Continue to receive educational services so as to enable the child to continue to participate in the general education curriculum, although in another setting and to progress toward meeting the goals set out in the child's IEP; and

(2) receive, as appropriate, a functional behavioral assessment, behavioral intervention services, and modifications that are designed to address the inappropriate behavior so that it does not recur.

(c) The alternative educational setting described in subsections (a)(2) and (a)(3) shall be determined by the IEP team.

(d) If a disciplinary action is contemplated as described in subsection (a)(2) or (a)(3):

(1) Not later than the date on which the decision to take that action is made, the agency shall notify the parents of that decision and of all procedural safeguards afforded under K.S.A. 2012 Supp. 72-992a, and amendments thereto; and

(2) within 10 school days of the date on which the decision to take disciplinary action is made, a review shall be conducted to determine the relationship between the child's disability and the conduct that is subject to disciplinary action.

(e) (1) The review described in subsection (d)(2) shall be conducted by the agency, the parent, and relevant members of the child's IEP team as determined by the parent and the agency. In carrying out the review, that group shall review all relevant information in the student's file, including the child's IEP, any teacher observations, and any relevant information provided by the parent.

(2) Based upon its review of all the relevant information, the group shall determine if the conduct in question:

(A) Was caused by, or had a direct and substantial relationship to, the child's disability; or

(B) was the direct result of the agency's failure to implement the child's IEP.

(3) If it is determined that the conduct of the student is described in either paragraph (2)(A) or (2)(B) of this subsection, then the conduct shall be determined to be a manifestation of the child's disability.

(f) If it is determined that the conduct of a child was a manifestation of the child's disability, the IEP team shall:

(1) Conduct a functional behavioral assessment, and implement a behavioral intervention plan for such child, provided that the agency has not conducted such an assessment prior to the behavior that resulted in a change in placement;

(2) if the child already had a behavioral intervention plan, review and modify it, as necessary, to address the behavior; and

(3) except as provided in paragraph (a)(2), return the child to the placement from which the child was removed, unless the parent and the agency agree to a change of placement as part of the modification of the behavioral intervention plan.

(g) For the purposes of this section, the following definitions apply:

(1) "Controlled substance" means a drug or other substance identified under schedules I, II, III, IV, or V in 21 U.S.C. § 812(c);

(2) "illegal drug" means a controlled substance but does not include such a substance that is legally possessed or used under the supervision of a licensed healthcare professional or that is legally possessed or used under any other authority under any federal or state law;

(3) "weapon" means a weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury, except that such term does not include a pocket knife with a blade of less than 21/2 inches in length; and

(4) "serious bodily injury" means an injury as described in subsection (h)(3) of section 1365 of title 18 of the United States Code.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by Kansas provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
Website		
No relevant resources found		
Documents		
Kansas Social, Emotional, and Character Development (SECD) Standards	To provide schools a framework for integrating social-emotional learning (SEL) with character development so that students will learn, practice and model essential personal life habits that contribute to academic, vocational, and personal success	http://www.ksde.org/Portals/0/Standards%20Documents/Counseling/SECD_Revised_12%203%2012.pdf
Other Resources		
No relevant resources found		

Kentucky Compilation of School Discipline Laws and Regulations

Prepared: August 12, 2013

Introduction

This compilation presents school discipline-related state statutes, school discipline-related regulations, and, where available, links to state-sponsored websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSLE). For example, one major category encompasses all state laws or regulations mandating specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of state legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in each state.

Discipline categories were not mutually exclusive. Statutes and regulations often appeared across multiple categories. For states with more extensive statutes covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. State laws, ordered by chapter and section number, appear first within each category followed by state regulations. All statutes and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists statutes by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to state-sponsored websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of May 2013, with the exception of the state laws related to seclusion and restraint, which are complete and current as of December 2012. Readers should also note that the information in this document was compiled from individual state sources that are created by each state and which are maintained and updated with varying frequencies. Readers should consult the source information provided for each state directly in order to check for updates to this state's laws and regulations or conduct further research.

For further information, including definitions of the different policy categories, please refer to the Discipline Laws and Regulations Compendium posted on the Center's website.

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Safe Supportive Learning
Engagement | Safety | Environment

Table of Contents

Kentucky State Codes Cited **1**

General Provisions **4**

Authority to develop and establish rules of conduct 4
Scope 8
Communication of Policy 8

In-School Discipline **10**

Use of multi-tiered discipline approaches 10
Teacher authority to remove students from classrooms 10
Alternatives to suspension 10
Use of corporal punishment 10
Use of student and locker searches 10
Other in-school disciplinary approaches 10

Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements **11**

Grounds for possible suspension or expulsion 11
Grounds for mandatory suspension or expulsion 11
Limitations, conditions, or exclusions for use of suspension and expulsion 12
Administrative procedures related to suspensions and expulsion 13
In-school suspension 14
Return to school following removal 15
Use of restraint and seclusion 15
Alternative Placements 21

Disciplinary Approaches Addressing Specific Infractions and Conditions **25**

Firearms (as required by the Guns-Free Schools Act) 25
Other weapons 25
Students with chronic disciplinary issues 26
Attendance and truancy 26
Substance use 26
Bullying, harassment, or hazing 27
Other special infractions or conditions 29

Prevention and Behavioral Interventions (Non-Punitive) **31**

Prevention 31
Behavioral interventions and student support services 33
Professional development 34

Monitoring and Accountability **35**

Formal incident reporting of conduct violations 35
Parental notification 36
Reporting and referrals between schools and law enforcement 37
Disclosure of school records 37
Data collection, review, and reporting of disciplinary policies and actions 39

School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers 42
Authority and power to implement school arrest 42
Certification or training 42
MOUs, authorization and/or funding 42
State Education Agency Support 43
State model policies and implementation support 43
Funding appropriations 43
Other/Uncategorized 44
Professional immunity or liability 44
Community input or involvement 44
Other/uncategorized 46
State-Sponsored, Publicly Available Websites or Other Resources on School Discipline 47

Kentucky State Codes Cited

Kentucky Revised Statutes

Title XIII. Education

Chapter 156. Department of Education

156.010.	Commissioner's authority to organize Department of Education -- Composition -- Functions
156.060.	Quorum -- Meetings -- Location of office -- Compensation
156.070.	General powers and duties of state board
156.240.	Chief state school officer to publish school laws

Chapter 157. State Support of Education

157.200.	Definitions for Kentucky Revised Statutes 157.200 to 157.290

Chapter 158. Conduct of Schools – Special Programs

158.148.	Student discipline guidelines and model policy -- Local code of acceptable behavior and discipline -- Required contents of code
158.150.	Suspension or expulsion of pupils
158.153.	Punishment based on child's records -- Disclosure of records -- Cause of action – Districtwide standards of behavior for students participating in extracurricular activities
158.154.	Principal's duty to report certain acts to local law enforcement agency
158.155.	Reporting of specified incidents of student conduct -- Notation on school records -- Report to law enforcement of certain student conduct -- Immunity
158.156.	Reporting of commission of felony Kentucky Revised Statutes Chapter 508 offense against a student -- Investigation -- Immunity from liability for reporting -- Privileges no bar to reporting
158.165.	Possession and use of personal telecommunications device by public school student
158.181.	Legislative findings
158.183.	Prohibited acts by students -- Rights of student -- Administrative remedies
158.187.	Short title for Kentucky Revised Statutes 158.181 to 158.187
158.440.	Legislative findings on school safety and order
158.441.	Definitions for chapter
158.442.	Center for School Safety -- Duties -- Members of board
158.444.	Administrative regulations relating to school safety -- Role of Department of Education to maintain statewide data collection system -- Reportable incidents -- Annual statistical reports -- Confidentiality
158.445.	Local assessment of school safety and school discipline -- District assessment -- Local plans
158.446.	Use of appropriated funds

Chapter 159. Compulsory Attendance

159.010.	Parent or custodian to send child to school -- Age limits for compulsory attendance - Notification and counseling prior to withdrawal -- Encouragement to reenroll after withdrawal
159.150.	Repealed, 1980

159.170. Withdrawals and transfers -- Teachers to investigate and report -- Collection and dissemination of student records
159.180. Parents responsible for children's violations

Chapter 160. School Districts

160.295. Procedure for promulgation of code of student rights and responsibilities for secondary schools – Prohibited student activities
160.345. Definitions -- Required adoption of school councils for school-based decision making --Composition -- Responsibilities -- Professional development -- Exemption -- Formula for allocation of school district funds -- Intentionally engaging in conduct detrimental to school-based decision making by board member, superintendent, district employee, or school council member -- Complaint procedure -- Disciplinary action -- Rescission of right to establish and powers of council -- Wellness policy
160.380. School employees -- Restrictions on appointment of relatives, violent offenders, and persons convicted of sex crimes -- Restriction on assignment to alternative education program as disciplinary action -- National and state criminal history background checks on applicants, new hires, and school-based decision-making council parent members -- Application and renewal forms -- Employees charged with felony offenses

Title L. Kentucky Penal Code

Chapter 525. Riot, Disorderly Conduct, and Related Offenses

525.070. Harassment
525.080. Harassing communications

Kentucky Administrative Regulations

Title 505. Justice and Public Safety Cabinet Department of Juvenile Justice

505 KAR 1.080. Kentucky educational collaborative for state agency children

Title 702. Education and Workforce Development Cabinet Kentucky Board of Education Department of Education Office of District Support Services

702 KAR 7.065. Designation of agent to manage high school interscholastic athletics

Title 703. Education and Workforce Development Cabinet Kentucky Board of Education Department of Education Bureau of Learning Results Services

703 KAR 5.225. School and district accountability, recognition, support, and consequences

Title 704. Education and Workforce Development Cabinet Kentucky Board of Education Department of Education Office of Learning Programs Development

704 KAR 3.303. Required core academic standards
704 KAR 3.305. Minimum requirements for high school graduation
704 KAR 7.050. Student discipline guidelines
704 KAR 7,160. Use of physical restraint and seclusion in public schools.
704 KAR 19.002. Alternative education programs

Title 707. Education and Workforce Development Cabinet Kentucky Board of Education Department of Education Office of Special Instructional Services

707 KAR 1.002. Definitions
707 KAR 1.300. Child find, evaluation, and reevaluation
707 KAR 1.320. Individual education program

General Provisions

Authority to develop and establish rules of conduct

STATUTES

158.148. Student discipline guidelines and model policy -- Local code of acceptable behavior and discipline -- Required contents of code.

(1) In cooperation with the Kentucky Education Association, the Kentucky School Boards Association, the Kentucky Association of School Administrators, the Parent-Teachers Association, the Kentucky Chamber of Commerce, the Farm Bureau, members of the Interim Joint Committee on Education, and other interested groups, and in collaboration with the Center for School Safety, the Department of Education shall develop or update as needed and distribute to all districts by August 31 of each even-numbered year, beginning August 31, 2008:

(a) Statewide student discipline guidelines to ensure safe schools, including the definition of serious incident for the reporting purposes as identified in KRS 158.444;

(b) Recommendations designed to improve the learning environment and school climate, parental and community involvement in the schools, and student achievement; and

(c) A model policy to implement the provisions of this section and KRS 158.156, 158.444, 525.070, and 525.080.

(2) The department shall obtain statewide data on major discipline problems and reasons why students drop out of school. In addition, the department, in collaboration with the Center for School Safety, shall identify successful strategies currently being used in programs in Kentucky and in other states and shall incorporate those strategies into the statewide guidelines and the recommendations under subsection (1) of this section.

(3) Copies of the discipline guidelines shall be distributed to all school districts. The statewide guidelines shall contain broad principles and legal requirements to guide local districts in developing their own discipline code and school councils in the selection of discipline and classroom management techniques under KRS 158.154; and in the development of the district-wide safety plan.

(4) Each local board of education shall be responsible for formulating a code of acceptable behavior and discipline to apply to the students in each school operated by the board. The code shall be updated no less frequently than every two (2) years, with the first update being completed by November 30, 2008.

(a) The superintendent, or designee, shall be responsible for overall implementation and supervision, and each school principal shall be responsible for administration and implementation within each school. Each school council shall select and implement the appropriate discipline and classroom management techniques necessary to carry out the code. The board shall establish a process for a two-way communication system for teachers and other employees to notify a principal, supervisor, or other administrator of an existing emergency.

(b) The code shall contain the type of behavior expected from each student, the consequences of failure to obey the standards, and the importance of the standards to the maintenance of a safe learning environment where orderly learning is possible and encouraged.

(c) The code shall contain:

1. Procedures for identifying, documenting, and reporting incidents of violations of the code and incidents for which reporting is required under KRS 158.156;

2. Procedures for investigating and responding to a complaint or a report of a violation of the code or of an incident for which reporting is required under KRS 158.156, including reporting incidents to the parents, legal guardians, or other persons exercising custodial control or supervision of the students involved;

3. A strategy or method of protecting from retaliation a complainant or person reporting a violation of the code or an incident for which reporting is required under KRS 158.156;

4. A process for informing students, parents, legal guardians, or other persons exercising custodial control or supervision, and school employees of the requirements of the code and the provisions of this section and KRS 158.156, 158.444, 525.070, and 525.080, including training for school employees; and

5. Information regarding the consequences of violating the code and violations reportable under KRS 158.156 or 158.444.

(d) The principal of each school shall apply the code of behavior and discipline uniformly and fairly to each student at the school without partiality or discrimination.

(e) A copy of the code of behavior and discipline adopted by the board of education shall be posted at each school. Guidance counselors shall be provided copies for discussion with students. The code shall be referenced in all school handbooks. All school employees and parents, legal guardians, or other persons exercising custodial control or supervision shall be provided copies of the code.

158.442. Center for School Safety -- Duties -- Members of board.

(1) The General Assembly hereby authorizes the establishment of the Center for School Safety. The center's mission shall be to serve as the central point for data analysis; research; dissemination of information about successful school safety programs, research results, and new programs; and, in collaboration with the Department of Education and others, to provide technical assistance for safe schools.

(2) To fulfill its mission, the Center for School Safety shall:

(a) Establish a clearinghouse for information and materials concerning school violence prevention;

(b) Provide program development and implementation expertise and technical support to schools, law enforcement agencies, and communities, which may include coordinating training for administrators, teachers, students, parents, and other community representatives;

(c) Analyze the data collected in compliance with KRS 158.444;

(d) Research and evaluate school safety programs so schools and communities are better able to address their specific needs;

(e) Administer a school safety grant program for local districts as directed by the General Assembly;

(f) Promote the formation of interagency efforts to address discipline and safety issues within communities throughout the state in collaboration with other postsecondary education institutions and with local juvenile delinquency prevention councils;

(g) Prepare and disseminate information regarding best practices in creating safe and effective schools;

(h) Advise the Kentucky Board of Education on administrative policies and administrative regulations; and

(i) Provide an annual report by July 1 of each year to the Governor, the Kentucky Board of Education, and the Interim Joint Committee on Education regarding the status of school safety in Kentucky.

(3) The Center for School Safety shall be governed by a board of directors appointed by the Governor. Members shall consist of:

(a) The commissioner or a designee of the Department of Education;

(b) The commissioner or a designee of the Department of Juvenile Justice;

(c) The commissioner or a designee of the Department for Behavioral Health, Developmental and Intellectual Disabilities;

(d) The commissioner or a designee of the Department for Community Based Services;

(e) The secretary or a designee of the Education and Workforce Development Cabinet;

(f) A juvenile court judge;

(g) A local school district board of education member;

(h) A local school administrator;

(i) A school council parent representative;

(j) A teacher;

(k) A classified school employee; and

(l) A superintendent of schools who is a member of the Kentucky Association of School Administrators.

In appointing the board of education member, the school administrator, the school superintendent, the school council parent member, the teacher, and the classified employee, the Governor shall solicit recommendations from the following groups respectively: the Kentucky School Boards Association, the Kentucky Association of School Administrators, the Kentucky Association of School Councils, the Kentucky Education Association, and the Kentucky Education Support Personnel Association. The initial board shall be appointed by July 15, 1998. The board shall hold its first meeting no later than thirty (30) days after the appointment of the members.

160.295. Procedure for promulgation of code of student rights and responsibilities for secondary schools -- Prohibited student activities.

(1) The board of education of each public school district in the Commonwealth may adopt and promulgate a code of student rights and responsibilities for secondary schools from recommendations of a committee composed of students, faculty, parents, and school district administrative personnel.

(2) Such committee shall consist of two (2) students, two (2) parents of students, two (2) faculty members, two (2) representatives from administrative personnel of the district, and one (1) member of the local school board.

(3) The student and faculty members of such committee shall be elected by their peers in the local school district; the administrative personnel shall be appointed by the school district superintendent, and the parents selected by the faculty and student body. Members of such committee shall serve for a term of one (1) year and may be reelected or reappointed in following years. Initial composition of the elected members of such committee shall be by the following:

(a) The district superintendent shall notify each school within the district, each school principal or head teacher, the students of the district, and the parents of students within the district as to the method for receiving nominations for membership on the committee and of the methods by which the election of members shall take place. Such notification shall take place on or before the first day of school for each school term.

(b) Nominations for the student, faculty, and parent members of the committee shall be received in writing by the district superintendent within thirty (30) days following the commencement of each school term.

(c) The election of student, faculty, and parent members of the committee shall be held within fourteen (14) days following the closing of nominations under the supervision of the district superintendent.

(d) The initial meeting of the elected and appointed members shall be no later than fourteen (14) days following the election.

(4) Each committee member shall be entitled to a single vote and any code of student rights and responsibilities adopted by a majority of the committee membership shall be submitted to the district board of education which may cause such code, in whole or in part, to be implemented in the public schools of the district.

(5) All meetings of the committee shall be open to the public and the committee shall hold at least one (1) public hearing on the proposed code before it is adopted and submitted to the district board of education for implementation.

(6) The code of student rights and responsibilities adopted by the committee may define rights and responsibilities regarding, but not limited to, the following:

(a) Right of expression, including, but not limited to, appearance, assembly, association, and circulation of petitions and literature;

(b) Right to participate in decision-making procedures directly affecting students;

(c) Right to procedural due process concerning major disciplinary action, as

defined by the code;

(d) Right to receive academic grades based only upon academic performance;

(e) Right to freedom from abuse and threat of abuse by members of school faculties and administration personnel; and

(f) Right of access by a student to his or her own records and guarantee of the confidentiality of a student's academic records outside of the school system, except upon written authorization of the student or his or her parents or guardians.

(7) Students shall refrain from activity which materially or substantially disrupts the educational process or presents a clear and present danger to the health and safety of persons or property, or infringes on the rights of others.

ADMINISTRATIVE CODE

704 KAR 7:050. Student discipline guidelines.

RELATES TO: KRS 158.148, 158.150 STATUTORY AUTHORITY: KRS 156.070, 158.148 NECESSITY, FUNCTION, AND CONFORMITY: KRS 156.070 authorizes the Kentucky Board of Education to promulgate administrative regulations necessary for the efficient management, control, and operation of the schools and programs under its jurisdiction. KRS 158.148 requires the Kentucky Department of Education to develop guidelines containing broad principles to guide local school districts in developing their own student discipline codes. This administrative regulation establishes the student discipline guidelines required by KRS 158.148.

704 KAR 7:160. Use of physical restraint and seclusion in public schools.

Section 2. (1) Each local school district shall establish policies and procedures that:

(a) Ensure school personnel are aware of and parents are notified how to access the policies and procedures regarding physical restraint and seclusion;

(b) Are designed to ensure the safety of all students, school personnel, and visitors;

(c) Require school personnel to be trained in accordance with the requirements outlined in Section 6 of this administrative regulation;

(d) Outline procedures to be followed during and after each use of physical restraint or seclusion, including notice to parents, documentation of the event in the student information system, and a process for the parent or emancipated youth to request a debriefing session;

(e) Require notification, within twenty four (24) hours, to the Kentucky Department of Education and local law enforcement in the event of death, substantial risk of death, extreme physical pain, protracted and obvious disfigurement or protracted loss or impairment of the function of a bodily member, organ, or mental faculty resulting from the use of physical restraint or seclusion;

(f) Outline a procedure by which parents may submit a complaint regarding the physical restraint or seclusion of their child, which shall require the district and school to investigate the circumstances surrounding the physical restraint or seclusion, make written findings, and if appropriate, take corrective action; and

(g) Outline a procedure to regularly review data on physical restraint and seclusion usage and revise policies as needed.

Scope

No relevant statutes found.

Communication of Policy

STATUTES

156.240. Chief state school officer to publish school laws.

The chief state school officer shall prepare for publication biennially, the complete school laws of the state, including abstracts of decisions of the Court of Justice, and opinions and interpretations of the Attorney General and the chief state school officer. He shall explain the true intent and meaning of the school laws and the published administrative regulations of the Kentucky Board of Education, and in doing so he shall freely consult the Attorney General.

158.148. Student discipline guidelines and model policy -- Local code of acceptable behavior and discipline -- Required contents of code.

(3) Copies of the discipline guidelines shall be distributed to all school districts. The statewide guidelines shall contain broad principles and legal requirements to guide local districts in developing their own discipline code and school councils in the selection of discipline and classroom management techniques under KRS 158.154; and in the development of the district-wide safety plan.

(4) Each local board of education shall be responsible for formulating a code of acceptable behavior and discipline to apply to the students in each school operated by the board. The code shall be updated no less frequently than every two (2) years, with the first update being completed by November 30, 2008.

(c) The code shall contain:

4. A process for informing students, parents, legal guardians, or other persons exercising custodial control or supervision, and school employees of the requirements of the code and the provisions of this section and KRS 158.156, 158.444, 525.070, and 525.080, including training for school employees; and

5. Information regarding the consequences of violating the code and violations reportable under KRS 158.156 or 158.444.

(e) A copy of the code of behavior and discipline adopted by the board of education shall be posted at each school. Guidance counselors shall be provided copies for discussion with students. The code shall be referenced in all school handbooks. All school employees and parents, legal guardians, or other persons exercising custodial control or supervision shall be provided copies of the code.

ADMINISTRATIVE CODE

704 KAR 7:160. Use of physical restraint and seclusion in public schools.

Section 2. (1) Each local school district shall establish policies and procedures that:

(a) Ensure school personnel are aware of and parents are notified how to access the policies and procedures regarding physical restraint and seclusion;

(b) Are designed to ensure the safety of all students, school personnel, and visitors;

(c) Require school personnel to be trained in accordance with the requirements outlined in Section 6 of this administrative regulation;

(d) Outline procedures to be followed during and after each use of physical restraint or seclusion, including notice to parents, documentation of the event in the student information system, and a process for the parent or emancipated youth to request a debriefing session;

(e) Require notification, within twenty four (24) hours, to the Kentucky Department of Education and local law enforcement in the event of death, substantial risk of death, extreme physical pain, protracted and obvious disfigurement or protracted loss or impairment of the function of a bodily member, organ, or mental faculty resulting from the use of physical restraint or seclusion;

(f) Outline a procedure by which parents may submit a complaint regarding the physical restraint or seclusion of their child, which shall require the district and school to investigate the circumstances surrounding the physical restraint or seclusion, make written findings, and if appropriate, take corrective action; and

(g) Outline a procedure to regularly review data on physical restraint and seclusion usage and revise policies as needed.

In-School Discipline

Use of multi-tiered discipline approaches

No relevant statutes found.

Teacher authority to remove students from classrooms

STATUTES

158.150. Suspension or expulsion of pupils.

(4) School administrators, teachers, or other school personnel may immediately remove or cause to be removed threatening or violent students from a classroom setting or from the district transportation system pending any further disciplinary action that may occur. Each board of education shall adopt a policy to assure the implementation of this section and to assure the safety of the students and staff.

Alternatives to suspension

No relevant statutes found.

Use of corporal punishment

No relevant statutes found.

Use of student and locker searches

No relevant statutes found.

Other in-school disciplinary approaches

No relevant statutes found.

Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements

Grounds for possible suspension or expulsion

No relevant statutes found.

Grounds for mandatory suspension or expulsion

STATUTES

158.150. Suspension or expulsion of pupils.

(1) All pupils admitted to the common schools shall comply with the lawful regulations for the government of the schools:

(a) Willful disobedience or defiance of the authority of the teachers or administrators, use of profanity or vulgarity, assault or battery or abuse of other students, the threat of force or violence, the use or possession of alcohol or drugs, stealing or destruction or defacing of school property or personal property of students, the carrying or use of weapons or dangerous instruments, or other incorrigible bad conduct on school property, as well as off school property at school-sponsored activities, constitutes cause for suspension or expulsion from school; and

(b) Assault or battery or abuse of school personnel; stealing or willfully or wantonly defacing, destroying, or damaging the personal property of school personnel on school property, off school property, or at school-sponsored activities constitutes cause for suspension or expulsion from school.

(2) (a) Each local board of education shall adopt a policy requiring the expulsion from school for a period of not less than one (1) year for a student who is determined by the board to have brought a weapon to a school under its jurisdiction. In determining whether a student has brought a weapon to school, a local board of education shall use the definition of "unlawful possession of a weapon on school property" stated in KRS 527.070.

(b) The board shall also adopt a policy requiring disciplinary actions, up to and including expulsion from school, for a student who is determined by the board to have possessed prescription drugs or controlled substances for the purpose of sale or distribution at a school under the board's jurisdiction, or to have physically assaulted or battered or abused educational personnel or other students at a school or school function under the board's jurisdiction. The board may modify the expulsion requirement for students on a case-by-case basis. A board that has expelled a student from the student's regular school setting shall provide or assure that educational services are provided to the student in an appropriate alternative program or setting, unless the board has made a determination, on the record, supported by clear and convincing evidence, that the expelled student posed a threat to the safety of other students or school staff and could not be placed into a state-funded agency program. Behavior which constitutes a threat shall include but not be limited to the physical assault, battery, or abuse of others; the threat of physical force; being under the influence of drugs or alcohol; the use, possession, sale, or transfer of drugs or alcohol; the carrying, possessing, or transfer of weapons or dangerous instruments; and any other behavior which may endanger the safety of others. Other intervention services as indicated for each student may be provided by the board or by agreement with the appropriate state or community agency. A state agency that provides the service shall be responsible for the cost.

Limitations, conditions, or exclusions for use of suspension and expulsion

STATUTES

158.150. Suspension or expulsion of pupils.

(5) A pupil shall not be suspended from the common schools until after at least the following due process procedures have been provided:

(a) The pupil has been given oral or written notice of the charge or charges against him which constitute cause for suspension;

(b) The pupil has been given an explanation of the evidence of the charge or charges if the pupil denies them; and

(c) The pupil has been given an opportunity to present his own version of the facts relating to the charge or charges.

These due process procedures shall precede any suspension from the common schools unless immediate suspension is essential to protect persons or property or to avoid disruption of the ongoing academic process. In such cases, the due process procedures outlined above shall follow the suspension as soon as practicable, but no later than three (3) school days after the suspension

158.153. Punishment based on child's records -- Disclosure of records -- Cause of action -- Districtwide standards of behavior for students participating in extracurricular activities.

(1) Unless the action is taken pursuant to KRS 158.150, no school, school administrator, teacher, or other school employee shall expel or punish a child based on information contained in a record of an adjudication of delinquency or conviction of an offense received by the school pursuant to KRS 610.345 or from any other source. Nothing in this subsection shall be construed to prohibit a local school board or school official from instituting disciplinary proceedings against any student for violating the discipline policy of the school or school district or taking actions necessary to protect staff and students. Actions to protect staff and students may be taken only after the principal makes a determination that the conduct of the student reflected in the records of the school or obtained by the school from the court indicates a substantial likelihood of an immediate and continuing threat that the student will cause harm to students or staff, and that the restrictions to be ordered represent the least restrictive alternative available and appropriate to remedy the threat, and that the determination and supporting material be documented in the child's record. The action of the principal, in addition to or in lieu of any other procedure available, may be appealed by the child or the child's parent or guardian to the superintendent of the school system or to the Circuit Court in the county in which the school is located, and the appealing party may be represented by counsel.

(2) No school, school administrator, teacher, or other school employee who has custody of records received or maintained by the school pursuant to KRS 610.345 or who has received information contained in or relating to a record received by the school pursuant to KRS 610.345 shall disclose the fact of the record's existence, or any information contained in the record or received from the record to any other person, including but not limited to other teachers, school employees, pupils, or parents other than the pupil, or parents of the pupil who is the subject of the record.

(3) The child and his parent or guardian shall have a civil cause of action against the school board and against any school administrator violating subsection (1) or (2) of this section or divulging information in violation of KRS 610.345 or 610.340. This civil cause of action shall be in addition to any other criminal or administrative remedy provided by law.

(4) Nothing in this section shall be construed to prohibit a local board of education from establishing districtwide standards of behavior for students who participate in extracurricular and cocurricular activities,

including athletics. A school principal may deny or terminate a student's eligibility to participate in extracurricular or cocurricular activities if the student has violated the local district behavior standards or the council's criteria for participation, as described in KRS 160.345(2)(i)8. A student's right to participate in extracurricular or cocurricular activities, including athletics, may be suspended, pending investigation of an allegation that the standards of behavior have been violated.

Administrative procedures related to suspensions and expulsion

STATUTES

158.150. Suspension or expulsion of pupils.

(2) (a) Each local board of education shall adopt a policy requiring the expulsion from school for a period of not less than one (1) year for a student who is determined by the board to have brought a weapon to a school under its jurisdiction. In determining whether a student has brought a weapon to school, a local board of education shall use the definition of "unlawful possession of a weapon on school property" stated in KRS 527.070.

(b) The board shall also adopt a policy requiring disciplinary actions, up to and including expulsion from school, for a student who is determined by the board to have possessed prescription drugs or controlled substances for the purpose of sale or distribution at a school under the board's jurisdiction, or to have physically assaulted or battered or abused educational personnel or other students at a school or school function under the board's jurisdiction. The board may modify the expulsion requirement for students on a case-by-case basis. A board that has expelled a student from the student's regular school setting shall provide or assure that educational services are provided to the student in an appropriate alternative program or setting, unless the board has made a determination, on the record, supported by clear and convincing evidence, that the expelled student posed a threat to the safety of other students or school staff and could not be placed into a state-funded agency program. Behavior which constitutes a threat shall include but not be limited to the physical assault, battery, or abuse of others; the threat of physical force; being under the influence of drugs or alcohol; the use, possession, sale, or transfer of drugs or alcohol; the carrying, possessing, or transfer of weapons or dangerous instruments; and any other behavior which may endanger the safety of others. Other intervention services as indicated for each student may be provided by the board or by agreement with the appropriate state or community agency. A state agency that provides the service shall be responsible for the cost.

(3) For purposes of this subsection, "charges" means substantiated behavior that falls within the grounds for suspension or expulsion enumerated in subsection (1) of this section, including behavior committed by a student while enrolled in a private or public school, or in a school within another state. A school board may adopt a policy providing that, if a student is suspended or expelled for any reason or faces charges that may lead to suspension or expulsion but withdraws prior to a hearing from any public or private school in this or any other state, the receiving district may review the details of the charges, suspension, or expulsion and determine if the student will be admitted, and if so, what conditions may be imposed upon the admission.

(4) School administrators, teachers, or other school personnel may immediately remove or cause to be removed threatening or violent students from a classroom setting or from the district transportation system pending any further disciplinary action that may occur. Each board of education shall adopt a policy to assure the implementation of this section and to assure the safety of the students and staff.

(5) A pupil shall not be suspended from the common schools until after at least the following due process procedures have been provided:

(a) The pupil has been given oral or written notice of the charge or charges against him which constitute cause for suspension;

(b) The pupil has been given an explanation of the evidence of the charge or charges if the pupil denies them; and

(c) The pupil has been given an opportunity to present his own version of the facts relating to the charge or charges.

These due process procedures shall precede any suspension from the common schools unless immediate suspension is essential to protect persons or property or to avoid disruption of the ongoing academic process. In such cases, the due process procedures outlined above shall follow the suspension as soon as practicable, but no later than three (3) school days after the suspension.

(6) The superintendent, principal, assistant principal, or head teacher of any school may suspend a pupil but shall report the action in writing immediately to the superintendent and to the parent, guardian, or other person having legal custody or control of the pupil. The board of education of any school district may expel any pupil for misconduct as defined in subsection (1) of this section, but the action shall not be taken until the parent, guardian, or other person having legal custody or control of the pupil has had an opportunity to have a hearing before the board. The decision of the board shall be final.

(7) (a) Suspension of exceptional children, as defined in KRS 157.200, shall be considered a change of educational placement if:

1. The child is removed for more than ten (10) consecutive days during a school year; or

2. The child is subjected to a series of removals that constitute a pattern because the removals accumulate to more than ten (10) school days during a school year and because of other factors, such as the length of each removal, the total amount of time the child is removed, and the proximity of removals to one another.

(b) The admissions and release committee shall meet to review the placement and make a recommendation for continued placement or a change in placement and determine whether regular suspension or expulsion procedures apply. Additional evaluations shall be completed, if necessary.

(c) If the admissions and release committee determines that an exceptional child's behavior is related to his disability, the child shall not be suspended any further or expelled unless the current placement could result in injury to the child, other children, or the educational personnel, in which case an appropriate alternative placement shall be provided that will provide for the child's educational needs and will provide a safe learning and teaching environment for all. If the admissions and release committee determines that the behavior is not related to the disability, the local educational agency may pursue its regular suspension or expulsion procedure for the child, if the behavior so warrants. However, educational services shall not be terminated during a period of expulsion and during a suspension after a student is suspended for more than a total of ten (10) days during a school year. A district may seek temporary injunctive relief through the courts if the parent and the other members of the admissions and release committee cannot agree upon a placement and the current placement will likely result in injury to the student or others.

(8) Suspension of primary school students shall be considered only in exceptional cases where there are safety issues for the child or others.

(9) Any action under this section related to students with disabilities shall be in compliance with applicable federal law.

In-school suspension

No relevant statutes found.

Return to school following removal

No relevant statutes found.

Use of restraint and seclusion

ADMINISTRATIVE CODE

704 KAR 7:160. Use of physical restraint and seclusion in public schools.

RELATES TO: KRS 156.160(1)(h), 158.444(1) STATUTORY AUTHORITY: KRS 156.160(1)(h), 156.070, 158.444 (1) NECESSITY, FUNCTION, AND CONFORMITY: KRS 156.160(1)(h) and 158.444 (1) give the Kentucky Board of Education the authority to promulgate administrative regulations related to medical inspection, physical and health education and recreation, and other regulations necessary or advisable for the physical welfare and safety of the public school children. This administrative regulation establishes the requirements for the use of physical restraint and seclusion in districts and the notification and data reporting requirements for the use of physical restraint and seclusion in districts and does not prohibit the lawful exercise of law enforcement duties by sworn law enforcement officers.

Section 1. Definitions.

(1) "Aversive behavioral interventions" means a physical or sensory intervention program intended to modify behavior that the implementer knows would cause physical trauma, emotional trauma, or both, to a student even when the substance or stimulus appears to be pleasant or neutral to others and may include hitting, pinching, slapping, water spray, noxious fumes, extreme physical exercise, loud auditory stimuli, withholding of meals, or denial of reasonable access to toileting facilities.

(2) "Behavioral intervention" means the implementation of strategies to address behavior that is dangerous or inappropriate, or otherwise impedes the learning of the students.

(3) "Chemical restraint" means the use of medication to control behavior or restrict a student's freedom of movement that includes over-the-counter medications used for purposes not specified on the label but does not include medication prescribed by a licensed medical professional and supervised by qualified and trained individuals in accordance with professional standards.

(4) "Dangerous behavior" means behavior that presents an imminent danger of physical harm to self or others but does not include inappropriate behaviors such as disrespect, noncompliance, insubordination, or out of seat behaviors.

(5) "De-escalation" means the use of behavior management techniques intended to:

(a) Mitigate and defuse dangerous behavior of a student; or

(b) Reduce the imminent danger of physical harm to self or others.

(6) "Emancipated youth" means a student under the age of eighteen (18) who is or has been married or has by court order or otherwise been freed from the care, custody, and control of the student's parents.

(7) "Emergency" means a sudden, urgent occurrence, usually unexpected but sometimes anticipated, that requires immediate action.

(8) "Mechanical restraint" means the use of any device or equipment to restrict a student's freedom of movement, but does not include:

(a) A device implemented by trained school personnel or utilized by a student that has been prescribed by an appropriate medical or related services professional that is used for the specific and approved purposes for which the device was designed;

(b) An adaptive device or mechanical support used to achieve proper body position, balance, or alignment to allow greater freedom of mobility than would be possible without the use of the device or mechanical support;

(c) A vehicle safety restraint if used as intended during the transport of a student in a moving vehicle;

(d) Restraint for medical immobilization; or

(e) An orthopedically prescribed device that permits a student to participate in activities without risk of harm.

(9) "Parent" means a natural parent, a guardian, or an individual acting as a parent in the absence of a parent or a guardian of the student.

(10) "Physical Restraint" means a personal restriction that immobilizes or reduces the ability of a student to move the student's torso, arms, legs, or head freely, but does not include:

(a) Temporary touching or holding of the hand, wrist, arm, shoulder, or back for the purpose of encouraging a student to move voluntarily to a safe location;

(b) A behavioral intervention, such as proximity control or verbal soothing, used as a response to calm and comfort an upset student;

(c) Less restrictive physical contact or redirection to promote student safety; or

(d) Physical guidance or prompting when teaching a skill or redirecting the student's attention.

(11) "Positive behavioral supports" means a school-wide systematic approach to embed evidence-based practices and data-driven decision-making to:

(a) Improve school climate and culture in order to achieve improved academic and social outcomes;

(b) Increase learning for all students, including those with the most complex and intensive behavior needs;

(c) Encompass a range of systemic and individualized positive strategies to reinforce desired behaviors;

(d) Diminish reoccurrence of inappropriate or dangerous behaviors; and

(e) Teach appropriate behaviors to students.

(12) "Prone restraint" means the student is restrained in a face down position on the floor or other surface, and physical pressure is applied to the student's body to keep the student in the prone position.

(13) "School personnel" means teachers, principals, administrators, counselors, social workers, psychologists, paraprofessionals, nurses, librarians, school resource officers, sworn law enforcement officers, and other support staff who are employed in a school or who perform services in the school on a contractual basis.

(14) "School resource officer" is defined in KRS 158.441(2).

(15) "Seclusion" means the involuntary confinement of a student alone in a room or area from which the student is prevented from leaving but does not mean classroom timeouts, supervised in-school detentions, or out-of-school suspensions.

(16) "Student" means any person enrolled in a preschool, school level as established in 703 KAR 5:240, Section 5, or other educational program offered by a local public school district.

(17) "Supine restraint" means the student is restrained in a face up position on the student's back on the floor or other surface, and physical pressure is applied to the student's body to keep the student in the supine position.

(18) "Timeout" means a behavior management technique that is part of an approved program, involves the monitored separation of the student in a non-locked setting, and is implemented for the purpose of calming.

Section 2.

(1) Each local school district shall establish policies and procedures that:

(a) Ensure school personnel are aware of and parents are notified how to access the policies and procedures regarding physical restraint and seclusion;

(b) Are designed to ensure the safety of all students, school personnel, and visitors;

(c) Require school personnel to be trained in accordance with the requirements outlined in Section 6 of this administrative regulation;

(d) Outline procedures to be followed during and after each use of physical restraint or seclusion, including notice to parents, documentation of the event in the student information system, and a process for the parent or emancipated youth to request a debriefing session;

(e) Require notification, within twenty four (24) hours, to the Kentucky Department of Education and local law enforcement in the event of death, substantial risk of death, extreme physical pain, protracted and obvious disfigurement or protracted loss or impairment of the function of a bodily member, organ, or mental faculty resulting from the use of physical restraint or seclusion;

(f) Outline a procedure by which parents may submit a complaint regarding the physical restraint or seclusion of their child, which shall require the district and school to investigate the circumstances surrounding the physical restraint or seclusion, make written findings, and if appropriate, take corrective action; and

(g) Outline a procedure to regularly review data on physical restraint and seclusion usage and revise policies as needed.

(2) Each local school district shall revise existing policies or develop policies consistent with this administrative regulation within ninety (90) calendar days of the effective date of this administrative regulation.

Section 3.

(1) Physical restraint shall not be used in a public school or educational program:

(a) As punishment or discipline;

(b) To force compliance or to retaliate;

(c) As a substitute for appropriate educational or behavioral support;

(d) To prevent property damage, except as permitted under KRS Chapter 503;

(e) As a routine school safety measure; or

(f) As a convenience for staff.

(2) School personnel shall not impose the following on any student at any time:

(a) Mechanical restraint;

(b) Chemical restraint;

(c) Aversive behavioral interventions;

(d) Physical restraint that is life-threatening;

(e) Prone or supine restraint; or

(f) Physical restraint if they know that physical restraint is contraindicated based on the student's disability, health care needs, or medical or psychiatric condition.

(3) Physical restraint may only be implemented in a public school or educational program if:

(a) The student's behavior poses an imminent danger of physical harm to self or others and as permitted under KRS 503.050, 503.070, and 503.110;

(b) The physical restraint does not interfere with the student's ability to communicate in the student's primary language or mode of communication, unless the student uses sign language or an augmentative mode of communication as the student's primary mode of communication and the implementer determines that freedom of the student's hands for brief periods during the restraint appears likely to result in physical harm to self or others;

(c) The student's physical and psychological well-being is monitored for the duration of the physical restraint;

(d) Less restrictive behavioral interventions have been ineffective in stopping the imminent danger of physical harm to self or others, except in the case of a clearly unavoidable emergency situation posing imminent danger of physical harm to self or others; and

(e) School personnel implementing the physical restraint are appropriately trained as required by Section 6(3) of this administrative regulation, except to the extent necessary to prevent physical harm to self or others in clearly unavoidable emergency circumstances where other school personnel intervene and summon trained school personnel as soon as possible.

(4) When implementing a physical restraint, school personnel shall use only the amount of force reasonably believed to be necessary to protect the student or others from imminent danger of physical harm.

(5) The use of physical restraint shall end as soon as:

(a) The student's behavior no longer poses an imminent danger of physical harm to self or others; or

(b) A medical condition occurs putting the student at risk of harm.

Section 4.

(1) Seclusion shall not be used in a public school or educational program:

(a) As punishment or discipline;

(b) To force compliance or to retaliate;

(c) As a substitute for appropriate educational or behavioral support;

(d) To prevent property damage in the absence of imminent danger of physical harm to self or others;

(e) As a routine school safety measure;

(f) As a convenience for staff; or

(g) As a substitute for timeout.

(2) Seclusion may only be implemented in a public school or educational program if:

(a) The student's behavior poses an imminent danger of physical harm to self or others;

(b) The student is visually monitored for the duration of the seclusion;

(c) Less restrictive interventions have been ineffective in stopping the imminent danger of physical harm to self or others; and

(d) School personnel implementing the seclusion are appropriately trained to use seclusion.

(3) The use of seclusion shall end as soon as:

(a) The student's behavior no longer poses an imminent danger of physical harm to self or others; or

(b) A medical condition occurs putting the student at risk of harm.

(4) A setting used for seclusion shall:

(a) Be free of objects and fixtures with which a student could inflict physical harm to self or others;

(b) Provide school personnel a view of the student at all times;

(c) Provide adequate lighting and ventilation;

(d) Be reviewed by district administration to ensure programmatic implementation of guidelines and data related to its use;

(e) Have an unlocked and unobstructed door; and

(f) Have at least an annual fire and safety inspection.

Section 5.

(1) All physical restraints and seclusions shall be documented by a written record of each use of seclusion or physical restraint and be maintained in the student's education record. Each record of a use of physical restraint or seclusion shall be informed by an interview with the student and shall include:

(a) The student's name;

(b) A description of the use of physical restraint or seclusion and the student behavior that resulted in the physical restraint or seclusion;

(c) The date of the physical restraint or seclusion and school personnel involved;

(d) The beginning and ending times of the physical restraint or seclusion;

(e) A description of any events leading up to the use of physical restraint or seclusion including possible factors contributing to the dangerous behavior;

(f) A description of the student's behavior during physical restraint or seclusion;

(g) A description of techniques used in physically restraining or secluding the student and any other interactions between the student and school personnel during the use of physical restraint or seclusion;

(h) A description of any behavioral interventions used immediately prior to the implementation of physical restraint or seclusion;

(i) A description of any injuries to students, school personnel, or others;

(j) A description as to how the student's behavior posed an imminent danger of physical harm to self or others;

(k) The date the parent was notified;

(l) A description of the effectiveness of physical restraint or seclusion in de-escalating the situation;

(m) A description of the school personnel response to the dangerous behavior;

(n) A description of the planned positive behavioral interventions which shall be used to reduce the future need for physical restraint or seclusion of the student; and

(o) For any student not identified as eligible for services under either Section 504 of the Rehabilitation Act or the Individuals with Disabilities Education Act, documentation of a referral under either law or documentation of the basis for declining to refer the student.

(2) If the student is not an emancipated youth, the parent of the student shall be notified of the physical restraint and seclusion verbally or through electronic communication, if available to the parent, as soon as possible within twenty-four (24) hours of the incident. If the parent cannot be reached within twenty-four (24) hours, a written communication shall be mailed to the parent via U.S. mail.

(3) The principal of the school shall be notified of the seclusion or physical restraint as soon as possible, but no later than the end of the school day on which it occurred.

(4) The physical restraint or seclusion record as outlined in subsection (1) of this section shall be completed by the end of the next school day following the use of seclusion or physical restraint.

(5) If the parent or emancipated youth requests a debriefing session under Section 2(1)(d) of this administrative regulation, a debriefing session shall be held after the imposition of physical restraint or seclusion upon a student.

(6) The following persons shall participate in the debriefing session:

(a) The implementer of the physical restraint or seclusion;

(b) At least two (2) of any other school personnel who were in the proximity of the student immediately before or during the physical restraint or seclusion;

(c) The parent of an unemancipated student;

(d) The student, if the parent requests or if the student is an emancipated youth; and

(e) Appropriate supervisory and administrative school personnel, which may include appropriate Admissions and Release Committee members, Section 504 team members, or response to intervention team members.

(7) The debriefing session shall occur as soon as practicable, but not later than five (5) school days following the request of the parent or the emancipated youth, unless delayed by written mutual agreement of the parent or emancipated youth and the school.

(8) The debriefing session shall include:

(a) Identification of the events leading up to the seclusion or physical restraint;

(b) Consideration of relevant information in the student's records and information from teachers, parents, other school district professionals, and the student;

(c) Planning for the prevention and reduction of the need for seclusion or physical restraint, with consideration of recommended appropriate positive behavioral supports and interventions to assist school personnel responsible for implementing the student's IEP, or Section 504 plan, or response to intervention plan, if applicable, and consideration of whether positive behavioral supports and interventions were implemented with fidelity; and

(d) For any student not identified as eligible for services under either Section 504 of the Rehabilitation Act or the Individuals with Disabilities Education Act, consideration of a referral under either law and documentation of the referral or documentation of the basis for declining to refer the student.

(9) All documentation utilized in the debriefing session shall become part of the student's education record.

Section 6.

(1)(a) All school personnel shall be trained in state administrative regulations and school district policies and procedures regarding physical restraint and seclusion.

(b) All school personnel shall be trained annually to use an array of positive behavioral supports and interventions to:

1. Increase appropriate student behaviors;

2. Decrease inappropriate or dangerous student behaviors; and

3. Respond to dangerous behavior.

(c) This training may be delivered utilizing web-based applications.

(d) This training shall include:

1. Appropriate procedures for preventing the need for physical restraint and seclusion, including positive behavioral supports and interventions;

2. State administrative regulations and school district policies and procedures regarding physical restraint and seclusion;

3. Proper use of positive reinforcement;

4. The continuum of use for alternative behavioral interventions;

5. Crisis prevention;

6. De-escalation strategies for responding to inappropriate or dangerous behavior, including verbal de-escalation, and relationship building; and

7. Proper use of seclusion as established in Section 4 of this administrative regulation, including instruction on monitoring physical signs of distress and obtaining medical assistance if necessary.

(2) All school personnel shall receive annual written or electronic communication from the district identifying core team members in the school setting who have been trained to implement physical restraint.

(3) A core team of selected school personnel shall be designated to respond to dangerous behavior and to implement physical restraint of students. The core team, except school resource officers and other sworn law enforcement officers, shall receive additional yearly training in the following areas:

(a) Appropriate procedures for preventing the use of physical restraint except as permitted by this administrative regulation;

(b) A description and identification of dangerous behaviors that may indicate the need for physical restraint and methods for evaluating the risk of harm in individual situations, in order to determine whether the use of physical restraint is safe and warranted;

(c) Simulated experience of administering and receiving physical restraint, and instruction regarding the effect on the person physically restrained, including instruction on monitoring physical signs of distress and obtaining medical assistance;

(d) Instruction regarding documentation and notification requirements and investigation of injuries; and

(e) Demonstration by core team members of proficiency in the prevention and use of physical restraint.

Section 7. The following data shall be reported by the district in the student information system related to incidents of physical restraint and seclusion:

(1) Aggregate number of uses of physical restraint;

(2) Aggregate number of students placed in physical restraint;

(3) Aggregate number of uses of seclusion;

(4) Aggregate number of students placed in seclusion;

(5) Aggregate number of instances of substantial risk of death, extreme physical pain, protracted and obvious disfigurement or protracted loss or impairment of the function of a bodily member, organ, or mental faculty to students related to physical restraint and seclusion;

(6) Aggregate number of instances of substantial risk of death, extreme physical pain, protracted and obvious disfigurement or protracted loss or impairment of the function of a bodily member, organ, or mental faculty to school personnel related to physical restraint and seclusion; and

(7) Aggregate number of instances in which a school resource officer or other sworn law enforcement officer is involved in the physical restraint or seclusion of a student. (39 Ky.R. 678; 1207; 1400; eff. 2-1-2013.)

Alternative Placements

STATUTES

158.150. Suspension or expulsion of pupils.

(2) (b)[...] A board that has expelled a student from the student's regular school setting shall provide or assure that educational services are provided to the student in an appropriate alternative program or setting, unless the board has made a determination, on the record, supported by clear and convincing evidence, that the expelled student posed a threat to the safety of other students or school staff and could

not be placed into a state-funded agency program. Behavior which constitutes a threat shall include but not be limited to the physical assault, battery, or abuse of others; the threat of physical force; being under the influence of drugs or alcohol; the use, possession, sale, or transfer of drugs or alcohol; the carrying, possessing, or transfer of weapons or dangerous instruments; and any other behavior which may endanger the safety of others. Other intervention services as indicated for each student may be provided by the board or by agreement with the appropriate state or community agency. A state agency that provides the service shall be responsible for the cost.

ADMINISTRATIVE CODE

704 KAR 19:002. Alternative education programs.

RELATES TO: KRS 156.070, 156.160, 160.380 STATUTORY AUTHORITY: KRS 156.070, 156.160

NECESSITY, FUNCTION, AND CONFORMITY: KRS 156.070 grants the Kentucky Board of Education the authority over the management and control of programs operated in the common schools. KRS 156.160 grants the Kentucky Board of Education the specific authority to promulgate administrative regulations establishing standards which school districts shall meet in program service to students. This administrative regulation establishes minimum requirements for the operation of alternative education programs in school districts.

Section 1. Definitions.

(1) "Alternative education program" is defined by KRS 160.380(1)(a).

(2) “Child with a disability” means a child evaluated in accordance with 707 KAR 1:300, as meeting the criteria listed in the definitions in 707 KAR 1:002 for autism, deaf-blindness, developmental delay, emotional-behavior disability, hearing impairment, mental disability, multiple disabilities, orthopedic impairment, other health impairment, specific learning disability, speech or language impairment, traumatic brain injury, or visual impairment which has an adverse effect on the child’s educational performance and who, as a result, needs special education and related services.

(3) "Individual education program" or "IEP" means a written statement for a child with a disability that is developed, reviewed, and revised in accordance with 707 KAR 1:320.

(4) "Individual learning plan" or "ILP" means a comprehensive framework for advising students in grades six (6) through twelve (12) to engage in coursework and activities that will best prepare them to both realize college and career success and become contributing members of their communities.

(5) "Individual learning plan addendum" or "ILPA" means an action plan that addresses the changed educational needs of a student based upon entry into or exit from an alternative education program that includes, as appropriate, academic and behavioral needs of the student, criteria for the student’s re-entry into the traditional program, and provisions for regular review of the student’s progress throughout the school year while in an alternative education program.

(6) "Involuntary placement" means the placement of a student in an alternative education program by local district school personnel:

(a) 1. To ensure the safety of the individual student, the student body, or staff;

2. To meet the educational needs of the student;

3. To transition the student to a placement as a state agency child pursuant to KRS 158.135 and 505 KAR 1:080; or

4. For disciplinary purposes; and

(b) Not made at the request of the parent or emancipated student.

(7) "Off-site program" means an alternative education program located in a separate and dedicated program facility not located within the student’s assigned school.

(8) "On-site program" means an alternative education program located within the student's assigned school.

(9) "Voluntary placement" means the placement of a student in an alternative education program at the request of the parent or emancipated student and with the agreement of school personnel to better meet the educational needs of the student.

Section 2. General Requirements.

(1)(a) A district shall ensure that each alternative education program:

1. Aligns with college and career readiness outcomes;
2. Is not limited in scope or design; and
3. Includes training to build capacity of staff and administrators to deliver high-quality services and programming that conform with best practices and guide all students to college and career readiness.

(b) A student enrolled in an alternative education program may be eligible to participate in one (1) or more types of programs to address student learning needs that may include an alternative digital learning environment, credit recovery, or an innovative path to graduation.

(2) Each local board of education shall adopt and annually review policies and procedures for the operation of each alternative education program within the district. Locally-adopted policies and procedures shall include the:

(a) Purpose of the program, including the ways the program supports the district's college and career readiness goals for students;

(b) Eligibility criteria, as appropriate;

(c) Process for entering students into the program;

(d) Process for transitioning students out of the program;

(e) Composition of the team to develop the ILPA, which shall include an invitation to the parents to participate and, as appropriate, an invitation to the student to participate; and

(f) Procedures for collaboration with outside agencies involved with involuntary placements, including courts or other social service agencies to address student transitions between programs.

(3) An alternative education program shall be either an on-site program or an off-site program.

(4) Alternative education program curriculum shall be aligned with the Kentucky Core Academic Standards established in 704 KAR 3:303, and the student learning goals in the ILP.

(5) Each alternative education program student shall be subject to the minimum graduation requirements established in 704 KAR 3:305 and any additional local district graduation requirements.

(6) An alternative education program shall be subject to any applicable requirements of 703 KAR 5:225 and Kentucky's Elementary and Secondary Education Act Flexibility Waiver, or its successor.

(7) Each student participating in an alternative education program shall be eligible to access extracurricular activities as allowed by local district and school council policies and by 702 KAR 7:065 or other applicable organization rules.

(8) Each student participating in an alternative education program shall continue to be able to access resources and services already available in the district, including instructional materials, tutoring, intervention, and counseling services, in furtherance of each student's educational program as determined through the development of the ILPA.

Section 3. Placement of Students.

(1)(a) The placement of students by the district in an alternative education program shall be either voluntary or involuntary.

(b) A student entering an alternative education program shall meet the eligibility requirements for the program established by the local board pursuant to Section 2 of this administrative regulation.

(c) The district shall ensure that an ILP, as required by 704 KAR 3:305, exists prior to placement of a student in an alternative education program.

(2)(a) The placement decision for all students with an IEP shall be made through the admissions and release committee (ARC) process pursuant to 707 KAR 1:320.

(b) For a child with a disability, the IEP shall address the changed educational delivery needs of the student based upon entry into or exit from an alternative education program.

(c) The placement decisions for a student who has been identified under 29 U.S.C. §794, Section 504 of the Rehabilitation Act of 1973, as amended, shall be made through a team process consistent with the applicable requirements outlined in 34 C.F.R. Part 104.

Section 4. Costs and Expenditures. Each district shall use the statewide financial management system and chart of accounts to track costs and expenditures associated with each alternative education program operating in the district.

Section 5. Data.

(1) Each district shall utilize the student information system to enter data regarding each student enrolled in an alternative education program.

(2) Data collected shall include demographic, programmatic, or other data fields contained in the student information system or required by the department to track and report student participation, educational programming, achievement, and transition to and from alternative education programs.

Section 6. Personnel. Alternative education program teachers and administrators shall be subject to the teacher certification requirements established in KRS 161.020, and shall comply with the classified and certified assignment restrictions established in KRS 160.380(3). (39 Ky.R. 1082; 1465; 1694; eff. 3-8-12.)

Disciplinary Approaches Addressing Specific Infractions and Conditions

Firearms (as required by the Guns-Free Schools Act)

STATUTES

158.150. Suspension or expulsion of pupils.

(1) All pupils admitted to the common schools shall comply with the lawful regulations for the government of the schools:

(a) Willful disobedience or defiance of the authority of the teachers or administrators, use of profanity or vulgarity, assault or battery or abuse of other students, the threat of force or violence, the use or possession of alcohol or drugs, stealing or destruction or defacing of school property or personal property of students, the carrying or use of weapons or dangerous instruments, or other incorrigible bad conduct on school property, as well as off school property at school-sponsored activities, constitutes cause for suspension or expulsion from school; […]

(2) (a) Each local board of education shall adopt a policy requiring the expulsion from school for a period of not less than one (1) year for a student who is determined by the board to have brought a weapon to a school under its jurisdiction. In determining whether a student has brought a weapon to school, a local board of education shall use the definition of "unlawful possession of a weapon on school property" stated in KRS 527.070.

Other weapons

STATUTES

158.150. Suspension or expulsion of pupils.

(1) All pupils admitted to the common schools shall comply with the lawful regulations for the government of the schools:

(a) Willful disobedience or defiance of the authority of the teachers or administrators, use of profanity or vulgarity, assault or battery or abuse of other students, the threat of force or violence, the use or possession of alcohol or drugs, stealing or destruction or defacing of school property or personal property of students, the carrying or use of weapons or dangerous instruments, or other incorrigible bad conduct on school property, as well as off school property at school-sponsored activities, constitutes cause for suspension or expulsion from school; and

(b) Assault or battery or abuse of school personnel; stealing or willfully or wantonly defacing, destroying, or damaging the personal property of school personnel on school property, off school property, or at school-sponsored activities constitutes cause for suspension or expulsion from school.

(2) (a) Each local board of education shall adopt a policy requiring the expulsion from school for a period of not less than one (1) year for a student who is determined by the board to have brought a weapon to a school under its jurisdiction. In determining whether a student has brought a weapon to school, a local board of education shall use the definition of "unlawful possession of a weapon on school property" stated in KRS 527.070.

Students with chronic disciplinary issues

No relevant statutes found.

Attendance and truancy

STATUTES

159.150. Definitions of truant and habitual truant -- Attendance record requirements -- Adoption of truancy policies by local school boards.

(1) Any student who has attained the age of six (6) years, but has not reached his or her eighteenth birthday, who has been absent from school without valid excuse for three (3) or more days, or tardy without valid excuse on three (3) or more days, is a truant.

(2) Any student enrolled in a public school who has attained the age of eighteen (18) years, but has not reached his or her twenty-first birthday, who has been absent from school without valid excuse for three (3) or more days, or tardy without valid excuse on three (3) or more days, is a truant.

(3) Any student who has been reported as a truant two (2) or more times is an habitual truant.

(4) For the purposes of establishing a student's status as a truant, the student's attendance record is cumulative for an entire school year. If a student transfers from one (1) Kentucky public school to another during a school year, the receiving school shall incorporate the attendance information provided under KRS 159.170 in the student's official attendance record.

(5) A local board of education may adopt reasonable policies that:

(a) Require students to comply with compulsory attendance laws;

(b) Require truants and habitual truants to make up unexcused absences; and

(c) Impose sanctions for noncompliance.

Substance use

STATUTES

158.150. Suspension or expulsion of pupils.

(1) All pupils admitted to the common schools shall comply with the lawful regulations for the government of the schools:

(a) Willful disobedience or defiance of the authority of the teachers or administrators, use of profanity or vulgarity, assault or battery or abuse of other students, the threat of force or violence, the use or possession of alcohol or drugs, stealing or destruction or defacing of school property or personal property of students, the carrying or use of weapons or dangerous instruments, or other incorrigible bad conduct on school property, as well as off school property at school-sponsored activities, constitutes cause for suspension or expulsion from school…

(2) […] (b) The board shall also adopt a policy requiring disciplinary actions, up to and including expulsion from school, for a student who is determined by the board to have possessed prescription drugs or controlled substances for the purpose of sale or distribution at a school under the board's jurisdiction, or to have physically assaulted or battered or abused educational personnel or other students at a school or school function under the board's jurisdiction. The board may modify the expulsion requirement for students on a case-by-case basis…

158.154. Principal's duty to report certain acts to local law enforcement agency.

When the principal has a reasonable belief that an act has occurred on school property or at a school-sponsored function involving assault resulting in serious physical injury, a sexual offense, kidnapping, assault involving the use of a weapon, possession of a firearm in violation of the law, possession of a controlled substance in violation of the law, or damage to the property, the principal shall immediately report the act to the appropriate local law enforcement agency. For purposes of this section, "school property" means any public school building, bus, public school campus, grounds, recreational area, or athletic field, in the charge of the principal.

Bullying, harassment, or hazing

STATUTES

158.156. Reporting of commission of felony KRS Chapter 508 offense against a student -- Investigation -- Immunity from liability for reporting -- Privileges no bar to reporting.

(1) Any employee of a school or a local board of education who knows or has reasonable cause to believe that a school student has been the victim of a violation of any felony offense specified in KRS Chapter 508 committed by another student while on school premises, on school-sponsored transportation, or at a school-sponsored event shall immediately cause an oral or written report to be made to the principal of the school attended by the victim. The principal shall notify the parents, legal guardians, or other persons exercising custodial control or supervision of the student when the student is involved in an incident reportable under this section. The principal shall file with the local school board and the local law enforcement agency or the Department of Kentucky State Police or the county attorney within forty-eight (48) hours of the original report a written report containing:

(a) The names and addresses of the student and his or her parents, legal guardians, or other persons exercising custodial control or supervision;

(b) The student's age;

(c) The nature and extent of the violation;

(d) The name and address of the student allegedly responsible for the violation; and

(e) Any other information that the principal making the report believes may be helpful in the furtherance of the purpose of this section.

(2) An agency receiving a report under subsection (1) of this section shall investigate the matter referred to it. The school board and school personnel shall participate in the investigation at the request of the agency.

(3) Anyone acting upon reasonable cause in the making of a report required under this section in good faith shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed. Any such participant shall have the same immunity with respect to participation in any judicial proceeding resulting from such report or action.

(4) Neither the husband-wife nor any professional-client/patient privilege, except the attorney-client and clergy-penitent privilege, shall be a ground for refusing to report under this section or for excluding evidence regarding student harassment in any judicial proceedings resulting from a report pursuant to this section. This subsection shall also apply in any criminal proceeding in District or Circuit Court regarding student harassment.

(Per personal communication with Kentucky DOE personnel, KRS 158.156, is Kentucky's Bullying Law. This law only covers behavior incidents that rise to the level of felony KRS Chapter 508 offenses, but it is the basis for dealing with all bullying in the state. Other bullying related laws are KRS 525.070

(harassment) and KRS 525.080 (harassing communications), listed under CHAPTER 525 RIOT, DISORDERLY CONDUCT, AND RELATED OFFENSES)

158.183. Prohibited acts by students -- Rights of student -- Administrative remedies.

(1) A student shall have the right to carry out an activity described in any of paragraphs (a) to (d) of subsection (2) of this section, if the student does not:

(b) Harass other persons or coerce other persons to participate in the activity; or

(c) Otherwise infringe on the rights of other persons.

525.070. Harassment.

(1) A person is guilty of harassment when, with intent to intimidate, harass, annoy, or alarm another person, he or she:

(a) Strikes, shoves, kicks, or otherwise subjects him to physical contact;

(b) Attempts or threatens to strike, shove, kick, or otherwise subject the person to physical contact;

(c) In a public place, makes an offensively coarse utterance, gesture, or display, or addresses abusive language to any person present;

(d) Follows a person in or about a public place or places;

(e) Engages in a course of conduct or repeatedly commits acts which alarm or seriously annoy such other person and which serve no legitimate purpose; or

(f) Being enrolled as a student in a local school district, and while on school premises, on school-sponsored transportation, or at a school-sponsored event:

1. Damages or commits a theft of the property of another student;

2. Substantially disrupts the operation of the school; or

3. Creates a hostile environment by means of any gestures, written communications, oral statements, or physical acts that a reasonable person under the circumstances should know would cause another student to suffer fear of physical harm, intimidation, humiliation, or embarrassment.

(2) (a) Except as provided in paragraph (b) of this subsection, harassment is a violation.

(b) Harassment, as defined in paragraph (a) of subsection (1) of this section, is a Class B misdemeanor.

525.080. Harassing communications.

(1) A person is guilty of harassing communications when, with intent to intimidate, harass, annoy, or alarm another person, he or she:

(a) Communicates with a person, anonymously or otherwise, by telephone, telegraph, mail, or any other form of written communication in a manner which causes annoyance or alarm and serves no purpose of legitimate communication;

(b) Makes a telephone call, whether or not conversation ensues, with no purpose of legitimate communication; or

(c) Communicates, while enrolled as a student in a local school district, with or about another school student, anonymously or otherwise, by telephone, the Internet, telegraph, mail, or any other form of electronic or written communication in a manner which a reasonable person under the circumstances should know would cause the other student to suffer fear of physical harm, intimidation, humiliation, or embarrassment and which serves no purpose of legitimate communication.

(2) Harassing communications is a Class B misdemeanor.

Other special infractions or conditions

STATUTES

158.165. Possession and use of personal telecommunications device by public school student.

(1) The board of education of each school district shall develop a policy regarding the possession and use of a personal telecommunications device by a student while on school property or while attending a school-sponsored or school-related activity on or off school property, and shall include the policy in the district's written standards of student conduct. A student who violates the policy shall be subject to discipline as provided by board policy.

(2) In this section, "personal telecommunications device" means a device that emits an audible signal, vibrates, displays a message, or otherwise summons or delivers a communication to the possessor, including, but not limited to, a paging device and a cellular telephone.

158.183. Prohibited acts by students -- Rights of student -- Administrative remedies.

(1) A student shall have the right to carry out an activity described in any of paragraphs (a) to (d) of subsection (2) of this section, if the student does not:

(a) Infringe on the rights of the school to:

1. Maintain order and discipline;
2. Prevent disruption of the educational process; and
3. Determine educational curriculum and assignments;

(b) Harass other persons or coerce other persons to participate in the activity; or

(c) Otherwise infringe on the rights of other persons.

(2) Subject to the provisions of subsection (1) of this section, a student shall be permitted to voluntarily:

(a) Pray in a public school, vocally or silently, alone or with other students to the same extent and under the same circumstances as a student is permitted to vocally or silently reflect, meditate, or speak on nonreligious matters alone or with other students in the public school;

(b) Express religious viewpoints in a public school to the same extent and under the same circumstances as a student is permitted to express viewpoints on nonreligious topics or subjects in the school;

(c) Speak to and attempt to discuss religious viewpoints with other students in a public school to the same extent and under the same circumstances as a student is permitted to speak to and attempt to share nonreligious viewpoints with other students. However, any student may demand that this speech or these attempts to share religious viewpoints not be directed at him or her;

(d) Distribute religious literature in a public school, subject to reasonable time, place, and manner restrictions to the same extent and under the same circumstances as a student is permitted to distribute literature on nonreligious topics or subjects in the school; and

(e) Be absent, in accordance with attendance policy, from a public school to observe religious holidays and participate in other religious practices to the same extent and under the same circumstances as a student is permitted to be absent from a public school for nonreligious purposes.

(3) No action may be maintained under KRS 158.181 to 158.187 unless the student has exhausted the following administrative remedies;

(a) The student or the student's parent or guardian shall state his or her complaint to the school's principal. The principal shall investigate and take appropriate action to ensure the rights of the student are resolved within seven (7) days of the date of the complaint;

(b) If the concerns are not resolved, then the student or the student's parent or guardian shall make a complaint in writing to the superintendent with the specific facts of the alleged violation;

(c) The superintendent shall investigate and take appropriate action to ensure that the rights of the student are resolved within thirty (30) days of the date of the written complaint; and

(d) Only after the superintendent's investigation and action may a student or the student's parent or legal guardian pursue any other legal action.

Prevention and Behavioral Interventions (Non-Punitive)

Prevention

STATUTES

158.441. Definitions for chapter.

As used in this chapter, unless the context requires otherwise:

(1) "Intervention services" means any preventive, developmental, corrective, supportive services or treatment provided to a student who is at risk of school failure, is at risk of participation in violent behavior or juvenile crime, or has been expelled from the school district. Services may include, but are not limited to, screening to identify students at risk for emotional disabilities and antisocial behavior; direct instruction in academic, social, problem solving, and conflict resolution skills; alternative educational programs; psychological services; identification and assessment of abilities; counseling services; medical services; day treatment; family services; work and community service programs.

158.442. Center for School Safety -- Duties -- Members of board.

(1) The General Assembly hereby authorizes the establishment of the Center for School Safety. The center's mission shall be to serve as the central point for data analysis; research; dissemination of information about successful school safety programs, research results, and new programs; and, in collaboration with the Department of Education and others, to provide technical assistance for safe schools.

(2) To fulfill its mission, the Center for School Safety shall:

(a) Establish a clearinghouse for information and materials concerning school violence prevention;

(b) Provide program development and implementation expertise and technical support to schools, law enforcement agencies, and communities, which may include coordinating training for administrators, teachers, students, parents, and other community representatives;

(c) Analyze the data collected in compliance with KRS 158.444;

(d) Research and evaluate school safety programs so schools and communities are better able to address their specific needs;

(e) Administer a school safety grant program for local districts as directed by the General Assembly;

(f) Promote the formation of interagency efforts to address discipline and safety issues within communities throughout the state in collaboration with other postsecondary education institutions and with local juvenile delinquency prevention councils;

(g) Prepare and disseminate information regarding best practices in creating safe and effective schools;

(h) Advise the Kentucky Board of Education on administrative policies and administrative regulations; and

(i) Provide an annual report by July 1 of each year to the Governor, the Kentucky Board of Education, and the Interim Joint Committee on Education regarding the status of school safety in Kentucky.

(3) The Center for School Safety shall be governed by a board of directors appointed by the Governor. Members shall consist of:

(a) The commissioner or a designee of the Department of Education;

(b) The commissioner or a designee of the Department of Juvenile Justice;

(c) The commissioner or a designee of the Department for Behavioral Health, Developmental and Intellectual Disabilities;

(d) The commissioner or a designee of the Department for Community Based Services;

(e) The secretary or a designee of the Education and Workforce Development Cabinet;

(f) A juvenile court judge;

(g) A local school district board of education member;

(h) A local school administrator;

(i) A school council parent representative;

(j) A teacher;

(k) A classified school employee; and

(l) A superintendent of schools who is a member of the Kentucky Association of School Administrators.

In appointing the board of education member, the school administrator, the school superintendent, the school council parent member, the teacher, and the classified employee, the Governor shall solicit recommendations from the following groups respectively: the Kentucky School Boards Association, the Kentucky Association of School Administrators, the Kentucky Association of School Councils, the Kentucky Education Association, and the Kentucky Education Support Personnel Association. The initial board shall be appointed by July 15, 1998. The board shall hold its first meeting no later than thirty (30) days after the appointment of the members.

ADMINISTRATIVE CODE

704 KAR 7:160. Use of physical restraint and seclusion in public schools.

Section 6. (1)(a) All school personnel shall be trained in state administrative regulations and school district policies and procedures regarding physical restraint and seclusion.

(b) All school personnel shall be trained annually to use an array of positive behavioral supports and interventions to:

1. Increase appropriate student behaviors;

2. Decrease inappropriate or dangerous student behaviors; and

3. Respond to dangerous behavior.

(c) This training may be delivered utilizing web-based applications.

(d) This training shall include:

1. Appropriate procedures for preventing the need for physical restraint and seclusion, including positive behavioral supports and interventions;

2. State administrative regulations and school district policies and procedures regarding physical restraint and seclusion;

3. Proper use of positive reinforcement;

4. The continuum of use for alternative behavioral interventions;

5. Crisis prevention;

6. De-escalation strategies for responding to inappropriate or dangerous behavior, including verbal de-escalation, and relationship building; and

7. Proper use of seclusion as established in Section 4 of this administrative regulation, including instruction on monitoring physical signs of distress and obtaining medical assistance if necessary. […]

Behavioral interventions and student support services

STATUTES

158.440. Legislative findings on school safety and order.

The General Assembly finds that:

(1) Every student should have access to a safe, secure, and orderly school that is conducive to learning;

(2) All schools and school districts must have plans, policies, and procedures dealing with measures for assisting students who are at risk of academic failure or of engaging in disruptive and disorderly behavior; and

(3) State and local resources are needed to enlarge the capacities for research, effective programming, and program evaluation that lead to success in addressing safety and discipline within the schools.

158.441. Definitions for chapter.

As used in this chapter, unless the context requires otherwise:

(1) "Intervention services" means any preventive, developmental, corrective, supportive services or treatment provided to a student who is at risk of school failure, is at risk of participation in violent behavior or juvenile crime, or has been expelled from the school district. Services may include, but are not limited to, screening to identify students at risk for emotional disabilities and antisocial behavior; direct instruction in academic, social, problem solving, and conflict resolution skills; alternative educational programs; psychological services; identification and assessment of abilities; counseling services; medical services; day treatment; family services; work and community service programs.

ADMINISTRATIVE CODE

704 KAR 7:160. Use of physical restraint and seclusion in public schools.

Section 1. Definitions.

(1) "Aversive behavioral interventions" means a physical or sensory intervention program intended to modify behavior that the implementer knows would cause physical trauma, emotional trauma, or both, to a student even when the substance or stimulus appears to be pleasant or neutral to others and may include hitting, pinching, slapping, water spray, noxious fumes, extreme physical exercise, loud auditory stimuli, withholding of meals, or denial of reasonable access to toileting facilities.

(2) "Behavioral intervention" means the implementation of strategies to address behavior that is dangerous or inappropriate, or otherwise impedes the learning of the students.

(11) "Positive behavioral supports" means a school-wide systematic approach to embed evidence-based practices and data-driven decision-making to:

(a) Improve school climate and culture in order to achieve improved academic and social outcomes;

(b) Increase learning for all students, including those with the most complex and intensive behavior needs;

(c) Encompass a range of systemic and individualized positive strategies to reinforce desired behaviors;

(d) Diminish reoccurrence of inappropriate or dangerous behaviors; and

(e) Teach appropriate behaviors to students.

Professional development

ADMINISTRATIVE CODE

704 KAR 7:160. Use of physical restraint and seclusion in public schools.

Section 6. (1)(a) All school personnel shall be trained in state administrative regulations and school district policies and procedures regarding physical restraint and seclusion.

(b) All school personnel shall be trained annually to use an array of positive behavioral supports and interventions to:

1. Increase appropriate student behaviors;
2. Decrease inappropriate or dangerous student behaviors; and
3. Respond to dangerous behavior.

(c) This training may be delivered utilizing web-based applications.

(d) This training shall include:

1. Appropriate procedures for preventing the need for physical restraint and seclusion, including positive behavioral supports and interventions;
2. State administrative regulations and school district policies and procedures regarding physical restraint and seclusion;
3. Proper use of positive reinforcement;
4. The continuum of use for alternative behavioral interventions;
5. Crisis prevention;
6. De-escalation strategies for responding to inappropriate or dangerous behavior, including verbal de-escalation, and relationship building; and
7. Proper use of seclusion as established in Section 4 of this administrative regulation, including instruction on monitoring physical signs of distress and obtaining medical assistance if necessary.

(2) All school personnel shall receive annual written or electronic communication from the district identifying core team members in the school setting who have been trained to implement physical restraint.

(3) A core team of selected school personnel shall be designated to respond to dangerous behavior and to implement physical restraint of students. The core team, except school resource officers and other sworn law enforcement officers, shall receive additional yearly training in the following areas:

(a) Appropriate procedures for preventing the use of physical restraint except as permitted by this administrative regulation;

(b) A description and identification of dangerous behaviors that may indicate the need for physical restraint and methods for evaluating the risk of harm in individual situations, in order to determine whether the use of physical restraint is safe and warranted;

(c) Simulated experience of administering and receiving physical restraint, and instruction regarding the effect on the person physically restrained, including instruction on monitoring physical signs of distress and obtaining medical assistance;

(d) Instruction regarding documentation and notification requirements and investigation of injuries; and

(e) Demonstration by core team members of proficiency in the prevention and use of physical restraint.

Monitoring and Accountability

Formal incident reporting of conduct violations

STATUTES

158.150. Suspension or expulsion of pupils.

(6) The superintendent, principal, assistant principal, or head teacher of any school may suspend a pupil but shall report the action in writing immediately to the superintendent and to the parent, guardian, or other person having legal custody or control of the pupil. The board of education of any school district may expel any pupil for misconduct as defined in subsection (1) of this section, but the action shall not be taken until the parent, guardian, or other person having legal custody or control of the pupil has had an opportunity to have a hearing before the board. The decision of the board shall be final.

ADMINISTRATIVE CODE

704 KAR 7:160. Use of physical restraint and seclusion in public schools.

Section 5.

(1) All physical restraints and seclusions shall be documented by a written record of each use of seclusion or physical restraint and be maintained in the student's education record. Each record of a use of physical restraint or seclusion shall be informed by an interview with the student and shall include:

(a) The student's name;

(b) A description of the use of physical restraint or seclusion and the student behavior that resulted in the physical restraint or seclusion;

(c) The date of the physical restraint or seclusion and school personnel involved;

(d) The beginning and ending times of the physical restraint or seclusion;

(e) A description of any events leading up to the use of physical restraint or seclusion including possible factors contributing to the dangerous behavior;

(f) A description of the student's behavior during physical restraint or seclusion;

(g) A description of techniques used in physically restraining or secluding the student and any other interactions between the student and school personnel during the use of physical restraint or seclusion;

(h) A description of any behavioral interventions used immediately prior to the implementation of physical restraint or seclusion;

(i) A description of any injuries to students, school personnel, or others;

(j) A description as to how the student's behavior posed an imminent danger of physical harm to self or others;

(k) The date the parent was notified;

(l) A description of the effectiveness of physical restraint or seclusion in de-escalating the situation;

(m) A description of the school personnel response to the dangerous behavior;

(n) A description of the planned positive behavioral interventions which shall be used to reduce the future need for physical restraint or seclusion of the student; and

(o) For any student not identified as eligible for services under either Section 504 of the Rehabilitation Act or the Individuals with Disabilities Education Act, documentation of a referral under either law or documentation of the basis for declining to refer the student.

(3) The principal of the school shall be notified of the seclusion or physical restraint as soon as possible, but no later than the end of the school day on which it occurred.

(4) The physical restraint or seclusion record as outlined in subsection (1) of this section shall be completed by the end of the next school day following the use of seclusion or physical restraint.

(5) If the parent or emancipated youth requests a debriefing session under Section 2(1)(d) of this administrative regulation, a debriefing session shall be held after the imposition of physical restraint or seclusion upon a student.

Parental notification

STATUTES

158.150. Suspension or expulsion of pupils.

(6) The superintendent, principal, assistant principal, or head teacher of any school may suspend a pupil but shall report the action in writing immediately to the superintendent and to the parent, guardian, or other person having legal custody or control of the pupil. The board of education of any school district may expel any pupil for misconduct as defined in subsection (1) of this section, but the action shall not be taken until the parent, guardian, or other person having legal custody or control of the pupil has had an opportunity to have a hearing before the board. The decision of the board shall be final.

159.180. Parents responsible for children's violations.

Every parent, guardian, or custodian of a child residing in any school district in this state is legally responsible for any violation of KRS 159.010 to 159.170 by the child. Before any proceedings are instituted against the parent, guardian, or custodian for violation of KRS 159.010 to 159.170, a written notice of the violation shall be served on the person by the director of pupil personnel, and one (1) day shall be given for the termination of the violation. After such notice, if the violation is continued or if the provisions of KRS 159.010 to 159.170 are again violated during the school term by the child, no further notice shall be necessary and the parent or guardian shall be punishable as provided in KRS 159.990. A notice by certified mail, return receipt requested, or by personal service by the director of pupil personnel shall be a legal notice.

ADMINISTRATIVE CODE

704 KAR 7:160. Use of physical restraint and seclusion in public schools.

Section 5.

(2) If the student is not an emancipated youth, the parent of the student shall be notified of the physical restraint and seclusion verbally or through electronic communication, if available to the parent, as soon as possible within twenty-four (24) hours of the incident. If the parent cannot be reached within twenty-four (24) hours, a written communication shall be mailed to the parent via U.S. mail.

(3) The principal of the school shall be notified of the seclusion or physical restraint as soon as possible, but no later than the end of the school day on which it occurred.

(4) The physical restraint or seclusion record as outlined in subsection (1) of this section shall be completed by the end of the next school day following the use of seclusion or physical restraint.

(5) If the parent or emancipated youth requests a debriefing session under Section 2(1)(d) of this administrative regulation, a debriefing session shall be held after the imposition of physical restraint or seclusion upon a student.

Reporting and referrals between schools and law enforcement

STATUTES

158.154. Principal's duty to report certain acts to local law enforcement agency.

When the principal has a reasonable belief that an act has occurred on school property or at a school-sponsored function involving assault resulting in serious physical injury, a sexual offense, kidnapping, assault involving the use of a weapon, possession of a firearm in violation of the law, possession of a controlled substance in violation of the law, or damage to the property, the principal shall immediately report the act to the appropriate local law enforcement agency. For purposes of this section, "school property" means any public school building, bus, public school campus, grounds, recreational area, or athletic field, in the charge of the principal.

158.155. Reporting of specified incidents of student conduct -- Notation on school records -- Report to law enforcement of certain student conduct -- Immunity.

(4) A person who is an administrator, teacher, or other employee of a public or private school shall promptly make a report to the local police department, sheriff, or the Department of Kentucky State Police, by telephone or otherwise, if:

(a) The person knows or has reasonable cause to believe that conduct has occurred which constitutes:

1. A misdemeanor or violation offense under the laws of this Commonwealth and relates to:

a. Carrying, possession, or use of a deadly weapon; or

b. Use, possession, or sale of controlled substances; or

2. Any felony offense under the laws of this Commonwealth; and

(b) The conduct occurred on the school premises or within one thousand (1,000) feet of school premises, on a school bus, or at a school-sponsored or sanctioned event.

ADMINISTRATIVE CODE

704 KAR 7:160. Use of physical restraint and seclusion in public schools.

Section 2. (1) Each local school district shall establish policies and procedures that:

(e) Require notification, within twenty four (24) hours, to the Kentucky Department of Education and local law enforcement in the event of death, substantial risk of death, extreme physical pain, protracted and obvious disfigurement or protracted loss or impairment of the function of a bodily member, organ, or mental faculty resulting from the use of physical restraint or seclusion;

Disclosure of school records

STATUTES

158.155 Reporting of specified incidents of student conduct -- Notation on school records -- Report to law enforcement of certain student conduct -- Immunity.

(1) If a student has been adjudicated guilty of an offense specified in this subsection or has been expelled from school for an offense specified in this subsection, prior to a student's admission to any school, the parent, guardian, principal, or other person or agency responsible for a student shall provide to the school a sworn statement or affirmation indicating on a form provided by the Kentucky Board of Education that the student has been adjudicated guilty or expelled from school attendance at a public or private school in this state or another state for homicide, assault, or an offense in violation of state law or school

regulations relating to weapons, alcohol, or drugs. The sworn statement or affirmation shall be sent to the receiving school within five (5) working days of the time when the student requests enrollment in the new school.

(2) If any student who has been expelled from attendance at a public or private school in this state for homicide, assault, or an offense in violation of state law or school regulations relating to weapons, alcohol, or drugs requests transfer of his records, those records shall reflect the charges and final disposition of the expulsion proceedings.

(3) If any student who is subject to an expulsion proceeding at a public or private school in this state for homicide, assault, or an offense in violation of state law or school regulations relating to weapons, alcohol, or drugs requests transfer of his records to a new school, the records shall not be transferred until that proceeding has been terminated and shall reflect the charges and any final disposition of the expulsion proceedings.

(4) A person who is an administrator, teacher, or other employee of a public or private school shall promptly make a report to the local police department, sheriff, or the Department of Kentucky State Police, by telephone or otherwise, if:

(a) The person knows or has reasonable cause to believe that conduct has occurred which constitutes:

1. A misdemeanor or violation offense under the laws of this Commonwealth and relates to:

a. Carrying, possession, or use of a deadly weapon; or

b. Use, possession, or sale of controlled substances; or

2. Any felony offense under the laws of this Commonwealth; and

(b) The conduct occurred on the school premises or within one thousand (1,000) feet of school premises, on a school bus, or at a school-sponsored or sanctioned event.

(5) A person who is an administrator, teacher, supervisor, or other employee of a public or private school who receives information from a student or other person of conduct which is required to be reported under subsection (1) of this section shall report the conduct in the same manner as required by that subsection.

(6) Neither the husband-wife privilege of KRE 504 nor any professional-client privilege, including those set forth in KRE 506 and 507, shall be a ground for refusing to make a report required under this section or for excluding evidence in a judicial proceeding of the making of a report and of the conduct giving rise to the making of a report. However, the attorney-client privilege of KRE 503 and the religious privilege of KRE 505 are grounds for refusing to make a report or for excluding evidence as to the report and the underlying conduct.

(7) Nothing in this section shall be construed as to require self-incrimination.

(8) A person acting upon reasonable cause in the making of a report under this section in good faith shall be immune from any civil or criminal liability that might otherwise be incurred or imposed from:

(a) Making the report; and

(b) Participating in any judicial proceeding that resulted from the report.

Data collection, review, and reporting of disciplinary policies and actions

STATUTES

158.148. Student discipline guidelines and model policy -- Local code of acceptable behavior and discipline -- Required contents of code.

(2) The department shall obtain statewide data on major discipline problems and reasons why students drop out of school. In addition, the department, in collaboration with the Center for School Safety, shall identify successful strategies currently being used in programs in Kentucky and in other states and shall incorporate those strategies into the statewide guidelines and the recommendations under subsection (1) of this section.

158.444. Administrative regulations relating to school safety -- Role of Department of Education to maintain statewide data collection system -- Reportable incidents -- Annual statistical reports -- Confidentiality.

(2) The Kentucky Department of Education shall:

(a) Collaborate with the Center for School Safety in carrying out the center's mission;

(b) Establish and maintain a statewide data collection system by which school districts shall report by sex, race, and grade level:

1. a. All incidents of violence and assault against school employees and students;

b. All incidents of possession of guns or other deadly weapons on school property or at school functions;

c. All incidents of the possession or use of alcohol, prescription drugs, or controlled substances on school property or at school functions; and

d. All incidents in which a student has been disciplined by the school for a serious incident, including the nature of the discipline, or charged criminally for conduct constituting a violation of any offense specified in: KRS Chapter 508; KRS 525.070 occurring on school premises, on school-sponsored transportation, or at school functions; or KRS 525.080;

2. The number of arrests, the charges, and whether civil damages were pursued by the injured party;

3. The number of suspensions, expulsions, and corporal punishments; and

4. Data required during the assessment process under KRS 158.445; and

(c) Provide all data collected relating to this subsection to the Center for School Safety according to timelines established by the center.

(3) The Department of Education shall provide the Office of Education Accountability and the Education Assessment and Accountability Review Subcommittee with an annual statistical report of the number and types of incidents reported under subsection (2)(b) of this section. The report shall include all monthly data and cumulative data for each reporting year. Reportable incidents shall be grouped in the report in the same manner that the reportable incidents are grouped in subsection (2)(b)1. of this section. Data in the report shall be sorted by individual school district, then by individual schools within that district, and then by individual grades within each school. The report shall not contain information personally identifying any student. The reporting period shall be for an academic year, and shall be delivered no later than August 31 of each year.

158.445. Local assessment of school safety and school discipline -- District assessment -- Local plans.

(1) Each local school shall begin an assessment of school safety and student discipline during the 1998-1999 school year including a review of the following:

(a) Reports of school incidents relating to disruptive behaviors;

(b) The school's behavior and discipline codes for clarity and appropriate notice to students and parents;

(c) The school's hierarchy of responses to discipline problems and actual disciplinary outcomes;

(d) Training needs for instructional staff in classroom management, student learning styles, and other specialized training to enhance teachers' capacity to engage students and minimize disruptive behavior;

(e) The array of school services to students at risk of academic failure, dropping out, or truancy;

(f) The engagement of parents at the earliest stages of problem behavior;

(g) Training needs for students in the development of core values and qualities of good character, anger reduction, conflict resolution, peer mediation, and other necessary skills;

(h) Training needs of parents;

(i) Existing school council policies relating to student discipline and student information;

(j) The school's physical environment;

(k) The school's student supervision plan;

(l) Existing components of the school improvement plan or consolidated plan that focus on school safety and at-risk students, and the effectiveness of the components; and

(m) Other data deemed relevant by the school council or school administration.

A school that does not complete an assessment process shall not be eligible for funds under the state school safety grant program in 1999-2000 and subsequent years.

(2) By May 15, 1999, each local school district shall complete a district-level assessment of district-level data, resources, policies and procedures, and district-wide needs as identified from the individual school assessment process. The district shall engage local community agencies including law enforcement and the courts in the assessment process.

(3) As a result of the district assessment and analysis of data, resources, and needs, each board of education shall adopt a plan for immediate and long-term strategies to address school safety and discipline. The development of the plan shall involve at least one (1) representative from each school in the district as well as representatives from the community as a whole, including representatives from the local juvenile delinquency prevention council if a council exists in that community.

The process of planning shall be determined locally depending to a large extent on the size and characteristics of the district.

(4) The district plan under subsection (3) of this section shall be the basis for any request for funds under the state school safety grant program for 1999-2000 and subsequent years. The district plan shall include the local code of acceptable behavior and discipline as required under KRS 158.148 and a description of instructional placement options for threatening or violent students.

ADMINISTRATIVE CODE

704 KAR 19:002. Alternative education programs.

Section 2. General Requirements.

(2) Each local board of education shall adopt and annually review policies and procedures for the operation of each alternative education program within the district. Locally-adopted policies and procedures shall include the:

(a) Purpose of the program, including the ways the program supports the district's college and career readiness goals for students;

(b) Eligibility criteria, as appropriate;

(c) Process for entering students into the program;

(d) Process for transitioning students out of the program;

(e) Composition of the team to develop the ILPA, which shall include an invitation to the parents to participate and, as appropriate, an invitation to the student to participate; and

(f) Procedures for collaboration with outside agencies involved with involuntary placements, including courts or other social service agencies to address student transitions between programs.

704 KAR 7:160. Use of physical restraint and seclusion in public schools.

Section 2.

(1) Each local school district shall establish policies and procedures that:

(2) Each local school district shall revise existing policies or develop policies consistent with this administrative regulation within ninety (90) calendar days of the effective date of this administrative regulation.

Section 7. The following data shall be reported by the district in the student information system related to incidents of physical restraint and seclusion:

(1) Aggregate number of uses of physical restraint;

(2) Aggregate number of students placed in physical restraint;

(3) Aggregate number of uses of seclusion;

(4) Aggregate number of students placed in seclusion;

(5) Aggregate number of instances of substantial risk of death, extreme physical pain, protracted and obvious disfigurement or protracted loss or impairment of the function of a bodily member, organ, or mental faculty to students related to physical restraint and seclusion;

(6) Aggregate number of instances of substantial risk of death, extreme physical pain, protracted and obvious disfigurement or protracted loss or impairment of the function of a bodily member, organ, or mental faculty to school personnel related to physical restraint and seclusion; and

(7) Aggregate number of instances in which a school resource officer or other sworn law enforcement officer is involved in the physical restraint or seclusion of a student. (39 Ky.R. 678; 1207; 1400; eff. 2-1-2013.)

School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers

Authority and power to implement school arrest

STATUTES

158.441. Definitions for chapter.

As used in this chapter, unless the context requires otherwise:

(2) "School resource officer" means a sworn law enforcement officer who has specialized training to work with youth at a school site. The school resource officer shall be employed through a contract between a local law enforcement agency and a school district.

Certification or training

No relevant statutes found.

MOUs, authorization and/or funding

No relevant statutes found.

State Education Agency Support

State model policies and implementation support

STATUTES

158.148. Student discipline guidelines and model policy -- Local code of acceptable behavior and discipline -- Required contents of code.

(1) In cooperation with the Kentucky Education Association, the Kentucky School Boards Association, the Kentucky Association of School Administrators, the Parent-Teachers Association, the Kentucky Chamber of Commerce, the Farm Bureau, members of the Interim Joint Committee on Education, and other interested groups, and in collaboration with the Center for School Safety, the Department of Education shall develop or update as needed and distribute to all districts by August 31 of each even-numbered year, beginning August 31, 2008:

(c) A model policy to implement the provisions of this section and KRS 158.156, 158.444, 525.070, and 525.080.

Funding appropriations

STATUTES

158.445. Local assessment of school safety and school discipline -- District assessment -- Local plans.

(3) As a result of the district assessment and analysis of data, resources, and needs, each board of education shall adopt a plan for immediate and long-term strategies to address school safety and discipline. The development of the plan shall involve at least one (1) representative from each school in the district as well as representatives from the community as a whole, including representatives from the local juvenile delinquency prevention council if a council exists in that community.

The process of planning shall be determined locally depending to a large extent on the size and characteristics of the district.

(4) The district plan under subsection (3) of this section shall be the basis for any request for funds under the state school safety grant program for 1999-2000 and subsequent years. The district plan shall include the local code of acceptable behavior and discipline as required under KRS 158.148 and a description of instructional placement options for threatening or violent students.

158.446. Use of appropriated funds.

Of the funds appropriated to support the school safety fund program in the biennial budget, twenty percent (20%) of the funds in 1998-99, and ten percent (10%) in 1999-2000, shall be used for the operation of the Center for School Safety and grants to be distributed by the Center to support exemplary programs in local school districts. The remainder of the appropriation shall be distributed to local school districts on a per pupil basis. The funds shall be used for the purpose of improving school safety and student discipline through alternative education programs and intervention services in compliance with KRS 158.148, 158.150, and 158.445. School districts shall be responsible for documenting the purposes for which these funds were expended.

Other/Uncategorized

Professional immunity or liability

STATUTES

158.156. Reporting of commission of felony KRS Chapter 508 offense against a student -- Investigation -- Immunity from liability for reporting -- Privileges no bar to reporting.

(1) Any employee of a school or a local board of education who knows or has reasonable cause to believe that a school student has been the victim of a violation of any felony offense specified in KRS Chapter 508 committed by another student while on school premises, on school-sponsored transportation, or at a school-sponsored event shall immediately cause an oral or written report to be made to the principal of the school attended by the victim. […]

(3) Anyone acting upon reasonable cause in the making of a report required under this section in good faith shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed. Any such participant shall have the same immunity with respect to participation in any judicial proceeding resulting from such report or action.

(4) Neither the husband-wife nor any professional-client/patient privilege, except the attorney-client and clergy-penitent privilege, shall be a ground for refusing to report under this section or for excluding evidence regarding student harassment in any judicial proceedings resulting from a report pursuant to this section. This subsection shall also apply in any criminal proceeding in District or Circuit Court regarding student harassment.

(Per personal communication with Kentucky DOE personnel, KRS 158.156, is Kentucky's Bullying Law. This law only covers behavior incidents that rise to the level of felony KRS Chapter 508 offenses, but it is the basis for dealing with all bullying in the state. Other bullying related laws are KRS 525.070 (harassment) and KRS 525.080 (harassing communications), listed under CHAPTER 525 RIOT, DISORDERLY CONDUCT, AND RELATED OFFENSES)

Community input or involvement

STATUTES

158.442. Center for School Safety -- Duties -- Members of board.

(1) The General Assembly hereby authorizes the establishment of the Center for School Safety. The center's mission shall be to serve as the central point for data analysis; research; dissemination of information about successful school safety programs, research results, and new programs; and, in collaboration with the Department of Education and others, to provide technical assistance for safe schools.

(2) To fulfill its mission, the Center for School Safety shall:

(a) Establish a clearinghouse for information and materials concerning school violence prevention;

(b) Provide program development and implementation expertise and technical support to schools, law enforcement agencies, and communities, which may include coordinating training for administrators, teachers, students, parents, and other community representatives;

(c) Analyze the data collected in compliance with KRS 158.444;

(d) Research and evaluate school safety programs so schools and communities are better able to address their specific needs;

(e) Administer a school safety grant program for local districts as directed by the General Assembly;

(f) Promote the formation of interagency efforts to address discipline and safety issues within communities throughout the state in collaboration with other postsecondary education institutions and with local juvenile delinquency prevention councils;

(g) Prepare and disseminate information regarding best practices in creating safe and effective schools;

(h) Advise the Kentucky Board of Education on administrative policies and administrative regulations; and

(i) Provide an annual report by July 1 of each year to the Governor, the Kentucky Board of Education, and the Interim Joint Committee on Education regarding the status of school safety in Kentucky.

(3) The Center for School Safety shall be governed by a board of directors appointed by the Governor. Members shall consist of:

(a) The commissioner or a designee of the Department of Education;

(b) The commissioner or a designee of the Department of Juvenile Justice;

(c) The commissioner or a designee of the Department for Behavioral Health, Developmental and Intellectual Disabilities;

(d) The commissioner or a designee of the Department for Community Based Services;

(e) The secretary or a designee of the Education and Workforce Development Cabinet;

(f) A juvenile court judge;

(g) A local school district board of education member;

(h) A local school administrator;

(i) A school council parent representative;

(j) A teacher;

(k) A classified school employee; and

(l) A superintendent of schools who is a member of the Kentucky Association of School Administrators.

In appointing the board of education member, the school administrator, the school superintendent, the school council parent member, the teacher, and the classified employee, the Governor shall solicit recommendations from the following groups respectively: the Kentucky School Boards Association, the Kentucky Association of School Administrators, the Kentucky Association of School Councils, the Kentucky Education Association, and the Kentucky Education Support Personnel Association. The initial board shall be appointed by July 15, 1998. The board shall hold its first meeting no later than thirty (30) days after the appointment of the members.

158.445. Local assessment of school safety and school discipline -- District assessment -- Local plans.

(2) By May 15, 1999, each local school district shall complete a district-level assessment of district-level data, resources, policies and procedures, and district-wide needs as identified from the individual school assessment process. The district shall engage local community agencies including law enforcement and the courts in the assessment process.

(3) As a result of the district assessment and analysis of data, resources, and needs, each board of education shall adopt a plan for immediate and long-term strategies to address school safety and discipline. The development of the plan shall involve at least one (1) representative from each school in

the district as well as representatives from the community as a whole, including representatives from the local juvenile delinquency prevention council if a council exists in that community.

The process of planning shall be determined locally depending to a large extent on the size and characteristics of the district.

Other/uncategorized

No relevant statutes found.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by Kentucky provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
Website		
Student Discipline Guidelines and Model Policy *Published: 11/7/2012*	This page provides student discipline guidelines and model policy as required by KRS 158.148. • 2003 Student Discipline Guidelines • Guidelines to Assist Districts in Implementing HB91 • HB 91 Model Policy	http://education.ky.gov/school/sdfs/Pages/Student-Discipline-Guidelines-and-Model-Policy.aspx
Kentucky Center for School Safety	Reported by KY DOE personnel as a key resource in providing resources to schools in many areas, including bullying.	www.kycss.org.
Documents		
No relevant resources found		
Other Resources		
No relevant resources found		

Louisiana Compilation of School Discipline Laws and Regulations

Prepared: August 12, 2013

Introduction

This compilation presents school discipline-related state statutes, school discipline-related regulations, and, where available, links to state-sponsored websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSLE). For example, one major category encompasses all state laws or regulations mandating specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of state legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in each state.

Discipline categories were not mutually exclusive. Statutes and regulations often appeared across multiple categories. For states with more extensive statutes covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. State laws, ordered by chapter and section number, appear first within each category followed by state regulations. All statutes and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists statutes by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to state-sponsored websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of May 2013, with the exception of the state laws related to seclusion and restraint, which are complete and current as of December 2012. Readers should also note that the information in this document was compiled from individual state sources that are created by each state and which are maintained and updated with varying frequencies. Readers should consult the source information provided for each state directly in order to check for updates to this state's laws and regulations or conduct further research.

For further information, including definitions of the different policy categories, please refer to the Discipline Laws and Regulations Compendium posted on the Center's website.

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Safe Supportive Learning
Engagement | Safety | Environment

Table of Contents

Louisiana State Codes Cited **1**

General Provisions **3**

Authority to develop and establish rules of conduct 3
Scope 6
Communication of policy 7

In-School Discipline **10**

Use of multi-tiered discipline approaches 10
Teacher authority to remove students from classrooms 10
Alternatives to suspension 12
Use of corporal punishment 13
Use of student and locker searches 14
Other in-school disciplinary approaches 16

Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements **17**

Grounds for possible suspension or expulsion 17
Grounds for mandatory suspension or expulsion 20
Limitations, conditions, or exclusions for use of suspension and expulsion 21
Administrative procedures related to suspensions and expulsion 22
In-school suspension 24
Return to school following removal 25
Use of restraint and seclusion 29
Alternative Placements 32

Disciplinary Approaches Addressing Specific Infractions and Conditions **37**

Firearms (as required by the Guns-Free Schools Act) 37
Other weapons 37
Students with chronic disciplinary issues 38
Attendance and truancy 39
Substance use 40
Bullying, harassment, or hazing 42
Other special infractions or conditions 49

Prevention and Behavioral Interventions (Non-Punitive) **50**

Prevention 50
Behavioral interventions and student support services 51
Professional development 55

Monitoring and Accountability **57**

Formal incident reporting of conduct violations 57
Parental notification 62
Reporting and referrals between schools and law enforcement 65
Disclosure of school records 67
Data collection, review, and reporting of disciplinary policies and actions 68

School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers 71
Authority and power to implement school arrest 71
Certification or training 72
MOUs, authorization and/or funding 72
State Education Agency Support 73
State model policies and implementation support 73
Funding appropriations 74
Other/Uncategorized 76
Professional immunity or liability 76
Community input or involvement 76
Other/uncategorized 77
State-Sponsored, Publicly Available Websites or Other Resources on School Discipline 78

Louisiana State Codes Cited

Louisiana Revised Statutes

Education Code

Title 17. Education

RS 17:7.	Duties, functions, and responsibilities of board
RS 17:53.	School board members; training required
RS 17:100.1.	Alternative educational programs; certain adjudicated students; students in the custody of the office of juvenile justice; funding; authority of the local school board to contract; inclusion in minimum foundation program; funding formula
RS 17:100.5.	Alternative schools; establishment by local boards
RS 17:221.	School attendance; compulsory ages; duty of parents; excessive absences; condition for driving privileges
RS 17:223.	Discipline of pupils; suspension from school, corporal punishment
RS 17:224.	Unadjustable or incorrigible children; reports to juvenile courts; expulsion, assignments, and transfers
RS 17:252.	School master plans for supporting student behavior and discipline
RS 17:416.	Discipline of pupils; suspension; expulsion
RS 17:416.1.	Discipline of pupils; additional disciplinary authority
RS 17:416.2.	Supervision of suspended or expelled students; alternative education programs
RS 17:416.3.	Search of students' persons, desks, lockers, other areas; defense of suits against school personnel; indemnification; reporting of implements seized
RS 17:416.8.	Discipline policy review committees; school option
RS 17:416.11.	Discipline of pupils; limitation of liability
RS 17:416.12.	Students; appropriate conduct; compliance
RS 17:416.13.	Student code of conduct; requirement; bullying; prohibition; notice; reporting; accountability
RS 17:416.15.	Zero tolerance policies; authorization; conflict resolution classes; fees; compliance
RS 17:416.16.	School crisis management and response plans
RS 17:416.17.	Youth development and assistance programs; legislative findings and purpose; school authority for programs for elementary students
RS 17:416.18.	Teacher Bill of Rights
RS 17:416.19.	School resource officers
RS 17:416.20.	Student conduct standards; awareness and understanding by students; required orientation; guidelines
RS 17:416.21.	Behavior of students with exceptionalities; use of seclusion and physical restraint
RS 17:1801.	Hazing prohibited; penalties
RS 40:2404.1.	Additional powers of the council, school resource officers, School Violence Prevention Training Program

Louisiana Administrative Code

Louisiana Department of Education Guidance

Louisiana Board of Elementary and Secondary Education (BESE) Bulletins

Bulletin 741. Louisiana Handbook for School Administrators

Chapter (§) 13. Discipline.

General Provisions

Authority to develop and establish rules of conduct

STATUTES

§17.7. Duties, functions, and responsibilities of board.

In addition to the authorities granted by R.S. 17:6 and any powers, duties, and responsibilities vested by any other applicable laws, the board shall:

(5) (a) Approve courses of study and prepare and adopt rules and regulations for the discipline of students and the governance of the public elementary and secondary schools and other public schools and programs under its jurisdiction, which shall not be inconsistent with law and which shall be enforced by the city, parish, and other local public school boards and the local school superintendents; however, the board shall have no control over the business affairs of a city, parish, or other local public school board or the selection or removal of its officers and employees.

(b) Prepare and adopt rules and guidelines for the appropriate use of seclusion, physical restraint, and mechanical restraint of students with exceptionalities as defined in R.S. 17:1942, in accordance with the Administrative Procedure Act.

(32) Report in writing to the House Committee on Education and the Senate Committee on Education by not later than September 15, 2010, relative to the standards and criteria used by the board to approve alternative schools and alternative education programs for students in public elementary and secondary schools who are suspended for more than ten days or who are expelled from school for violations of school discipline law or policy and who remain under the supervision of the city, parish, or other local public school taking the action. The report shall specify in detail all minimum standards and criteria that must be met in order for the board to approve the alternative school or program and note standards and criteria that are subject to waiver by the board in making approval determinations.

§17.223. Discipline of pupils; suspension from school, corporal punishment.

A. […] Each parish and city school board shall have discretion in the use of corporal punishment. In those cases in which a parish or city school board decides to use corporal punishment, each parish or city school board shall adopt such rules and regulations as it deems necessary to implement and control any form of corporal punishment in the schools in its district.

§17.416. Discipline of students; suspension; expulsion.

A. (2) (a) (ii) Each city and parish school board shall adopt rules regarding the implementation of in-school suspension by no later than January 1, 1995.

A. (2) (b) (iv) Each city and parish school board shall adopt rules regarding the implementation of detention by no later than January 1, 1995.

A.(4) The governing authority of each public elementary and secondary school shall adopt such rules and regulations as it deems necessary to implement the provisions of this Subsection and of R.S.

17:416.13.

G. The State Board of Elementary and Secondary Education shall formulate, develop, adopt, and fully implement by not later than the beginning of the 1998-1999 school year methods and procedures for use as part of the board's school-approval process to determine whether or not state laws and board policies regarding student discipline are being fully complied with by a school's administrators, teachers, and other

employees. Any school determined not to be in compliance with such laws and procedures shall not be approved. The provisions of this Subsection shall not apply to private schools.

§17.416.1. Discipline of pupils; additional disciplinary authority.

A. In addition to the specific disciplinary measures authorized in R.S. 17:416 teachers, principals, and administrators of the public schools may, subject to any rules as may be adopted by the parish or city school board, employ other reasonable disciplinary and corrective measures to maintain order in the schools; provided, however, that nothing in this Section shall be construed as superseding the provisions of R.S. 17:416 relative to the disciplining of students, suspensions, and expulsions.

B. Each parish and city school board shall have the discretion with respect to the use of corporal punishment. In those cases in which a parish or city school board decides to use corporal punishment, each parish or city school board shall adopt such rules and regulations as it deems necessary to implement and control any form of corporal punishment in the schools in its district.

§17:416.3. Search of students' persons, desks, lockers, other areas; defense of suits against school personnel; indemnification; reporting of implements seized

C. (1) (a) On or before January 1, 1995, each parish and city school board shall adopt a policy that is consistent with Subsection A of this Section to provide for reasonable search and seizure by public school teachers, principals, and other school administrators of students' persons, desks, lockers, or other school areas for evidence that the law, a school rule, or a parish or city school board policy has been violated.

(b) Such policy shall include at a minimum:

(i) Specification of standards regarding procedures for searching students to prevent excessive intrusion.

(ii) Specification of standards for retaining and securing confiscated implements and materials.

(iii) Directions regarding the disposal of implements and materials reported to law enforcement authorities when such authorities notify the principal that the implements and materials need not be retained.

(iv) Specification of disciplinary action when a principal or designated administrator violates any provision of this Section.

(2) (a) Nothing in this Section shall require defense and/or indemnification by a school board, a principal, or other school administrator for suits regarding search and seizure unless such acts are in accordance with the policy adopted by the school board that employs him, if the policy is declared to be reasonable by a court of competent jurisdiction.

(b) No teacher, principal, school security guard, or administrator shall be held personally liable for any action authorized by this Section and performed in accordance with school board policies adopted pursuant to this Section.

§17:416.13. Student code of conduct; requirement; bullying; prohibition; notice; reporting; accountability.

B. (1) Bullying Policy. --The governing authority of each public elementary and secondary school shall adopt, and incorporate into the student code of conduct, a policy prohibiting the bullying of a student by another student, which includes the definition of bullying as provided in Subsection C of this Section. This policy must be implemented in a manner that is ongoing throughout the school year and integrated with a school's curriculum, a school's discipline policies, and other violence prevention efforts.

ADMINISTRATIVE CODE

§1315. Corporal punishment.

A. […] Each LEA shall have discretion in the use of corporal punishment. In those cases in which a parish or city school board decides to use corporal punishment, each parish or city school board shall adopt such rules and regulations as it deems necessary to implement and control any form of corporal punishment in the schools in its district.

§17.2404.1. Additional powers of the council, school resource officers, School Violence Prevention Training Program.

A. In accordance with the provisions of R.S. 40:2404(11) and R.S. 17:416.19, the Council on Peace Officer Standards and Training shall develop and implement a School Violence Prevention Training Program under their jurisdiction and within the existing school resource officer program in conjunction with the Louisiana Commission on Law Enforcement and Administration of Criminal Justice, the office of state police, local law enforcement agencies, and the State Board of Elementary and Secondary Education.

B. The Council on Peace Officer Standards and Training shall have the power to establish and appoint a committee with members representing the Louisiana Commission on Law Enforcement and Administration of Criminal Justice, the accredited law enforcement training centers, the office of state police, local law enforcement agencies, and the State Board of Elementary and Secondary Education.

C. The committee shall have the following powers:

(1) To develop minimum curriculum requirements for the training and certification of school security guards, which standards shall apply uniformly throughout the state for all school security guards.

(2) To establish minimum law enforcement instruction qualifications at an accredited P.O.S.T. academy.

(3) To approve and certify a school security guard program and to establish other requirements relative to such program.

§1301. Disciplinary Regulations

A. Each LEA shall adopt such rules and regulations as it deems necessary to implement and control any disorderly conduct in the school or on the playground of the school, on any school bus, on the street or road while going to and from school, or during intermission and recess, or at any school sponsored activity or function.

1. The plan shall not prohibit a teacher from removing a pupil from the classroom for disciplinary reasons.
2. Each LEA shall adopt rules regarding the reporting and review of disciplinary actions.

B. Teachers, principals, and administrators may, subject to any rules as may be adopted by the LEA, apply reasonable disciplinary and corrective measures to maintain order in the schools (refer to R.S. 17:416 and R.S. 17:223).

H. Each local educational governing authority LEA shall adopt rules regarding the implementation of in-school suspension and detention.

§1302. Student Code of Conduct

A. Each LEA shall adopt a student code of conduct for the students in the schools under its jurisdiction.

1. Such student code of conduct shall be in compliance with all existing rules, regulations, and policies of the board and of BESE and all state laws relative to student discipline and shall include any necessary disciplinary action to be taken against any student who violates the code of conduct.

2. Each LEA shall adopt and incorporate into its student code of conduct a policy prohibiting the bullying of a student by another student, which includes the definition of bullying and all other requirements listed in the following Section.

§1303. Bullying.

A. Policy. Each LEA shall develop and adopt a policy that prohibits the bullying of a student by another student.

1. The bullying policy must be implemented in a manner that is ongoing throughout the year and integrated with a school's curriculum, a school's discipline policies, and other violence prevention efforts.
2. The policy shall contain the definition of bullying found in this Section and shall address the following:
   a. behavior constituting bullying;
   b. the effect the behavior has on others, including bystanders; and
   c. the disciplinary and criminal consequences of bullying another student

§1315. Corporal punishment.

A. Each LEA shall have discretion in the use of corporal punishment. In those cases in which an LEA decides to use corporal punishment, the LEA shall adopt such rules and regulations as it deems necessary to implement and control any form of corporal punishment in the schools under its jurisdiction.

B. Each LEA shall adopt a policy establishing procedures for the investigation of employees accused of impermissible corporal punishment.

§1317. Search and seizure.

C. Each LEA shall adopt a policy to provide for reasonable search and seizure by teachers, by principals, and by other school administrators of a student's person, desk, locker, or other school areas for evidence that the law, a school rule, or an LEA policy has been violated.

D. Any such policy shall be in accordance with applicable law.

Scope

STATUTES

§17.223. Discipline of pupils; suspension from school, corporal punishment.

A. Every teacher is authorized to hold every pupil to a strict accountability for any disorderly conduct in school or on the playground of the school, or on any school bus going to or returning from school, or during intermission or recess.

§17.416. Discipline of students; suspension; expulsion.

A.(1)(a) Every teacher and other school employee shall endeavor to hold every student to a strict accountability for any disorderly conduct in school or on the playgrounds of the school, on the street or road while going to or returning from school, on any school bus, during intermission or recess, or at any school-sponsored activity or function.

ADMINISTRATIVE CODE

§1301. Disciplinary regulations.

A. Each LEA shall adopt such rules and regulations as it deems necessary to implement and control any disorderly conduct in the school or on the playground of the school, on any school bus, on the street or road while going to and from school, or during intermission and recess, or at any school sponsored activity or function.

Communication of policy

STATUTES

§17:416.13. Student code of conduct; requirement; bullying; prohibition; notice; reporting; accountability.

D. Prior to January 1, 2013, the State Board of Elementary and Secondary Education, in collaboration with the state Department of Education, shall develop and adopt rules and regulations to implement the provisions of this Section relative to the procedures and processes to be used to report and investigate bullying and which shall include but not be limited to:

(1) Notice to Students and Parents. --The governing authority of each public elementary and secondary school shall inform each student, orally and in writing at the orientation required under R.S. 17:416.20, of the prohibition against bullying of a student by another student, the nature and consequences of such actions, including the potential criminal consequences and loss of driver's license as provided in R.S. 17:416.1, and the proper process and procedure for reporting any incidents involving such prohibited actions. A copy of the written notice shall also be delivered to each student's parent or legal guardian.

§17:416.18. Teacher Bill of Rights.

A. Respecting the authority of teachers is essential to creating an environment conducive to learning, effective instruction in the classroom, and proper administration of city, parish, and other local public schools. To maintain and protect that authority, it is important that teachers, administrators, parents, and students are fully informed of the various rights conferred upon teachers pursuant to this Section, which are:

(1) A teacher has the right to teach free from the fear of frivolous lawsuits, including the right to qualified immunity and to a legal defense, and to indemnification by the employing school board, pursuant to R.S. 17:416.1(C), 416.4, 416.5, and 416.11, for actions taken in the performance of duties of the teacher's employment.

(2) A teacher has the right to appropriately discipline students in accordance with R.S. 17:223 and 416 through 416.16 and any city, parish, or other local public school board regulation.

(3) A teacher has the right to remove any persistently disruptive student from his classroom when the student's behavior prevents the orderly instruction of other students or when the student displays impudent or defiant behavior and to place the student in the custody of the principal or his designee pursuant to R.S. 17:416(A)(1)(c).

(4) A teacher has the right to have his or her professional judgment and discretion respected by school and district administrators in any disciplinary action taken by the teacher in accordance with school and district policy and with R.S.17:416(A)(1)(c).

(5) A teacher has the right to teach in a safe, secure, and orderly environment that is conducive to learning and free from recognized dangers or hazards that are causing or likely to cause serious injury in accordance with R.S. 17:416.9 and 416.16.

(6) A teacher has the right to be treated with civility and respect as provided in R.S. 17:416.12.

(7) A teacher has the right to communicate with and to request the participation of parents in appropriate student disciplinary decisions pursuant to R.S. 17:235.1 and 416(A).

(8) A teacher has the right to be free from excessively burdensome disciplinary paperwork.

(9) A beginning teacher has the right to receive leadership and support in accordance with R.S. 17:3881, including the assignment of a qualified, experienced mentor who commits to helping him become a competent, confident professional in the classroom and offers support and assistance as needed to meet performance standards and professional expectations.

B. No city, parish, or other local public school board shall establish policies that prevent teachers from exercising the rights provided in this Section or in any other provision included in R.S. 17:416 through 416.16.

C. The provisions of this Section shall not be construed to supersede any other state law, State Board of Elementary and Secondary Education policy, or city, parish, or other local public school board policy enacted or adopted relative to the discipline of students.

D. Each city, parish, or other local public school board shall provide a copy of this Section to all teachers at the beginning of each school year. Each such school board also shall post a copy of the rights provided in this Section in a prominent place in every school and administrative building it operates and provide such a copy to parents or legal guardians of all children attending such schools in a form and manner approved by the school board. Each city, parish, or other local public school board and every school under its jurisdiction that maintains an Internet website shall post on such website a copy of the Teacher Bill of Rights required by this Section.

§17.416.20. Student conduct standards; awareness and understanding by students; required orientation; guidelines.

A. In addition to any other requirements established by law, rule, or regulation relative to student discipline and conduct, the governing authority of a public elementary or secondary school shall require that every student be provided an orientation during the first five days of each school year regarding school disciplinary rules and provisions of the code of student conduct applicable to such students, including but not limited to the policy on bullying as provided in R.S. 17:416.13. Orientation instruction shall be provided by the school principal or his designees and shall include but not be limited to consequences for failing to comply with such school disciplinary rules and code requirements, including suspension, expulsion, the possibility of suspension of a student's driver's license for one year as provided in R.S. 17:416.1, and the possible criminal consequences of violent acts committed on school property, at a school-sponsored function, or in a firearm-free zone. The orientation also shall clearly communicate to students the rights afforded teachers pursuant to R.S. 17:416.18 and other applicable law relative to the discipline of students.

B. The orientation instruction required by this Section shall be age and grade appropriate and shall give full consideration as to whether the student is in a regular or special program of education.

C. Any student who for any reason does not receive the orientation provided for by this Section during the first five days of a school year shall be provided such orientation during the first five days of such student's attendance at the public elementary or secondary school.

ADMINISTRATIVE CODE

§1301. Disciplinary regulations.

C. The disciplinary rules (regulations) shall be made known to teachers, parents, and students and shall be reasonably and consistently enforced.

In-School Discipline

Use of multi-tiered discipline approaches

No relevant statutes found.

Teacher authority to remove students from classrooms

STATUTES

§17.416. Discipline of students; suspension; expulsion.

A.(1)(b)(i) Each teacher may take disciplinary action to correct a student who disrupts normal classroom activities, who is disrespectful to a teacher, who willfully disobeys a teacher, who uses abusive or foul language directed at a teacher or another student, who engages in bullying, who violates school rules, or who interferes with an orderly education process.

(ii) In addition to those procedures set forth in R.S. 17:416.13 regarding bullying, disciplinary action may include but is not limited to:

(aa) Oral or written reprimands.

(bb) Referral for a counseling session which shall include but shall not be limited to conflict resolution, social responsibility, family responsibility, peer mediation, and stress management.

(cc) Written notification to parents of disruptive or unacceptable behavior, a copy of which shall be provided to the principal.

(dd) Other disciplinary measures approved by the principal and faculty of the school and in compliance with school board policy.

A.(1)(c)(i) When a student's behavior prevents the orderly instruction of other students or poses an immediate threat to the safety or physical well being of any student or teacher, when a student exhibits disrespectful behavior toward the teacher such as using foul or abusive language or gestures directed at or threatening a student or a teacher, when a student violates the school's code of conduct, or when a student exhibits other disruptive, dangerous, or unruly behavior, including inappropriate physical contact, inappropriate verbal conduct, sexual or other harassment, bullying, throwing objects, inciting other students to misbehave, or destroying property, the teacher may have the student immediately removed from his classroom and placed in the custody of the principal or his designee. A student removed from the classroom pursuant to this Subparagraph shall be assigned school work missed and shall receive either partial or full credit for such work if it is completed satisfactorily and timely as determined by the principal or his designee, upon the recommendation of the student's teacher; however, the teacher shall not be required to interrupt class instruction time to prepare any such assignment.

(ii)(aa) Upon being sent to the principal's office pursuant to the provisions of this Subparagraph, the principal or his designee shall advise the pupil of the particular misconduct of which he is accused as well as the basis for such accusation, and the pupil shall be given an opportunity at that time to explain his version of the facts. The principal or his designee then shall conduct a counseling session with the pupil as may be appropriate to establish a course of action, consistent with school board policy to identify and correct the behavior for which the pupil is being disciplined.

(ii)(cc) The principal or his designee may provide oral or written feedback to teachers initiating the removal of pupils from the classroom. The principal or his designee may provide to such

teachers guidance and support on practicing effective classroom management including but not limited to positive behavior supports.

(iii) A pupil in kindergarten through grade six removed from a class pursuant to this Subparagraph shall not be permitted to return to the class for at least thirty minutes unless agreed to by the teacher initiating the disciplinary action. A pupil in grades seven through twelve removed from a class pursuant to this Subparagraph shall not be permitted to return to the class during the same class period unless agreed to by the teacher initiating the disciplinary action. Additionally, the pupil shall not be readmitted to the class until the principal has implemented one of the following disciplinary measures:

(aa) In-school suspension.

(bb) Detention.

(cc) Suspension.

(dd) Initiation of expulsion hearings.

(ee) Assignment to an alternative school.

(ff) Requiring the completion of all assigned school and homework which would have been assigned and completed by the student during the period of suspension.

(gg) Any other disciplinary measure authorized by the principal with the concurrence of the teacher or the building level committee pursuant to law and board policy.

(iv) When a pupil is removed from a classroom pursuant to this Subparagraph, the teacher may require that the parent, tutor, or legal guardian of the pupil have a conference with the teacher in the presence of the principal or his designee before the pupil is readmitted.

§17:416.18. Teacher Bill of Rights.

A. Respecting the authority of teachers is essential to creating an environment conducive to learning, effective instruction in the classroom, and proper administration of city, parish, and other local public schools. To maintain and protect that authority, it is important that teachers, administrators, parents, and students are fully informed of the various rights conferred upon teachers pursuant to this Section, which are:

(2) A teacher has the right to appropriately discipline students in accordance with R.S. 17:223 and 416 through 416.16 and any city, parish, or other local public school board regulation.

(3) A teacher has the right to remove any persistently disruptive student from his classroom when the student's behavior prevents the orderly instruction of other students or when the student displays impudent or defiant behavior and to place the student in the custody of the principal or his designee pursuant to R.S. 17:416(A)(1)(c).

(4) A teacher has the right to have his or her professional judgment and discretion respected by school and district administrators in any disciplinary action taken by the teacher in accordance with school and district policy and with R.S.17:416(A)(1)(c).

(5) A teacher has the right to teach in a safe, secure, and orderly environment that is conducive to learning and free from recognized dangers or hazards that are causing or likely to cause serious injury in accordance with R.S. 17:416.9 and 416.16.

ADMINISTRATIVE CODE

§1301. Disciplinary regulations.

A. Each LEA shall adopt such rules and regulations as it deems necessary to implement and control any disorderly conduct in the school or on the playground of the school, on any school bus, on the street or

road while going to and from school, or during intermission and recess, or at any school sponsored activity or function.

1. The plan shall not prohibit a teacher from removing a pupil from the classroom for disciplinary reasons.
2. Each LEA shall adopt rules regarding the reporting and review of disciplinary actions.

B. Teachers, principals, and administrators may, subject to any rules as may be adopted by the LEA, apply reasonable disciplinary and corrective measures to maintain order in the schools (refer to R.S. 17:416 and R.S. 17:223).

Alternatives to suspension

STATUTES

§17.416. Discipline of students; suspension; expulsion.

A.(1)(b)(i) Each teacher may take disciplinary action to correct a student who disrupts normal classroom activities, who is disrespectful to a teacher, who willfully disobeys a teacher, who uses abusive or foul language directed at a teacher or another student, who engages in bullying, who violates school rules, or who interferes with an orderly education process.

(ii) In addition to those procedures set forth in R.S. 17:416.13 regarding bullying, disciplinary action may include but is not limited to:

(aa) Oral or written reprimands.

(bb) Referral for a counseling session which shall include but shall not be limited to conflict resolution, social responsibility, family responsibility, peer mediation, and stress management.

(cc) Written notification to parents of disruptive or unacceptable behavior, a copy of which shall be provided to the principal.

(dd) Other disciplinary measures approved by the principal and faculty of the school and in compliance with school board policy.

A.(1)(c)(i) When a student's behavior prevents the orderly instruction of other students or poses an immediate threat to the safety or physical well being of any student or teacher, when a student exhibits disrespectful behavior toward the teacher such as using foul or abusive language or gestures directed at or threatening a student or a teacher, when a student violates the school's code of conduct, or when a student exhibits other disruptive, dangerous, or unruly behavior, including inappropriate physical contact, inappropriate verbal conduct, sexual or other harassment, bullying, throwing objects, inciting other students to misbehave, or destroying property, the teacher may have the student immediately removed from his classroom and placed in the custody of the principal or his designee. A student removed from the classroom pursuant to this Subparagraph shall be assigned school work missed and shall receive either partial or full credit for such work if it is completed satisfactorily and timely as determined by the principal or his designee, upon the recommendation of the student's teacher; however, the teacher shall not be required to interrupt class instruction time to prepare any such assignment.

(ii)(aa) Upon being sent to the principal's office pursuant to the provisions of this Subparagraph, the principal or his designee shall advise the pupil of the particular misconduct of which he is accused as well as the basis for such accusation, and the pupil shall be given an opportunity at that time to explain his version of the facts. The principal or his designee then shall conduct a counseling session with the pupil as may be appropriate to establish a course of action,

consistent with school board policy to identify and correct the behavior for which the pupil is being disciplined.

(ii)(cc) The principal or his designee may provide oral or written feedback to teachers initiating the removal of pupils from the classroom. The principal or his designee may provide to such teachers guidance and support on practicing effective classroom management including but not limited to positive behavior supports.

A.(1)(c)(iii) A pupil in kindergarten through grade six removed from a class pursuant to this Subparagraph shall not be permitted to return to the class for at least thirty minutes unless agreed to by the teacher initiating the disciplinary action. A pupil in grades seven through twelve removed from a class pursuant to this Subparagraph shall not be permitted to return to the class during the same class period unless agreed to by the teacher initiating the disciplinary action. Additionally, the pupil shall not be readmitted to the class until the principal has implemented one of the following disciplinary measures:

(aa) In-school suspension.

(bb) Detention.

(cc) Suspension.

(dd) Initiation of expulsion hearings.

(ee) Assignment to an alternative school.

(ff) Requiring the completion of all assigned school and homework which would have been assigned and completed by the student during the period of suspension.

(gg) Any other disciplinary measure authorized by the principal with the concurrence of the teacher or the building level committee pursuant to law and board policy.

(iv) When a pupil is removed from a classroom pursuant to this Subparagraph, the teacher may require that the parent, tutor, or legal guardian of the pupil have a conference with the teacher in the presence of the principal or his designee before the pupil is readmitted.

§17:416.15. Zero tolerance policies; authorization; conflict resolution classes; fees; compliance.

Any city, parish, or other local public school board may adopt and implement a zero tolerance policy for fighting in the schools under its jurisdiction. Such policy may include a requirement that a student who is disciplined pursuant to the policy and such student's parent or parents shall attend a conflict resolution class or classes and may include provisions for the school board to take appropriate action, as determined by the board, against any student or parent who fails to comply with the class attendance requirement. Such classes may be provided by the school board or other appropriate provider as determined by the board. Any city, parish, or other local public school board may charge a fee for such attendance in an amount as may be determined by the board. However, such fee amount shall not exceed one hundred dollars.

Use of corporal punishment

STATUTES

§17.223. Discipline of pupils; suspension from school, corporal punishment.

A. […] Each parish and city school board shall have discretion in the use of corporal punishment. In those cases in which a parish or city school board decides to use corporal punishment, each parish or city school board shall adopt such rules and regulations as it deems necessary to implement and control any form of corporal punishment in the schools in its district.

§17.416.1. Discipline of pupils; additional disciplinary authority.

B. Each parish and city school board shall have the discretion with respect to the use of corporal punishment. In those cases in which a parish or city school board decides to use corporal punishment, each parish or city school board shall adopt such rules and regulations as it deems necessary to implement and control any form of corporal punishment in the schools in its district.

ADMINISTRATIVE CODE

§1315. Corporal punishment.

A. Each LEA shall have discretion in the use of corporal punishment. In those cases in which an LEA decides to use corporal punishment, the LEA shall adopt such rules and regulations as it deems necessary to implement and control any form of corporal punishment in the schools under its jurisdiction.

B. Each LEA shall adopt a policy establishing procedures for the investigation of employees accused of impermissible corporal punishment.

Use of student and locker searches

STATUTES

§ 17:416.3. Search of students' persons, desks, lockers, other areas; defense of suits against school personnel; indemnification; reporting of implements seized.

A. (1) The parish and city school systems of the state are the exclusive owners of all public school buildings and all desks and lockers within the building assigned to any student and any other area of any public school building or grounds set aside specifically for the personal use of the students. Any teacher, principal, school security guard, or administrator in any parish or city school system of the state may search any building, desk, locker, area, or grounds for evidence that the law, a school rule, or parish or city school board policy has been violated.

(2) (a) The teacher, principal, school security guard, or administrator may search the person of a student or his personal effects when, based on the attendant circumstances at the time of the search, there are reasonable grounds to suspect that the search will reveal evidence that the student has violated the law, a school rule, or a school board policy. Such a search shall be conducted in a manner that is reasonably related to the purpose of the search and not excessively intrusive in light of the age or sex of the student and the nature of the suspected offense.

(b) Random searches with a metal detector of students or their personal effects may be conducted at any time, provided they are conducted without deliberate touching of the student.

B. (1) If any teacher, principal, school security guard, or administrator in the public school system is sued for damages by any student, the parent of any student, or other person qualified to bring suit on behalf of the student, based upon a search of that student's person, desk, locker, or any other area of a school building or grounds set aside specifically for that student's personal use, when the teacher, principal, school security guard, or administrator reasonably believed that the student had weapons, illegal drugs, alcohol, stolen goods, or other materials or objects the possession of which is a violation of the parish or city school board policy on his person, or had reasonable belief that such desk, locker, or other area contained such items, or based upon a search using a metal detector, it shall be the responsibility of the school board employing such teacher, principal, school security guard, or administrator to provide the defendant with legal defense, including reasonable attorney's fees, investigatory costs, and other related expenses.

(2) If any such teacher, principal, school security guard, or administrator is cast in judgment for damages in the suit, it shall be the obligation of the school board employing the defendant to indemnify him fully against such judgment, including all principal, interest, and costs.

(3) Nothing in this Section shall require a school board to indemnify a teacher, principal, school security guard, or administrator against a judgment wherein there is a specific finding that the action of the teacher, principal, school security guard, or administrator was maliciously, wilfully, and deliberately intended to harass, embarrass, or intimidate the student.

C. (1) (a) On or before January 1, 1995, each parish and city school board shall adopt a policy that is consistent with Subsection A of this Section to provide for reasonable search and seizure by public school teachers, principals, and other school administrators of students' persons, desks, lockers, or other school areas for evidence that the law, a school rule, or a parish or city school board policy has been violated.

(b) Such policy shall include at a minimum:

(i) Specification of standards regarding procedures for searching students to prevent excessive intrusion.

(ii) Specification of standards for retaining and securing confiscated implements and materials.

(iii) Directions regarding the disposal of implements and materials reported to law enforcement authorities when such authorities notify the principal that the implements and materials need not be retained.

(iv) Specification of disciplinary action when a principal or designated administrator violates any provision of this Section.

(2) (a) Nothing in this Section shall require defense and/or indemnification by a school board, a principal, or other school administrator for suits regarding search and seizure unless such acts are in accordance with the policy adopted by the school board that employs him, if the policy is declared to be reasonable by a court of competent jurisdiction.

(b) No teacher, principal, school security guard, or administrator shall be held personally liable for any action authorized by this Section and performed in accordance with school board policies adopted pursuant to this Section.

D. (1) Upon the seizure by any public school teacher, principal, school security guard, or administrator of any firearm, bomb, knife, or other implement which can be used as a weapon and the careless use of which might inflict harm or injury or any controlled dangerous substance as defined in R.S. 40:961(7), the principal or his designated administrator shall report the confiscation of such implement or material to the appropriate law enforcement officials. The principal or his designated administrator may report the confiscation of any other implement or material.

(2) Any implement or material required by Paragraph (1) of this Subsection to be reported to law enforcement officials shall be retained and secured by the school principal in such a manner as to prevent the destruction, alteration, or disappearance of it until such time as the law enforcement authority either takes custody of the implement or material or provides notice to the school principal that it need no longer be retained. In the case that it need not be retained, the school principal shall comply with his school board's policy regarding disposal of the item.

(3) The failure of any principal or designated administrator to report the confiscation of such implement or material or the failure to retain and secure such implement or material shall be reported by the law enforcement authority to the employing school board which shall take disciplinary action pursuant to its policy.

E. The provisions of this Section shall apply to the State Board of Elementary and Secondary Education as it relates to state schools operated by the board in the same way it applies to city and parish school boards.

ADMINISTRATIVE CODE

§1317. Search and seizure.

A. Any teacher, principal, school security guard, or administrator in any LEA of the state may search any building, desk, locker, area, or grounds for evidence that the law, a school rule, or parish or city school board policy has been violated.

B. The teacher, principal, school security guard, or administrator may search the person of a student or his personal effects when, based on the attendant circumstances at the time of the search, there are reasonable grounds to suspect that the search will reveal evidence that the student has violated the law, a school rule, or a school board policy. Such a search shall be conducted in a manner that is reasonably related to the purpose of the search and not excessively intrusive in light of the age or sex of the student and the nature of the suspected offense.

C. Each LEA shall adopt a policy to provide for reasonable search and seizure by teachers, by principals, and by other school administrators of a student's person, desk, locker, or other school areas for evidence that the law, a school rule, or an LEA policy has been violated.

D. Any such policy shall be in accordance with applicable law.

Other in-school disciplinary approaches

No relevant statutes found.

Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements

Grounds for possible suspension or expulsion

STATUTES

§17.223. Discipline of pupils; suspension from school, corporal punishment.

B. In addition, school principals may suspend from school any pupil for good cause, as stated in R.S. 17:416. […]

§17.416. Discipline of students; suspension; expulsion.

A. (3)(a) A school principal may suspend from school or suspend from riding on any school bus any student who:

(i) Is guilty of willful disobedience.

(ii) Treats a teacher, principal, superintendent, member, or employee of the local school board with intentional disrespect.

(iii) Makes against any one of them an unfounded charge.

(iv) Uses unchaste or profane language.

(v) Is guilty of immoral or vicious practices, or of conduct or habits injurious to his associates.

(vi) Uses tobacco or who possesses alcoholic beverages or any controlled dangerous substance governed by the Uniform Controlled Dangerous Substances Law, in any form, in school buildings, on school grounds, or on school buses owned by, contracted to, or jointly owned by any city or parish school board.

(vii) Disturbs the school and habitually violates any rule.

(viii) Cuts, defaces, or injures any part of public school buildings, any property belonging to the buildings, or any school buses owned by, contracted to, or jointly owned by any city or parish school board.

(ix) Writes any profane or obscene language or draws obscene pictures in or on any school material or on any public school premises, or on any fence, pole, sidewalk, or building on the way to or from school, or on any school bus, including those owned by, contracted to, or jointly owned by any city or parish school board.

(x) Is found carrying firearms, knives, or other implements which can be used as weapons, the careless use of which might inflict harm or injury.

(xi) Throws missiles liable to injure other persons on the school grounds or while on any school bus, including those owned by, contracted to, or jointly owned by any city or parish school board.

(xii) Instigates or participates in fights while under school supervision.

(xiii) Violates traffic and safety regulations.

(xiv) Leaves the school premises without permission.

(xv) Leaves his classroom during class hours or detention without permission.

(xvi) Is habitually tardy or absent.

(xvii) Has engaged in bullying.

(xviii) Commits any other serious offense.

B.(1)(a) Any student after being suspended for committing any of the offenses enumerated in this Section may be expelled, upon recommendation by the principal of the public school in which said student is enrolled, which recommended expulsion shall be subject to the provisions of Subsection C.

D.(1) The conviction of any student of a felony or the incarceration of any student in a juvenile institution for an act which had it been committed by an adult would have constituted a felony may be cause for expulsion of the student for a period of time as determined by the board. The expulsion shall require the vote of two-thirds of the elected members of the school board.

(2) The conviction of any student of a felony or the incarceration of any student in a juvenile institution for an act, whether said act is committed in this state or outside this state, which had it been committed by an adult would have constituted a felony in this state may be sufficient cause for any public school system superintendent to refuse admission of said student to any school except upon review and approval of a majority of the elected members of the school board when request for admission is made to the board.

§17:224. Unadjustable or incorrigible children; reports to juvenile courts; expulsion, assignments, and transfers.

A. Unadjustable or incorrigible children, who, through no fault of their parents or tutors or other persons having charge of them, regularly disrupt the orderly processes of the school to which they have been assigned, shall be considered as delinquents and may be reported by the visiting teacher, or supervisor of child welfare and attendance, to the juvenile court of the parish, there to be dealt with in the manner prescribed by law.

B. Notwithstanding the provisions of R.S. 17:416 to the contrary, any student who exhibits disruptive behavior, an incorrigible attitude, or any other discipline problems in general, may be recommended by the principal for expulsion, assignment to an appropriate alternative education program, or transfer to adult education if such student is:

(1) Seventeen years of age or older with less than five units of credit toward graduation.

(2) Eighteen years of age or older with less than ten units of credit toward graduation

(3) Nineteen years of age or older with less than fifteen units of credit toward graduation.

ADMINISTRATIVE CODE

§1305. Reasons for Suspension [Formerly §1303].

A. School principals may suspend from school any student, including an exceptional student, for good cause in accordance with state law and local policy.

B. Students determined to be guilty of the following offenses may be suspended for the following reasons:

1. willful disobedience;

2. disrespect to a teacher, principal, superintendent, and/or member or employee of the local school board;

3. making an unfounded charge against a teacher, principal, superintendent, and/or member or employee of the local school board;

4. using unchaste or profane language;

5. immoral or vicious practices;

6. conduct or habits injurious to his/her associates;

7. using tobacco and/or using and possessing alcoholic beverages or any controlled dangerous substances governed by the Uniformed Controlled Dangerous Substance Law in any form in school buildings or on school grounds;

8. disturbing the school and habitually violating the rules;

9. cutting, defacing, or injuring any part of public school buildings;

10. writing profane or obscene language or drawing obscene pictures in or on any public school premises, or on any fence, sidewalk, or building on the way to or from school;

11. possessing firearms, knives, or other implements that can be used as weapons;

12. throwing missiles on the school grounds;

13. instigating or participating in fights while under school supervision;

14. violating traffic and safety regulations;

15. leaving the school premises without permission or his/her classroom or detention room without permission;

16. habitual tardiness or absenteeism; and

17. committing any other serious offense.

§1307. Reasons for expulsions.

A. Students may be expelled for any of the following reasons:

1. any student, after being suspended for committing any of the offenses listed in §1103, may be expelled upon recommendation by the principal of the public school in which the student is enrolled;

2. any student, after being suspended on three occasions for committing drugs or weapons offenses during the same school session, shall, on committing the fourth offense, be expelled from all the public schools of the parish or city school system wherein he or she resides until the beginning of the next regular school year, subject to the review and approval of the local educational governing authority;

3. the conviction of any student of a felony or the incarceration of any student in a juvenile institution for an act which, had it been committed by an adult, would have constituted a felony, may be cause for expulsion of the student for a period of time as determined by the board; such expulsions shall require the vote of two thirds of the elected members of the local educational governing authority;

4. any student found guilty of being in possession of a firearm on school property or on a school bus or at a school sponsored event shall be expelled from school according to the requirements of R.S. 17:416(C)(2);

5. any student in grades six and up found guilty of being in possession of any illegal narcotic, drug, or other controlled substance on school property, on a school bus, or at a school event shall be expelled from school according to the requirements of R.S. 17:416(C)(2).

6. any student older than eleven and in grades six and up, carrying or possessing a knife the blade of which equals or exceeds two inches in length.

B. School officials shall have total discretion and shall exercise such discretion in imposing on a pupil any disciplinary actions authorized by this Section for possession by a student of a firearm or knife on school property when such firearm or knife is stored in a motor vehicle and there is no evidence of the student's intent to use the firearm or knife in a criminal manner.

C. Expulsion is not mandatory for a student carrying or possessing a firearm or knife for purposes of involvement in a school class or course or school approved cocurricular or extracurricular activity or any other activity approved by the appropriate school officials or for a student possessing any controlled dangerous substance governed by the Uniform Controlled Dangerous Substances Law that has been obtained directly or pursuant to a valid prescription or order from a licensed physician. However, such student shall carry evidence of that prescription or physician's order on his person at all times when in possession of any controlled dangerous substance which shall be subject to verification.

Grounds for mandatory suspension or expulsion

STATUTES

§17.416. Discipline of students; suspension; expulsion.

A.(1)(c)(vii)(aa) Notwithstanding any provision of law to the contrary, whenever a pupil is formally accused of violating the provisions of R.S. 14:34.3 or school disciplinary rules, or both, by committing a battery on any school employee or is formally accused of violating the provisions of R.S. 14:38.2 or school disciplinary rules, or both, by committing an assault on any school employee, the principal shall suspend the pupil from school immediately and the pupil shall be removed immediately from the school premises without the benefit of the suspension procedures provided by this Section; however, the necessary notifications and other procedures shall follow as soon as is practicable.

A. (2)(ii) Failure or refusal by a pupil to participate in assigned detention shall subject the pupil to immediate suspension.

B.(2) Any pupil who has been suspended on three occasions for committing any of the offenses enumerated in this Subsection or Subsection C of this Section during the same school year shall, upon committing the fourth such offense, be expelled from all the public schools of the city, parish, or other local public school system wherein he resided until the beginning of the next regular school year, and the pupil's reinstatement shall be subject to the review and approval of the local school board.

§17.416. Discipline of students; suspension; expulsion

B. (1)(b)(i) Notwithstanding the provisions of Subsection A of this Section, the principal shall immediately suspend a student who is found carrying or possessing a firearm… He shall immediately recommend the student's expulsion in accordance with Subsection C of this Section.

B. (1)(c) The provisions of this Section shall not apply to the following:

(i) A student carrying or possessing a firearm or knife for purposes of involvement in a school class or course or school approved cocurricular or extracurricular activity or any other activity approved by the appropriate school officials.

C.(2)(a)(i) Notwithstanding the provisions of Subsection B of this Section, any student sixteen years of age or older found guilty of being in possession of a firearm on school property, on a school bus, or in actual possession at a school-sponsored event, pursuant to a hearing as provided for by Paragraph (1) of this Subsection, shall be expelled from school for a minimum period of four complete school semesters and shall be referred to the district attorney for appropriate action. However, the superintendent of a city, parish, or other local public school system may modify the length of such minimum expulsion requirement on a case-by-case basis, provided such modification is in writing.

C.(2)(b)(i) Any student who is under sixteen years of age and in grades six through twelve and who is found guilty of being in possession of a firearm on school property, on a school bus, or in actual possession at a school sponsored event, pursuant to a hearing as provided for by Paragraph (1) of this Subsection, shall be expelled from school for a minimum period of four complete school semesters, and shall be referred to the district attorney for appropriate action. However, the superintendent of a city, parish, or other local public school system may modify the length of such minimum expulsion requirement on a case-by-case basis, provided such modification is in writing.

C.(2)(c)(i) Any case involving a student in kindergarten through grade five found guilty of being in possession of a firearm on school property, on a school bus, or in actual possession at a school sponsored event, pursuant to a hearing as provided for by Paragraph (1) of this Subsection, shall be expelled from school for a minimum period of two complete school semesters and shall be

referred to the district attorney for appropriate action. However, the superintendent of a city, parish, or other local public school system may modify the length of such minimum expulsion requirement on a case-by-case basis, provided such modification is in writing.

Limitations, conditions, or exclusions for use of suspension and expulsion

STATUTES

§17.416. Discipline of students; suspension; expulsion.

A. (5) The provisions of this Subsection shall not be construed to conflict with any federal or state rules or regulations or other guidelines affecting special education students as defined in R.S. 17:1943 et seq.

E. The provisions of this Section shall be applicable to exceptional children provided special education services pursuant to Part I of Chapter 8 of this Title to the maximum extent allowed by federal law and rules applicable to the education of exceptional children in the state. No policy adopted by the State Board of Elementary and Secondary Education applicable to exceptional children as provided in this Subsection shall be more restrictive than required by federal law and rules.

ADMINISTRATIVE CODE

§1309. Guidelines for expulsions.

A. No student who has been expelled from any public or nonpublic school outside the state of Louisiana or any nonpublic school within Louisiana for committing any offenses enumerated in R.S. 17:416 shall be admitted to any public school in the state except upon the review and approval by the governing body of the admitting school.

B. Any student who has been expelled from any public or nonpublic school within or outside the state of Louisiana for one of the reasons listed below shall produce documentation that he or she and his/her parent or legal guardian have enrolled in and participated in an appropriate rehabilitation or counseling program related to the reason(s) for the expulsion prior to being admitted or readmitted on a probationary basis to any public school in the state, unless such requirement is waived by the LEA:

1. possessing on school property or on a school bus a firearm, knife, or other dangerous weapon, or instrumentality customarily used or intended for probable use as a dangerous weapon; or
2. possessing with intent to distribute, or distributing, selling, giving, or loaning while on school property or on a school bus any controlled dangerous substance governed by the Uniform Controlled Dangerous Substances Law.

§1313. Discipline for Students with Disabilities.

A. If a school district removes a student with disabilities from the student's current educational placement for 10 school days in a school year, consecutively or cumulatively, regardless of the circumstances, beginning on the eleventh day, all students must be offered education services, including:

1. access to the general curriculum;
2. implementation of the student's IEP;
3. access to statewide test/LEAP 21/GEE 21 preparation and/or remediation equal to those services provided to general education students;
4. services and modifications designed to prevent the behavior from recurring, if the behavior involves drugs, weapons or behavior substantially likely to cause injury to the student or others.

Administrative procedures related to suspensions and expulsion

STATUTES

§17.416. Discipline of students; suspension; expulsion.

A.(3) (b)(i) Prior to any suspension, the school principal, or his designee, shall advise the pupil in question of the particular misconduct of which he is accused as well as the basis for such accusation, and the pupil shall be given an opportunity at that time to explain his version of the facts to the school principal or his designee. [...] A pupil whose presence in or about a school poses a continued danger to any person or property or an ongoing threat of disruption to the academic process shall be immediately removed from the school premises without the benefit of the procedure described hereinabove; however, the necessary procedure shall follow as soon as is practicable.

A.(3)(c) Any parent, tutor or legal guardian of a pupil suspended shall have the right to appeal to the city or parish superintendent of schools or his designee, who shall conduct a hearing on the merits. The decision of the superintendent of schools on the merits of the case, as well as the term of suspension, shall be final, reserving to the superintendent of schools the right to remit any portion of the time of suspension.

(d) A pupil suspended for damages to any property belonging to the school system or to property contracted to the school system shall not be readmitted until payment in full has been made for such damage or until directed by the superintendent of schools. If the property damaged is a school bus owned by, contracted to, or jointly owned by any parish or city school board, a pupil suspended for such damage shall not be permitted to enter or ride any school bus until payment in full has been made for such damage or until directed by the superintendent of schools.

(e) A pupil who is suspended for ten days or fewer shall be assigned school work missed while he is suspended and shall receive either partial or full credit for such work if it is completed satisfactorily and timely as determined by the principal or his designee, upon the recommendation of the pupil's teacher. A pupil who is suspended for more than ten days, or is expelled and receives educational services at an alternative school site, shall be assigned work by a certified teacher and shall receive credit for school work if it is completed satisfactorily and timely as determined by the teacher. Such work shall be aligned with the curriculum used at the school from which the pupil was suspended or expelled.

C.(1) Upon the recommendation by a principal for the expulsion of any student as authorized by Subsection B hereof, a hearing shall be conducted by the superintendent or by any other person designated so to do by the superintendent to determine the facts of the case and make a finding of whether or not the student is guilty of conduct warranting a recommendation of expulsion. Upon the conclusion of the hearing and upon a finding that the student is guilty of conduct warranting expulsion, the superintendent, or his designee, shall determine whether such student shall be expelled from the school system or if other corrective or disciplinary action shall be taken. At said hearing the principal or teacher concerned may be represented by any person appointed by the superintendent. The concerned teacher shall be permitted to attend such hearing and shall be permitted to present information the teacher believes relevant. Until such hearing takes place the student shall remain suspended from the school. At such hearing the student may be represented by any person of his choice.

C.(4) The parent or tutor of the pupil may, within five days after the decision is rendered, request the city or parish school board to review the findings of the superintendent or his designee at a time set by the school board; otherwise the decision of the superintendent shall be final. If requested, as herein

provided, and after reviewing the findings of the superintendent or his designee, the school board may affirm, modify, or reverse the action previously taken.

(5) The parent or tutor of the pupil may, within ten days, appeal to the district court for the parish in which the student's school is located, an adverse ruling of the school board in upholding the action of the superintendent or his designee. The court may reverse or revise the ruling of the school board upon a finding that the ruling of the board was based on an absence of any relevant evidence in support thereof.

ADMINISTRATIVE CODE

§1301. Disciplinary regulations.

F. Schools shall provide due process prior to suspensions and expulsions.

G. Students who are removed from the classroom for disruptive, dangerous, or unruly behavior or who are suspended for 10 days or less shall be assigned school work missed and shall receive either full or partial credit for such work if it is completed satisfactorily and timely as determined by the principal or designee, upon the recommendation of the student's teacher. A student who is suspended for more than 10 days or is expelled and receives educational services in an alternative school site, shall be assigned school work by a certified teacher and shall receive credit for school work if it is completed satisfactorily and timely as determined by the teacher. Such work shall be aligned with the curriculum used at the school from which the student was suspended or expelled.

§1306. Due Process for Suspensions [Formerly §1305].

A. Prior to any suspension, the school principal or the principal's designee shall advise the student in question of the particular misconduct of which he or she is accused as well as the basis for such accusation, and the student shall be given an opportunity at that time to explain his or her version of the facts to the school principal or his or her designee.

B. The principal, or the principal's designee, shall contact by telephone at the telephone number shown on the pupil's registration card or send a certified letter at the address shown on the pupil's registration card to the parent or guardian of the student, giving notice of the suspension, the reasons therefore and establishing a date and time for a conference with the principal or his designee as a requirement for readmitting the student.

1. If the parent or guardian fails to attend the required conference within five school days of mailing the certified letter or other contact with the parent, the truancy laws shall become effective.
2. On not more than one occasion each school year when the parent or guardian refuses to respond, the principal may determine whether readmitting the student is in the best interest of the student.
3. On any subsequent occasions in the same year, the student shall not be readmitted unless the parent, guardian, or other appointed representative responds.

C. A student whose presence in or about a school poses a continued danger to any person or property or an ongoing threat of disruption to the academic process shall be immediately removed from the school premises without the benefit of the procedure described above; however, the necessary procedure shall follow as soon as is practicable.

D. Notice in writing of the suspension and the reasons thereof shall be given to the parent or parents of the suspended student.

E. Any parent, tutor, or legal guardian of a suspended student shall have the right to appeal to the superintendent or to a designee of the superintendent, who shall conduct a hearing on the merits of the case.

F. In all cases of suspensions, the parent, the superintendent of schools, and the visiting teacher and/or supervisor of child welfare and attendance shall be notified in writing of the facts concerning each suspension, including the reasons therefore and terms thereof.

G. The decision of the superintendent on the merit of the case, as well as the term of suspension, shall be final, reserving the right to the superintendent to remit any portion

§1311. Due process for expulsions.

A. A recommendation for expulsion is made by the principal.

B. A hearing is conducted by the superintendent of the LEA or someone designated by the superintendent.

C. A determination of whether to expel the student is made by the superintendent or his designee.

D. The principal and teacher as well as the student may be represented by someone of their choice at this hearing.

E. Until the hearing takes place, the student shall remain on suspension.

F. The parent or guardian of the student may, within five days after the decision to expel the student has been rendered, request the local educational governing authority to review the findings of the superintendent or his designee. Otherwise, the decision of the superintendent shall be final.

G. The board, in reviewing the case, may affirm, modify, or reverse the action previously taken.

H. If the board upholds the decision of the superintendent, the parent or guardian of the student may, within 10 days, appeal to the district court for the parish in which the student's school is located. The court may reverse the ruling of the board.

In-school suspension

STATUTES

§17.416. Discipline of students; suspension; expulsion.

A. (2) (ii) Each city and parish school board shall adopt rules regarding the implementation of in-school suspension by no later than January 1, 1995.

(iii) A pupil in kindergarten through grade six removed from a class pursuant to this Subparagraph shall not be permitted to return to the class for at least thirty minutes unless agreed to by the teacher initiating the disciplinary action. A pupil in grades seven through twelve removed from a class pursuant to this Subparagraph shall not be permitted to return to the class during the same class period unless agreed to by the teacher initiating the disciplinary action. Additionally, the pupil shall not be readmitted to the class until the principal has implemented one of the following disciplinary measures:

(aa) In-school suspension.

(bb) Detention.

(cc) Suspension.

(dd) Initiation of expulsion hearings.

(ee) Assignment to an alternative school.

(ff) Requiring the completion of all assigned school and homework which would have been assigned and completed by the student during the period of suspension.

(gg) Any other disciplinary measure authorized by the principal with the concurrence of the teacher or the building level committee pursuant to law and board policy.

(2) As used in this Section:

(a)(i) "In-school suspension" means removing a pupil from his normal classroom setting but maintaining him under supervision within the school. Pupils participating in in-school suspension may receive credit for work performed during the in-school suspension. However, any pupil who fails to comply fully with the rules for in-school suspension shall be subject to immediate suspension.

(ii) Each city and parish school board shall adopt rules regarding the implementation of in-school suspension by no later than January 1, 1995.

(b)(i) "Detention" means activities, assignments, or work held before the normal school day, after the normal school day, or on weekends.

(ii) Failure or refusal by a pupil to participate in assigned detention shall subject the pupil to immediate suspension.

(iii) Assignments, activities, or work which may be assigned during detention include but are not limited to counseling, homework assignments, behavior modification programs, or other activities aimed at improving the self-esteem of the pupil.

(iv) Each city and parish school board shall adopt rules regarding the implementation of detention by no later than January 1, 1995.

(5) The provisions of this Subsection shall not be construed to conflict with any federal or state rules or regulations or other guidelines affecting special education students as defined in R.S. 17:1943 et seq.

(bb) A student who is found carrying or possessing a knife with a blade less than two inches in length may be suspended by the school principal as provided in Paragraph (A)(3) of this Section; however, in appropriate cases such student, at a minimum, shall be placed in in-school suspension.

Return to school following removal

STATUTES

§17.416. Discipline of students; suspension; expulsion.

A.(1)(c)(vii)(bb) No pupil suspended in accordance with the provisions of this Item shall be considered for readmission to the school to which the school employee, allegedly assaulted or battered, or both, by the pupil, is assigned until all hearings and appeals associated with the alleged violation have been exhausted.

(cc) Except when the school system has no other school of suitable grade level for the pupil to attend, no pupil found guilty by a court of competent jurisdiction of violating the provisions of R.S. 14:34.3 or 38.2, or both, or found guilty at a school system suspension hearing of committing a battery on any school employee or committing an assault on any school employee, or both, shall be assigned to attend or shall attend the school to which the school employee battered or assaulted by the pupil is assigned.

(dd) Notwithstanding any provision of R.S. 17:158 to the contrary, a school system shall not be required to provide transportation to any pupil reassigned to attend a school pursuant to the provisions of this Item if providing such transportation for the pupil will result in additional transportation costs to the school system.

B.(3)(a)(i) No student who has been expelled pursuant to the provisions of this Section shall be admitted to any public school in any other parish or city school system in the state except upon the review and approval of the school board of the school system to which he seeks admittance.

(ii) No student who has been expelled from any public or nonpublic school outside the state of Louisiana or any nonpublic school within Louisiana for committing any of the offenses enumerated

in this Section shall be admitted to any public school in the state except upon the review and approval of the governing body of the admitting school.

(b) No student who has been expelled pursuant to the provisions of Paragraph (C)(2) of this Section shall be readmitted to a public school in the city, parish, or other local public school system from which he was expelled prior to the completion of the specified period of expulsion, unless he has complied with the provisions of Subparagraph (C)(2)(d) of this Section.

(c) To facilitate the review and approval mandated by this Paragraph, any student who has been expelled from any public or nonpublic school within or outside the state of Louisiana shall provide to any public school or school system in the state to which the student is seeking admission information on the dates of any expulsions and the reason or reasons for which the student was expelled. Additionally, the transfer of a student's records by any public school or school system in the state to any other public or nonpublic school or school system shall include information on the dates of any expulsions and the reason or reasons for which the student was expelled.

(d)(i) In addition to any other limitations established by this Subsection on the admission of previously expelled pupils to public elementary and secondary schools in Louisiana, no pupil who has been expelled from any public or nonpublic school within or outside the state of Louisiana for possessing on school property or on a school bus a firearm, knife, or other dangerous weapon or instrumentality customarily used or intended for probable use as a dangerous weapon, or for possessing, possessing with intent to distribute, or distributing, selling, giving, or loaning while on school property or on a school bus any controlled dangerous substance governed by the Uniform Controlled Dangerous Substances Law shall be admitted to any public elementary or secondary school in the state, or readmitted to any such school on a probationary basis prior to the completion of the minimum period of expulsion as provided in Subsection C of this Section, until the pupil produces written documentation that he and his parent or legal guardian have enrolled and participated in an appropriate rehabilitation or counseling program related to the reason or reasons for the pupil's expulsion.

(ii) The rehabilitation or counseling required by the provisions of this Subparagraph shall be provided by existing or new programs approved by the juvenile or family court having jurisdiction, if applicable, or by the school system and shall be at no additional cost to the school system. Such rehabilitation or counseling programs may include the following components relative to successful programs, approaches, and activities for parental involvement which better equip parents to provide support for the education of their children:

(aa) Enhancing parenting skills and expanding curriculum offerings relative to character development, the development of a healthy self-esteem and sense of personal and social responsibility, violence prevention, and conflict resolution.

(bb) Raising the educational level of the parents of public school students through instruction in basic skills.

(cc) Improving developmental skills of students to prepare them for academic success.

(dd) Providing a role model for the child through parental interest in education.

(ee) Enabling parents to become familiar with and comfortable in the school setting.

(ff) Enhancing the relationship of the parent and child through planned, structured parent-school interaction.

(gg) Demonstrating to parents their power to affect their child's ability to learn.

(iii) The requirements of this Subparagraph for a student's enrollment and participation in a rehabilitation or counseling program shall be waived by the school system upon a documented

showing by the student that no appropriate program is available in the area or that the student cannot enroll or participate due to financial hardship.

(iv) The provisions of this Subparagraph shall be applicable to exceptional children provided special education services pursuant to Part I of Chapter 8 of this Title only to the extent the provisions are not in conflict with federal rules, regulations, and guidelines applicable to the education of exceptional students.

C.(2)(d)(i) Any student expelled from school may be readmitted on a probationary basis to school at any time during the specified period of expulsion on such terms and conditions as may be stipulated by the city, parish, or other local public school board and agreed to in writing by the student and by the student's parent or other person responsible for the student's school attendance. Such terms and conditions may include but need not be limited to placing the student in a suitable alternative education program as determined by the school board. However, any such written agreement shall include a provision that upon the school principal or superintendent of schools making a determination that the student has violated any term or condition agreed to, the student shall be immediately removed from the school premises without the benefit of any hearing or other procedure applicable to student suspensions and expulsions. As soon thereafter as possible, the principal or his designee shall provide verbal notice to the superintendent of schools of any such determination and also shall attempt to provide such verbal notice to the student's parent or other person responsible for the student's school attendance. The principal or his designee also shall provide written notice of the determination and the reasons therefor to the superintendent and to the student's parent or other responsible person.

(ii) Any student expelled pursuant to the provisions of this Subsection or Subsection B of this Section seeking readmission on a probationary basis prior to the end of the specified period of expulsion must also comply with the provisions of Subparagraph (B)(3)(d) of this Section.

(iii) The provisions of this Subparagraph shall not be applicable to any student found guilty by a court of competent jurisdiction, or adjudicated a delinquent by a court of competent jurisdiction, of a criminal violation of any provision of Title 14 of the Louisiana Revised Statutes of 1950 which is related to the reason for the suspension, unless the judge finds otherwise.

§17:416.2. Supervision of suspended or expelled students; alternative education programs.

A. (1) Any student suspended or expelled from school pursuant to the provisions of R.S. 17:416, shall remain under the supervision of the governing authority of the city, parish, or other local public school system taking such action using alternative education programs for suspended and expelled students. Alternative education programs of any local public school shall be approved by the State Board of Elementary and Secondary Education; however, no school system shall be liable for any student attending an alternative education program at a location other than a school site.

(2) A student expelled pursuant to the provisions of R.S. 17:416(B) and (C)(2) may be readmitted only to a city, parish, or other local public school in the school system from which he was expelled prior to the completion of the specified period of expulsion, in accordance with the provisions of R.S. 17:416(C)(2)(d).

ADMINISTRATIVE CODE

§1306. Due Process for Suspensions [Formerly §1305].

A. Prior to any suspension, the school principal or the principal's designee shall advise the student in question of the particular misconduct of which he or she is accused as well as the basis for such accusation, and the student shall be given an opportunity at that time to explain his or her version of the facts to the school principal or his or her designee.

B. The principal, or the principal's designee, shall contact by telephone at the telephone number shown on the pupil's registration card or send a certified letter at the address shown on the pupil's registration card to the parent or guardian of the student, giving notice of the suspension, the reasons therefore and establishing a date and time for a conference with the principal or his designee as a requirement for readmitting the student.

1. If the parent or guardian fails to attend the required conference within five school days of mailing the certified letter or other contact with the parent, the truancy laws shall become effective.
2. On not more than one occasion each school year when the parent or guardian refuses to respond, the principal may determine whether readmitting the student is in the best interest of the student.
3. On any subsequent occasions in the same year, the student shall not be readmitted unless the parent, guardian, or other appointed representative responds.

C. A student whose presence in or about a school poses a continued danger to any person or property or an ongoing threat of disruption to the academic process shall be immediately removed from the school premises without the benefit of the procedure described above; however, the necessary procedure shall follow as soon as is practicable.

D. Notice in writing of the suspension and the reasons thereof shall be given to the parent or parents of the suspended student.

E. Any parent, tutor, or legal guardian of a suspended student shall have the right to appeal to the superintendent or to a designee of the superintendent, who shall conduct a hearing on the merits of the case.

F. In all cases of suspensions, the parent, the superintendent of schools, and the visiting teacher and/or supervisor of child welfare and attendance shall be notified in writing of the facts concerning each suspension, including the reasons therefore and terms thereof.

G. The decision of the superintendent on the merit of the case, as well as the term of suspension, shall be final, reserving the right to the superintendent to remit any portion

§1309. Guidelines for expulsions.

D. Any student expelled from school pursuant to the provisions of R.S. 17:416 may be readmitted on a probationary basis to school at any time during the specified period of expulsion on such terms and conditions as may be stipulated by the city or parish city, parish, or other local school board and agreed to in writing by the student and by the student's parent or other person responsible for the student's school attendance. Such terms and conditions may include but need not be limited to placing the student in a suitable alternative education program as determined by the school board. However, any such written agreement shall include a provision that upon the school principal or superintendent of schools making a determination that the student has violated any term or condition agreed to, the student shall be immediately removed from the school premises without the benefit of any hearing or other procedure applicable to student suspensions and expulsions. As soon thereafter as possible, the principal or his designee shall provide verbal notice to the superintendent of schools of any such determination and also shall attempt to provide such verbal notice to the student's parent or other person responsible for the student's school attendance. The principal or his designee also shall provide written notice of the determination and the reasons therefore to the superintendent and to the student's parent or other responsible person.

Use of restraint and seclusion

STATUTES

§17.7. Duties, functions, and responsibilities of board.

In addition to the authorities granted by R.S. 17:6 and any powers, duties, and responsibilities vested by any other applicable laws, the board shall:

(5)(a) Approve courses of study and prepare and adopt rules and regulations for the discipline of students and the governance of the public elementary and secondary schools and other public schools and programs under its jurisdiction, which shall not be inconsistent with law and which shall be enforced by the city, parish, and other local public school boards and the local school superintendents; however, the board shall have no control over the business affairs of a city, parish, or other local public school board or the selection or removal of its officers and employees.

(b) Prepare and adopt rules and guidelines for the appropriate use of seclusion, physical restraint, and mechanical restraint of students with exceptionalities as defined in R.S. 17:1942, in accordance with the Administrative Procedure Act.

§17:416.21. Behavior of students with exceptionalities; use of seclusion and physical restraint.

A. As used in this Section:

(1) "Imminent risk of harm" means an immediate and impending threat of a person causing substantial physical injury to self or others.

(2) (a) "Mechanical restraint" means the application of any device or object used to limit a person's movement.

(b) Mechanical restraint does not include:

(i) A protective or stabilizing device used in strict accordance with the manufacturer's instructions for proper use and which is used in compliance with orders issued by an appropriately licensed health care provider.

(ii) Any device used by a duly licensed law enforcement officer in the execution of his official duties.

(3) (a) "Physical restraint" means bodily force used to limit a person's movement.

(b) Physical restraint does not include:

(i) Consensual, solicited, or unintentional contact.

(ii) Holding of a student, by a school employee, for less than five minutes in any given hour or class period for the protection of the student or others.

(iii) Holding of a student, by one school employee, for the purpose of calming or comforting the student, provided the student's freedom of movement or normal access to his or her body is not restricted.

(iv) Minimal physical contact for the purpose of safely escorting a student from one area to another.

(v) Minimal physical contact for the purpose of assisting the student in completing a task or response.

(4) "Positive behavior interventions and support" means a systematic approach to embed evidence-based practices and data-driven decision making when addressing student behavior in order to improve school climate and culture.

(5) "School employee" means a teacher, paraprofessional, administrator, support staff member, or a provider of related services.

(6) "Seclusion" means a procedure that isolates and confines a student in a separate room or area until he or she is no longer an immediate danger to self or others.

(7) "Seclusion room" means a room or other confined area, used on an individual basis, in which a student is removed from the regular classroom setting for a limited time to allow the student the opportunity to regain control in a private setting and from which the student is involuntarily prevented from leaving.

(8) "Written guidelines and procedures" means the written guidelines and procedures adopted by a school's governing authority regarding appropriate responses to student behavior that may require immediate intervention.

B. (1) Seclusion shall be used only:

(a) For behaviors that involve an imminent risk of harm.

(b) As a last resort when de-escalation attempts have failed and the student continues to pose an imminent threat to self or others.

(2) Seclusion shall not be used to address behaviors such as general noncompliance, self-stimulation, and academic refusal. Such behaviors shall be responded to with less stringent and less restrictive techniques.

(3) (a) A seclusion room shall be used only as a last resort if and when less restrictive measures, such as positive behavioral supports, constructive and non-physical de-escalation, and restructuring of a student's environment, have failed to stop a student's actions that pose an imminent risk of harm.

(b) A student shall be placed in a seclusion room only by a school employee who uses accepted methods of escorting a student to a seclusion room, placing a student in a seclusion room, and supervising a student while he or she is in the seclusion room.

(c) Only one student may be placed in a seclusion room at any given time, and the school employee supervising the student must be able to see and hear the student the entire time the student is placed in the seclusion room.

(4) A seclusion room shall:

(a) Be free of any object that poses a danger to the student placed in the room.

(b) Have an observation window and be of a size that is appropriate for the student's size, behavior, and chronological and developmental age.

(c) Have a ceiling height and heating, cooling, ventilation, and lighting systems comparable to operating classrooms in the school.

C. (1) Physical restraint shall be used only:

(a) When a student's behavior presents a threat of imminent risk of harm to self or others and only as a last resort to protect the safety of self and others.

(b) To the degree necessary to stop dangerous behavior.

(c) In a manner that causes no physical injury to the student, results in the least possible discomfort, and does not interfere in any way with a student's breathing or ability to communicate with others.

(2) No student shall be subjected to any form of mechanical restraint.

(3) No student shall be physically restrained in a manner that places excessive pressure on the student's chest or back or that causes asphyxia.

(4) A student shall be physically restrained only in a manner that is directly proportionate to the circumstances and to the student's size, age, and severity of behavior.

D. Seclusion and physical restraint shall not be used as a form of discipline or punishment, as a threat to control, bully, or obtain behavioral compliance, or for the convenience of school personnel.

E. No student shall be subjected to unreasonable, unsafe, or unwarranted use of seclusion or physical restraint.

F. A student shall not be placed in seclusion or physically restrained if he or she is known to have any medical or psychological condition that precludes such action, as certified by a licensed health care provider in a written statement provided to the school in which the student is enrolled.

G. A student who has been placed in seclusion or has been physically restrained shall be monitored continuously. Such monitoring shall be documented at least every fifteen minutes and adjustments made accordingly, based upon observations of the student's behavior.

H. A student shall be removed from seclusion or released from physical restraint as soon as the reasons for justifying such action have subsided.

I. (1) The parent or other legal guardian of a student who has been placed in seclusion or physically restrained shall be notified as soon as possible. The student's parent or other legal guardian shall also be notified in writing, within twenty-four hours, of each incident of seclusion or physical restraint. Such notice shall include the reason for such seclusion or physical restraint, the procedures used, the length of time of the student's seclusion or physical restraint, and the names and titles of any school employee involved.

(2) The director or supervisor of special education shall be notified any time a student is placed in seclusion or is physically restrained.

J. A school employee who has placed a student in seclusion or who has physically restrained a student shall document and report each incident in accordance with the policies adopted by the school's governing authority. Such report shall be submitted to the school principal not later than the school day immediately following the day on which the student was placed in seclusion or physically restrained and a copy shall be provided to the student's parent or legal guardian.

K. If a student is involved in five incidents in a single school year involving the use of physical restraint or seclusion, the student's Individualized Education Plan team shall review and revise the student's behavior intervention plan to include any appropriate and necessary behavioral supports.

L. The documentation compiled for a student who has been placed in seclusion or has been physically restrained and whose challenging behavior continues or escalates shall be reviewed at least once every three weeks.

M. (1) The governing authority of each public elementary and secondary school shall adopt written guidelines and procedures regarding:

(a) Reporting requirements and follow-up procedures.

(b) Notification requirements for school officials and a student's parent or other legal guardian.

(c) An explanation of the methods of physical restraint and the school employee training requirements relative to the use of restraint.

(2) These guidelines and procedures shall be provided to all school employees and every parent of a child with an exceptionality.

N. (1) The governing authority of each public elementary and secondary school shall report all instances where seclusion or physical restraint is used to address student behavior to the Department of Education.

(2) The Department of Education shall maintain a database of all reported incidents of seclusion and physical restraint of students with exceptionalities and shall disaggregate the data for analysis by school; student age, race, ethnicity, and gender; student disability, where applicable; and any involved school employees.

Alternative Placements

STATUTES

§17.7. Duties, functions, and responsibilities of board.

In addition to the authorities granted by R.S. 17:6 and any powers, duties, and responsibilities vested by any other applicable laws, the board shall:

(5)(a) Approve courses of study and prepare and adopt rules and regulations for the discipline of students and the governance of the public elementary and secondary schools and other public schools and programs under its jurisdiction, which shall not be inconsistent with law and which shall be enforced by the city, parish, and other local public school boards and the local school superintendents; however, the board shall have no control over the business affairs of a city, parish, or other local public school board or the selection or removal of its officers and employees.

(b) Prepare and adopt rules and guidelines for the appropriate use of seclusion, physical restraint, and mechanical restraint of students with exceptionalities as defined in R.S. 17:1942, in accordance with the Administrative Procedure Act.

(32) Report in writing to the House Committee on Education and the Senate Committee on Education by not later than September 15, 2010, relative to the standards and criteria used by the board to approve alternative schools and alternative education programs for students in public elementary and secondary schools who are suspended for more than ten days or who are expelled from school for violations of school discipline law or policy and who remain under the supervision of the city, parish, or other local public school taking the action. The report shall specify in detail all minimum standards and criteria that must be met in order for the board to approve the alternative school or program and note standards and criteria that are subject to waiver by the board in making approval determinations.

§17.100.1. Alternative educational programs; certain adjudicated students; students in the custody of the office of juvenile justice; funding; authority of the local school board to contract; inclusion in minimum foundation program; funding formula.

A.(1) Any child who has been adjudicated delinquent or as a member of a family in need of services by a court or is in the custody of the office of juvenile justice as a result of any such adjudication and is assigned by the office of juvenile justice to a community-based program or facility shall be counted by the city, parish, or other local public school board for the city or parish where such program or facility exists for purposes of the Minimum Foundation Program and any other available state or federal funding for which the child is eligible. No other city, parish, or other local public school board shall include such a child in any count for purposes of the Minimum Foundation Program or any other available state or federal funding for which the child may be eligible. Funds inuring to the city, parish, or other local public school board as a result of the presence of such children in their jurisdiction shall be used to provide educational services for such children.

(2) Subject to the requirements of Subsection B of this Section, any city, parish, or other local public school board may contract for the provision of educational services for children described in Paragraph (1) of this Subsection.

B. Private providers of alternative educational services shall be approved by the city, parish, or other local public school board and the State Board of Elementary and Secondary Education as alternative schools pursuant to standards established by the state board before a contract as authorized by this Section may be entered into by the city, parish, or other local public school board.

§17.100.5. Alternative schools; establishment by local boards.

A. Parish and city school boards, with the approval of the State Board of Elementary and Secondary Education, may establish and maintain one or more alternative schools for children whose behavior is disruptive. Any alternative school shall be maintained and funded at the same level of support as other schools for children in the school district.

B. The State Board of Elementary and Secondary Education shall develop, adopt, and implement guidelines for alternative schools which, at a minimum, shall provide for the following:

(1) Identifying the needs of students.

(2) Using group and individualized courses of study.

(3) Providing assistance with social skills and work habits.

(4) Using alternative teaching methods.

C. (1) Teachers employed in alternative schools established pursuant to this Section shall be selected from regularly employed school teachers who volunteer.

(2) Eligibility for enrollment in alternative schools shall be determined from a list compiled by each city and parish school board of students with discipline problems whose behavior is disruptive. Students selected for enrollment in the alternative schools from the eligibility list shall be selected from volunteers, provided that there shall be no racial, sexual, or ethnic discrimination in either the compilation of the eligibility list or in the operation of the school.

D. Each city or parish school board operating an alternative school annually shall evaluate such school. The evaluation shall include testing of basic skills for student participants. The process of evaluation shall also include teacher, parent, and student input from the alternative school.

§17:224. Unadjustable or incorrigible children; reports to juvenile courts; expulsion, assignments, and transfers.

A. Unadjustable or incorrigible children, who, through no fault of their parents or tutors or other persons having charge of them, regularly disrupt the orderly processes of the school to which they have been assigned, shall be considered as delinquents and may be reported by the visiting teacher, or supervisor of child welfare and attendance, to the juvenile court of the parish, there to be dealt with in the manner prescribed by law.

B. Notwithstanding the provisions of R.S. 17:416 to the contrary, any student who exhibits disruptive behavior, an incorrigible attitude, or any other discipline problems in general, may be recommended by the principal for expulsion, assignment to an appropriate alternative education program, or transfer to adult education if such student is:

(1) Seventeen years of age or older with less than five units of credit toward graduation.

(2) Eighteen years of age or older with less than ten units of credit toward graduation

(3) Nineteen years of age or older with less than fifteen units of credit toward graduation.

§17:416.2. Supervision of suspended or expelled students; alternative education programs.

A. (1) Any student suspended or expelled from school pursuant to the provisions of R.S. 17:416, shall remain under the supervision of the governing authority of the city, parish, or other local public school system taking such action using alternative education programs for suspended and expelled students. Alternative education programs of any local public school shall be approved by the State Board of Elementary and Secondary Education; however, no school system shall be liable for any student attending an alternative education program at a location other than a school site.

(2) A student expelled pursuant to the provisions of R.S. 17:416(B) and (C)(2) may be readmitted only to a city, parish, or other local public school in the school system from which he was expelled prior to the completion of the specified period of expulsion, in accordance with the provisions of R.S. 17:416(C)(2)(d).

(3) (a) Any student placed in an alternative school or an alternative education program, including but not limited to any student receiving education services pursuant to an agreement subject to Paragraph (D)(2) of this Section, shall attend and participate in such school, program, or education services.

(b) The parent, tutor, or legal guardian of any such student shall ensure attendance as required by this Paragraph and any violation of this Subparagraph shall be subject to the provisions of R.S. 17:221(A)(2) and (3).

(c) Visiting teachers or supervisors of child welfare and attendance, with the approval of the superintendent of the local public school system, shall file proceedings in court to enforce the provisions of this Paragraph.

B. Repealed by Acts 2012, No. 831, § 2, effective June 14, 2012.

C. For purposes of this Section, alternative education programs may mean programs designed to offer variations of traditional instructional programs and strategies for the purpose of increasing the likelihood that students who are unmotivated or unsuccessful in traditional programs or who are disruptive in the traditional school environment remain in school and obtain a high school diploma. Alternative programs may include but not be limited to programs that hold students to strict standards of behavior in highly structured and controlled environments, sometimes referred to as "boot camps", "police schools", or "court schools".

D. (1) The State Board of Elementary and Secondary Education shall adopt the necessary rules and regulations to provide for the implementation of the provisions of this Section.

(2) Such rules and regulations shall include provisions for cases in which a school governing authority enters into an agreement with an education service provider for the education of a student who meets any of the following criteria:

(a) Has been adjudicated delinquent by a court having juvenile jurisdiction as defined in Article 302 of the Louisiana Children's Code.

(b) Has been adjudicated by a court as a member of a family in need of services and is assigned by the office of juvenile justice to a community-based program or facility.

(c) Is in the custody of the office of juvenile justice as a result of an adjudication and is assigned by the office of juvenile justice to a community-based program or facility.

(d) Is a student who has been suspended or expelled pursuant to the provisions of R.S. 17:416(B) or (C)(2).

(3) Rules and regulations pursuant to Paragraph (2) of this Subsection shall include all of the following:

(a) Such services shall be provided to the school governing authority at the actual costs incurred by the provider, not to exceed for each student the pro rata share of the combined state and local per pupil amount of the minimum foundation program for such governing authority.

(b) In an effort to support the on-time graduation of students who are suspended, expelled, or at high risk for dropping out or entry into the juvenile justice system, academic, behavioral, and mental health interventions must be provided. Interventions offered shall include but not be limited to the following:

(i) Academic interventions and supports:

(aa) Targeted academic interventions focused on assessed needs in math and reading using an evidence-based and research-supported curriculum.

(bb) Use of validated monthly assessments to monitor individual student academic progress.

(cc) Implementation of research-supported instructional strategies such as differentiated instruction, experiential education, project-based learning, and computer-assisted instruction to support assessed needs and content mastery.

(dd) Opportunities to participate in credit recovery to support progression towards on-time graduation.

(ee) On-site access to at least one career or vocational certification option.

(ii) Behavioral interventions and supports:

(aa) Positive behavioral supports with a high ratio of positive reinforcement over punishment.

(bb) Behavioral shaping steps aligned to assessed behavioral needs and goals.

(cc) Mentoring and frequent behavioral feedback focused on individualized shaping steps for students enrolled.

(dd) Successive approximations and reinforcements to develop more complex social behaviors.

(iii) Mental health interventions and supports:

(aa) Evidence-based cognitive behavioral interventions to address, anger, impulsivity, and aggression.

(bb) Interventions to address past childhood traumas, including forms of abuse and neglect, being a victim of or a witness to violence, and involvement in natural disasters.

(cc) Interventions to address substance use and to prevent substance abuse.

(dd) Interventions to build life skills and social skills in order to increase employability and success in the community.

(4) Nothing in this Section shall prevent any nonprofit organization that provides alternative education services to a school governing authority from applying to operate a charter school pursuant to R.S. 17:3983.

(5) The governing authority of a Type 5 charter school shall receive approval from the superintendent of the Recovery School District before entering into an agreement with an educational service provider for alternative education services pursuant to the provisions of this Section, and any such agreement shall not be subject to the provisions of Subparagraph (3)(a) of this Subsection.

(6) Any agreement in effect on the effective date of this Paragraph and any prospective agreement between the Recovery School District and an educational service provider for alternative education shall not be subject to Subparagraph (3)(a) of this Subsection, but shall be approved by the state superintendent of education.

E. Notwithstanding any provision of R.S. 17:158 to the contrary, a school system shall not be required to provide transportation to any student suspended or expelled from school pursuant to the provisions of R.S. 17:416 and remaining under the supervision of the governing authority of the school system taking such action pursuant to Subsection A of this Section if providing such transportation for the student will result in additional transportation costs to the school system. No school system shall be liable for any suspended or expelled student providing his own transportation pursuant to the provisions of this Section.

F. Repealed by Acts 2012, No. 831, § 2, effective June 14, 2012.

G. The provisions of this Section shall not be applicable to any student suspended for up to ten days.

H. The Department of Education shall monitor each city, parish, and other local public school system annually for compliance with the provisions of this Section.

ADMINISTRATIVE CODE

§1303. Bullying.

8. Parental Relief. If four or more reports of separate incidents of bullying have been made, and no investigation has occurred, the parent or legal guardian of the alleged victim shall have the option to request that the student be transferred to another school operated by the LEA.

a. In order to exercise this option, the parent or legal guardian shall file a request with the superintendent of the LEA for the transfer of the student to another school under the LEA's jurisdiction.

b. The LEA shall make a seat available at another of its schools within 10 school days of receipt of the request for a transfer. If the LEA has no other school serving the grade level of the student, then within 15 school days of receipt of the request, the superintendent of the LEA shall:

i. inform the student and the student's parents or legal guardians and facilitate the student's enrollment in a statewide virtual school;

ii. offer the student placement in a full-time virtual program or virtual school under the jurisdiction of the LEA;

iii. enter into a memorandum of understanding with the superintendent of another LEA to secure a placement and provide for the transfer of the student to a school serving the grade level of the student, pursuant to R.S. 17:105 and 105.1.

c. If no seat or other placement is made available within 30 calendar days of the receipt of the request by the superintendent, the parent or legal guardian may request a hearing with the school board, which shall be public or private at the option of the parent or legal guardian. The school board shall grant the hearing at its next scheduled meeting or within 60 calendar days, whichever is sooner.

d. At the end of any school year, the parent or legal guardian may request that the LEA transfer the student back to the original school. The LEA shall make a seat available at the school.

Disciplinary Approaches Addressing Specific Infractions and Conditions

Firearms (as required by the Guns-Free Schools Act)

STATUTES

<u>§17.416. Discipline of students; suspension; expulsion.</u>

B.(1)(b)(i) Notwithstanding the provisions of Subsection A of this Section, the principal shall immediately suspend a student who is found carrying or possessing a firearm… He shall immediately recommend the student's expulsion in accordance with Subsection C of this Section.

(c) The provisions of this Section shall not apply to the following:

(i) A student carrying or possessing a firearm or knife for purposes of involvement in a school class or course or school approved cocurricular or extracurricular activity or any other activity approved by the appropriate school officials.

C.(2)(a)(i) Notwithstanding the provisions of Subsection B of this Section, any student sixteen years of age or older found guilty of being in possession of a firearm on school property, on a school bus, or in actual possession at a school-sponsored event, pursuant to a hearing as provided for by Paragraph (1) of this Subsection, shall be expelled from school for a minimum period of four complete school semesters and shall be referred to the district attorney for appropriate action. However, the superintendent of a city, parish, or other local public school system may modify the length of such minimum expulsion requirement on a case-by-case basis, provided such modification is in writing.

C.(2)(b)(i) Any student who is under sixteen years of age and in grades six through twelve and who is found guilty of being in possession of a firearm on school property, on a school bus, or in actual possession at a school sponsored event, pursuant to a hearing as provided for by Paragraph (1) of this Subsection, shall be expelled from school for a minimum period of four complete school semesters, and shall be referred to the district attorney for appropriate action. However, the superintendent of a city, parish, or other local public school system may modify the length of such minimum expulsion requirement on a case-by-case basis, provided such modification is in writing.

C.(2)(c)(i) Any case involving a student in kindergarten through grade five found guilty of being in possession of a firearm on school property, on a school bus, or in actual possession at a school sponsored event, pursuant to a hearing as provided for by Paragraph (1) of this Subsection, shall be expelled from school for a minimum period of two complete school semesters and shall be referred to the district attorney for appropriate action. However, the superintendent of a city, parish, or other local public school system may modify the length of such minimum expulsion requirement on a case-by-case basis, provided such modification is in writing.

Other weapons

STATUTES

<u>§17.416. Discipline of students; suspension; expulsion.</u>

B.(1)(b)(i) Notwithstanding the provisions of Subsection A of this Section, the principal shall immediately suspend a student who is found … another dangerous instrumentality other than a knife …. He

shall immediately recommend the student's expulsion in accordance with Subsection C of this Section.

(ii)(aa) Except as provided in Item (c)(i) of this Paragraph, no student shall be permitted to carry or possess a knife of any blade length.

(bb) A student who is found carrying or possessing a knife with a blade less than two inches in length may be suspended by the school principal as provided in Paragraph (A)(3) of this Section; however, in appropriate cases such student, at a minimum, shall be placed in in-school suspension.

(cc) The principal shall immediately suspend a student who is found carrying or possessing a knife the blade of which equals or exceeds two inches in length. He also shall immediately recommend the student's expulsion in accordance with Subsection C of this Section, except that, in the case of a student less than eleven years of age in pre-kindergarten through grade five, the principal may, but shall not be required to, recommend the student's expulsion in accordance with Subsection C of this Section.

(c) The provisions of this Section shall not apply to the following:

(i) A student carrying or possessing a firearm or knife for purposes of involvement in a school class or course or school approved cocurricular or extracurricular activity or any other activity approved by the appropriate school officials.

F. Notwithstanding any provision of this Section to the contrary, school officials shall have total discretion and shall exercise such discretion in imposing on a pupil any disciplinary actions authorized by this Section for possession by a pupil of a firearm or knife on school property when such firearm or knife is stored in a motor vehicle and there is no evidence of the pupil's intent to use the firearm or knife in a criminal manner.

Students with chronic disciplinary issues

STATUTES

§17.416. Discipline of students; suspension; expulsion.

A.(1)(c)(v) Upon the third removal from the same classroom pursuant to this Subparagraph, the teacher and the principal shall discuss the disruptive behavior patterns of the pupil and the potentially appropriate disciplinary measure before the principal implements a disciplinary measure. If appropriate, a referral of the matter may be made to an appropriate building level committee. In addition, a conference between the teacher or other appropriate school employee and the pupil's parent, tutor, or legal guardian shall be required prior to the pupil being readmitted.

(vi)(aa) If disruptive behavior persists, the teacher may request that the principal transfer the pupil into another setting.

A.(3) (f) When a pupil is suspended for a second time within one school year, the principal may require that a counseling session be held with the parent and pupil by the school counselor if a counselor is assigned or available to that school. In the event there is no school counselor available, the principal may require a conference between the parent, pupil, and all the pupil's teachers and the principal or other administrator.

§17:224. Unadjustable or incorrigible children; reports to juvenile courts; expulsion, assignments, and transfers.

A. Unadjustable or incorrigible children, who, through no fault of their parents or tutors or other persons having charge of them, regularly disrupt the orderly processes of the school to which they have been

assigned, shall be considered as delinquents and may be reported by the visiting teacher, or supervisor of child welfare and attendance, to the juvenile court of the parish, there to be dealt with in the manner prescribed by law.

B. Notwithstanding the provisions of R.S. 17:416 to the contrary, any student who exhibits disruptive behavior, an incorrigible attitude, or any other discipline problems in general, may be recommended by the principal for expulsion, assignment to an appropriate alternative education program, or transfer to adult education if such student is:

(1) Seventeen years of age or older with less than five units of credit toward graduation.

(2) Eighteen years of age or older with less than ten units of credit toward graduation

(3) Nineteen years of age or older with less than fifteen units of credit toward graduation.

Attendance and truancy

STATUTES

§17.221. School attendance; compulsory ages; duty of parents; excessive absences; condition for driving privileges.

A.(1) Every parent, tutor, or other person residing within the state of Louisiana having control or charge of any child from that child's seventh birthday until his eighteenth birthday shall send such child to a public or private day school, unless the child graduates from high school prior to his eighteenth birthday. Any child below the age of seven who legally enrolls in school shall also be subject to the provisions of this Subpart. Every parent, tutor, or other person responsible for sending a child to a public or private day school under provisions of this Subpart shall also assure the attendance of such child in regularly assigned classes during regular school hours established by the school board and shall assure that such child is not habitually tardy from school pursuant to the provisions of R.S. 17:233.

(2) Whoever violates the provisions of this Subsection or R.S. 17:234 shall be fined not more than two hundred and fifty dollars or imprisoned not more than thirty days, or both. The court shall impose a minimum condition of probation which may include that the parent, tutor, or other person having control or charge of the child participate in forty hours of school or community service activities, or a combination of forty hours of school or community service and attendance in parenting classes or family counseling sessions or programs approved by the court having jurisdiction, as applicable, or the suspension of any state-issued recreational license.

(3) Whoever violates any other provision of this Subpart or any other provision of law which provides for the penalty provided for in R.S. 17:221 shall be fined not more than fifteen dollars, and, for such violations, each day the violation continues shall constitute a separate offense.

(4) Visiting teachers or supervisors of child welfare and attendance, with the approval of the parish or city superintendents of schools, shall file proceedings in court to enforce the provisions of this Subpart.

B. No city, parish, or other local public school board shall deny admission or readmission to school of any student of suitable age who resides within the geographic boundaries of the school system unless such student is legally excluded from attending school.

C. Each of the school boards shall:

(1) Develop and submit to the state Superintendent of Education a detailed written program plan designed to improve school attendance, based on local needs and resources.

(2) Give priority in selecting pilot schools within the local school districts to those with the highest percentage of nonattendance, and

(3) Focus the program in a manner designed to remedy the underlying problems causing poor school attendance.

D. Each school shall develop and implement a system whereby the school shall attempt to provide verbal notification and, if such verbal notification cannot be provided, then shall provide written notification to a child's parent, tutor, or legal guardian when that child has been absent from school for five school days in schools operating on a semester basis, and for ten days in schools not operating on a semester basis.

Substance use

STATUTES

§17.416. Discipline of students; suspension; expulsion.

B.(1)(b)(i) Notwithstanding the provisions of Subsection A of this Section, the principal shall immediately suspend a student … who possesses, distributes, sells, gives, or loans any controlled dangerous substance governed by the Uniform Controlled Dangerous Substances Law, in any form. He shall immediately recommend the student's expulsion in accordance with Subsection C of this Section.

(c) The provisions of this Section shall not apply to the following:

(ii) A student possessing any controlled dangerous substance governed by the Uniform Controlled Dangerous Substances Law that has been obtained directly or pursuant to a valid prescription or order from a licensed physician. However, such student shall carry evidence of that prescription or physician's order on his person at all times when in possession of any controlled dangerous substance which shall be subject to verification.

C.(2)(a)(ii) Notwithstanding the provisions of Subsection B of this Section, any student sixteen years of age or older found guilty of possession of, or knowledge of and intentional distribution of, or possession with intent to distribute any illegal narcotic, drug, or other controlled substance on school property, on a school bus, or at a school sponsored event pursuant to a hearing as provided for by Paragraph (1) of this Subsection shall be expelled from school for a minimum period of four complete school semesters.

C.(2)(b)(ii) Any student who is under sixteen years of age and in grades six through twelve and who is found guilty of possession of, or knowledge of and intentional distribution of, or possession with intent to distribute any illegal narcotic, drug, or other controlled substance on school property, on a school bus, or at a school sponsored event pursuant to a hearing as provided for by Paragraph (1) of this Subsection shall be expelled from school for a minimum period of two complete school semesters.

C.(2)(c)(ii) Any case involving a student in kindergarten through grade five found guilty of possession of, or knowledge of and intentional distribution of, or possession with intent to distribute any illegal narcotic, drug, or other controlled substance on school property, on a school bus, or at a school sponsored event pursuant to a hearing as provided for by Paragraph (1) of this Subsection shall be referred to the city, parish, or other local public school board where the student attends school through a recommendation for action from the superintendent.

C.(3)(a) Any student arrested for possession of, or intentional distribution of, or possession with intent to distribute any illegal narcotic, drug, or other controlled substance on school property shall be referred by the school principal or his designee, within five days after such arrest, for testing or screening by a qualified medical professional for evidence of abuse of alcohol, illegal narcotics, drugs, or other controlled dangerous substances.

(b) If evidence of abuse is found, the student shall be referred to an alcohol and drug abuse treatment professional chosen by the student's parent or tutor. If the student is found by the professional to be

in need of treatment, and if the student agrees to cooperate in the recommended treatment, as certified in writing by the medical professional, such documentation may be used to initiate reopening the student's case. The school board shall take into consideration the student's agreement to receive treatment as a positive factor in the final decision relative to any final disciplinary action.

ADMINISTRATIVE CODE

§1305. Reasons for suspension.

A. School principals may suspend from school any student, including an exceptional student, for good cause in accordance with state law and local policy.

B. Students determined to be guilty of the following offenses may be suspended for the following reasons:

1. willful disobedience;
2. disrespect to a teacher, principal, superintendent, and/or member or employee of the local school board;
3. making an unfounded charge against a teacher, principal, superintendent, and/or member or employee of the local school board;
4. using unchaste or profane language;
5. immoral or vicious practices;
6. conduct or habits injurious to his/her associates;
7. using tobacco and/or using and possessing alcoholic beverages or any controlled dangerous substances governed by the Uniformed Controlled Dangerous Substance Law in any form in school buildings or on school grounds;
8. disturbing the school and habitually violating the rules;
9. cutting, defacing, or injuring any part of public school buildings;
10. writing profane or obscene language or drawing obscene pictures in or on any public school premises, or on any fence, sidewalk, or building on the way to or from school;
11. possessing firearms, knives, or other implements that can be used as weapons;
12. throwing missiles on the school grounds;
13. instigating or participating in fights while under school supervision;
14. violating traffic and safety regulations;
15. leaving the school premises without permission or his/her classroom or detention room without permission;
16. habitual tardiness or absenteeism; and
17. committing any other serious offense.

§1307. Reasons for expulsions.

A. Students may be expelled for any of the following reasons:

1. any student, after being suspended for committing any of the offenses listed in §1103, may be expelled upon recommendation by the principal of the public school in which the student is enrolled;
2. any student, after being suspended on three occasions for committing drugs or weapons offenses during the same school session, shall, on committing the fourth offense, be expelled from all the public schools of the parish or city school system wherein he or she resides until the beginning of the next regular school year, subject to the review and approval of the local educational governing authority;

3. the conviction of any student of a felony or the incarceration of any student in a juvenile institution for an act which, had it been committed by an adult, would have constituted a felony, may be cause for expulsion of the student for a period of time as determined by the board; such expulsions shall require the vote of two thirds of the elected members of the local educational governing authority;

4. any student found guilty of being in possession of a firearm on school property or on a school bus or at a school sponsored event shall be expelled from school according to the requirements of R.S. 17:416(C)(2);

5. any student in grades six and up found guilty of being in possession of any illegal narcotic, drug, or other controlled substance on school property, on a school bus, or at a school event shall be expelled from school according to the requirements of R.S. 17:416(C)(2).

6. any student older than eleven and in grades six and up, carrying or possessing a knife the blade of which equals or exceeds two inches in length.

B. School officials shall have total discretion and shall exercise such discretion in imposing on a pupil any disciplinary actions authorized by this Section for possession by a student of a firearm or knife on school property when such firearm or knife is stored in a motor vehicle and there is no evidence of the student's intent to use the firearm or knife in a criminal manner.

C. Expulsion is not mandatory for a student carrying or possessing a firearm or knife for purposes of involvement in a school class or course or school approved cocurricular or extracurricular activity or any other activity approved by the appropriate school officials or for a student possessing any controlled dangerous substance governed by the Uniform Controlled Dangerous Substances Law that has been obtained directly or pursuant to a valid prescription or order from a licensed physician. However, such student shall carry evidence of that prescription or physician's order on his person at all times when in possession of any controlled dangerous substance which shall be subject to verification.

Bullying, harassment, or hazing

STATUTES

§17.416. Discipline of students; suspension; expulsion.

A.(1)(b)(i) Each teacher may take disciplinary action to correct a student who disrupts normal classroom activities, who is disrespectful to a teacher, who willfully disobeys a teacher, who uses abusive or foul language directed at a teacher or another student, who engages in bullying, who violates school rules, or who interferes with an orderly education process.

(ii) In addition to those procedures set forth in R.S. 17:416.13 regarding bullying, disciplinary action may include but is not limited to:

(aa) Oral or written reprimands.

(bb) Referral for a counseling session which shall include but shall not be limited to conflict resolution, social responsibility, family responsibility, peer mediation, and stress management.

(cc) Written notification to parents of disruptive or unacceptable behavior, a copy of which shall be provided to the principal.

(dd) Other disciplinary measures approved by the principal and faculty of the school and in compliance with school board policy.

(1)(c)(i) When a student's behavior prevents the orderly instruction of other students or poses an immediate threat to the safety or physical well being of any student or teacher, when a student exhibits disrespectful behavior toward the teacher such as using foul or abusive language or gestures directed at or threatening a student or a teacher, when a student violates the school's

code of conduct, or when a student exhibits other disruptive, dangerous, or unruly behavior, including inappropriate physical contact, inappropriate verbal conduct, sexual or other harassment, bullying, throwing objects, inciting other students to misbehave, or destroying property, the teacher may have the student immediately removed from his classroom and placed in the custody of the principal or his designee. A student removed from the classroom pursuant to this Subparagraph shall be assigned school work missed and shall receive either partial or full credit for such work if it is completed satisfactorily and timely as determined by the principal or his designee, upon the recommendation of the student's teacher; however, the teacher shall not be required to interrupt class instruction time to prepare any such assignment.

(ii)(aa) Upon being sent to the principal's office pursuant to the provisions of this Subparagraph, the principal or his designee shall advise the pupil of the particular misconduct of which he is accused as well as the basis for such accusation, and the pupil shall be given an opportunity at that time to explain his version of the facts. The principal or his designee then shall conduct a counseling session with the pupil as may be appropriate to establish a course of action, consistent with school board policy to identify and correct the behavior for which the pupil is being disciplined.

(ii)(cc) The principal or his designee may provide oral or written feedback to teachers initiating the removal of pupils from the classroom. The principal or his designee may provide to such teachers guidance and support on practicing effective classroom management including but not limited to positive behavior supports.

§17:416.13. Student code of conduct; requirement; bullying; prohibition; notice; reporting; accountability.

A. Code of Conduct. --The governing authority of each public elementary and secondary school shall adopt a student code of conduct for the students in the schools under its jurisdiction. The code of conduct shall be in compliance with all existing rules, regulations, and policies of the school board and of the State Board of Elementary and Secondary Education and all state laws relative to student discipline and shall include any necessary disciplinary action to be taken against any student who violates the code of conduct.

B. (1) Bullying Policy. --The governing authority of each public elementary and secondary school shall adopt, and incorporate into the student code of conduct, a policy prohibiting the bullying of a student by another student, which includes the definition of bullying as provided in Subsection C of this Section. This policy must be implemented in a manner that is ongoing throughout the school year and integrated with a school's curriculum, a school's discipline policies, and other violence prevention efforts.

(2) By not later than January 1, 2013, the governing authority of each public elementary and secondary school shall:

(a) Conduct a review of the student code of conduct required by this Section and amend the code as may be necessary to assure that the policy prohibiting the bullying of a student by another student specifically addresses the behavior constituting bullying, the effect the behavior has on others, including bystanders, and the disciplinary and criminal consequences, and includes the definition of bullying as provided in Subsection C of this Section.

(b) Create a program to provide a minimum of four hours of training each year for all school employees, including bus drivers, with respect to bullying. The training shall specifically include the following:

(i) How to recognize the behaviors defined as bullying in Subsection C of this Section.

(ii) How to identify students at each grade level in the employee's school who are most likely to become victims of bullying, while not excluding any student from protection from bullying.

(iii) How to use appropriate intervention and remediation techniques and procedures.

(iv) The procedures by which incidents of bullying are to be reported to school officials.

(v) Information on suicide prevention, including the relationship between suicide risk factors and bullying. This content shall be based on information supported by peer-reviewed research conducted in compliance with accepted scientific methods and recognized as accurate by leading professional organizations and agencies with relevant experience.

C. Definition of Bullying. --"Bullying" means:

(1) A pattern of any one or more of the following:

(a) Gestures, including but not limited to obscene gestures and making faces.

(b) Written, electronic, or verbal communications, including but not limited to calling names, threatening harm, taunting, malicious teasing, or spreading untrue rumors. Electronic communication includes but is not limited to a communication or image transmitted by email, instant message, text message, blog, or social networking website through the use of a telephone, mobile phone, pager, computer, or other electronic device.

(c) Physical acts, including but not limited to hitting, kicking, pushing, tripping, choking, damaging personal property, or unauthorized use of personal property.

(d) Repeatedly and purposefully shunning or excluding from activities.

(2) (a) Where the pattern of behavior as provided in Paragraph (1) of this Subsection is exhibited toward a student, more than once, by another student or group of students and occurs, or is received by, a student while on school property, at a school-sponsored or school-related function or activity, in any school bus or van, at any designated school bus stop, in any other school or private vehicle used to transport students to and from schools, or any school-sponsored activity or event.

(b) The pattern of behavior as provided in Paragraph (1) of this Subsection must have the effect of physically harming a student, placing the student in reasonable fear of physical harm, damaging a student's property, placing the student in reasonable fear of damage to the student's property, or must be sufficiently severe, persistent, and pervasive enough to either create an intimidating or threatening educational environment, have the effect of substantially interfering with a student's performance in school, or have the effect of substantially disrupting the orderly operation of the school.

D. Prior to January 1, 2013, the State Board of Elementary and Secondary Education, in collaboration with the state Department of Education, shall develop and adopt rules and regulations to implement the provisions of this Section relative to the procedures and processes to be used to report and investigate bullying and which shall include but not be limited to:

(1) Notice to Students and Parents. --The governing authority of each public elementary and secondary school shall inform each student, orally and in writing at the orientation required under R.S. 17:416.20, of the prohibition against bullying of a student by another student, the nature and consequences of such actions, including the potential criminal consequences and loss of driver's license as provided in R.S. 17:416.1, and the proper process and procedure for reporting any incidents involving such prohibited actions. A copy of the written notice shall also be delivered to each student's parent or legal guardian.

(2) (a) Reporting. --The governing authority of each public elementary and secondary school shall develop a procedure for the reporting of incidents of bullying. This shall include a form for the purposes of bullying reports. The form shall include an affirmation of truth of statement. Any bullying report submitted regardless of recipient shall use this form, but additional information may be provided. The form shall be available on the Department of Education's website.

(b) Students and parents. --Any student who believes that he has been, or is currently, the victim of bullying, or any student, or any parent or guardian, who witnesses bullying or has good reason to believe bullying is taking place, may report the situation to a school official. A student, or parent or guardian, may also report concerns regarding bullying to a teacher, counselor, other school employee, or to any parent chaperoning or supervising a school function or activity. Any report of bullying shall remain confidential.

(c) School personnel. --Any teacher, counselor, bus driver, or other school employee, whether full or part time, and any parent chaperoning or supervising a school function or activity, who witnesses bullying or who learns of bullying from a student pursuant to Subparagraph (b) of this Paragraph, shall report the incident to a school official. A verbal report shall be submitted by the school employee or the parent on the same day as the employee or parent witnessed or otherwise learned of the bullying incident and a written report shall be filed no later than two days thereafter.

(d) Retaliation. --Retaliation against any person who reports bullying in good faith, who is thought to have reported bullying, who files a complaint, or who otherwise participates in an investigation or inquiry concerning allegations of bullying is prohibited conduct and subject to discipline. School and district resources shall not be used to prohibit or dissuade any person who meets the specifications of this Item.

(e) False Reports. --Intentionally making false reports about bullying to school officials is prohibited conduct and will result in the appropriate disciplinary measures as determined by the governing authority of the school in accordance with the rules and regulations of the State Board of Elementary and Secondary Education.

(3) Investigation Procedure. --By not later than January 1, 2013, the State Board of Elementary and Secondary Education shall develop and adopt a procedure for the investigation of reports of bullying of a student by another student. The procedure shall include the following:

(a) Scope of investigation. --An investigation shall include an interview of the reporter, the victim, the alleged bully, and any witnesses, and shall include obtaining copies or photographs of any audio-visual evidence.

(b) Timing. --The school shall begin an investigation of any complaint that is properly reported and that alleges conduct prohibited in this Section the next business day during which school is in session after the report is received by the school official. The investigation shall be completed not later than ten school days after the date the written report of the incident is submitted to the appropriate school official. If additional information is received after the end of the ten-day period, the school principal or his designee shall amend all documents and reports required by this Section to reflect such information.

(c) Appeal.

(i) If the school official does not take timely and effective action pursuant to this Section, the student, parent, or school employee may report the bullying incident to the city, parish, or other local school board or local school governing authority. The school board or school governing authority shall begin an investigation of any complaint that is properly reported and that alleges conduct prohibited in this Section the next business day during which school is in session after the report is received by a school board or governing authority official.

(ii) If the school board does not take timely and effective action, the student, parent, or other school employee may report the bullying incident to the state Department of Education. The department shall track the number of reports, shall notify in writing the superintendent and the president of the school's governing authority, and shall publish the number of reports by school district or governing authority on its website. The department shall provide both the number of actual reports received and the number of reports received by affected student.

(iii) For the purposes of this Section, a report means a written document that meets the requirements of Subparagraph (2)(a) of this Subsection.

(d) Parental Notification.

(i) Upon receiving a report of bullying, the school official shall notify the student's parent or legal guardian according to the definition of notice created by the state Department of Education.

(ii) Under no circumstances shall the delivery of the notice to the parent or legal guardian, which is required by this Subsection, be the responsibility of an involved student. Delivery of the notice by an involved student shall not constitute notice as is required pursuant to this Subsection.

(iii) Before any student under the age of eighteen is interviewed, his parent or legal guardian shall be notified by the school official of the allegations made and shall have the opportunity to attend any interviews with their child conducted as part of the investigation.

(iv) The State Board of Elementary and Secondary Education, in collaboration with the state Department of Education, shall develop a procedure for meetings with the parent or legal guardian of the victim and the parent or legal guardian of the alleged perpetrator. This procedure shall include:

(aa) Separate meetings with the parents or legal guardians of the victim and the parents or legal guardians of the alleged perpetrator.

(bb) Notification of parents or legal guardians of the victim and of the alleged perpetrator of the available potential consequences, penalties, and counseling options.

(cc) In any case where a teacher, principal, or other school employee is authorized in this Section to require the parent or legal guardian of a student who is under the age of eighteen and not judicially emancipated or emancipated by marriage to attend a conference or meeting regarding the student's behavior and, after notice, the parent, tutor, or legal guardian willfully refuses to attend, that the principal or his designee shall file a complaint with a court exercising juvenile jurisdiction, pursuant to Children's Code Article 730(8) and 731. The principal may file a complaint pursuant to Children's Code Article 730(1) or any other applicable ground when, in his judgment, doing so is in the best interests of the student.

(e) Disciplinary Action. --If the school has received a report of bullying, has determined that an act of bullying has occurred, and after meeting with the parent or legal guardian of the students involved, the school official shall:

(i) Take prompt and appropriate disciplinary action, pursuant to R.S. 17:416 and 416.1, against the student that the school official determines has engaged in conduct which constitutes bullying, if appropriate.

(ii) Report criminal conduct to law enforcement, if appropriate.

(f) Parental Relief.

(i) If a parent, legal guardian, teacher, or other school official has made four or more reports of separate instances of bullying, as provided in Paragraph (2) of this Subsection, and no investigation pursuant to Paragraph (3) of this Subsection has occurred, the parent or legal guardian with responsibility for decisions regarding the education of the victim about whom the report or reports have been made may exercise an option to have the student enroll in or attend another school operated by the governing authority of the public elementary or secondary school in which the student was enrolled on the dates when at least three of the reports were submitted.

(ii) The parent shall file a request with the superintendent for the transfer of the student to another school under the governing authority's jurisdiction.

(iii) The governing authority of the public elementary or secondary school in which the student is enrolled shall make a seat available at another public elementary or secondary school under its jurisdiction within ten school days of the parent or legal guardian's request for a transfer. If the governing authority has no other school under its jurisdiction serving the grade level of the victim, within fifteen school days of receiving the request, the superintendent or director of the governing authority shall:

(aa) Inform the student and his parent or legal guardian and facilitate the student's enrollment in a statewide virtual school.

(bb) Offer the student a placement in a full-time virtual program or virtual school under the jurisdiction of the school's governing authority.

(cc) Enter into a memorandum of understanding with the superintendent or director of another governing authority to secure a placement and provide for the transfer of the student to a school serving the grade level of the victim under the jurisdiction of the governing authority, pursuant to R.S. 17:105 and 105.1.

(iv) If no seat or other placement pursuant to Item (iii) of this Subparagraph is made available within thirty calendar days of the receipt by the superintendent of the request, the parent or legal guardian may request a hearing with the school's governing authority, which shall be public or private at the option of the parent or legal guardian. The school's governing authority shall grant the hearing at the next scheduled meeting or within sixty calendar days, whichever is sooner.

(v) At the end of any school year, the parent or legal guardian may make a request to the governing authority of the school at which the student was enrolled when at least three of the reports were filed to transfer the student back to the school. The governing authority shall make a seat available at the school at which the student was originally enrolled. No other schools shall qualify for transfer under this Subparagraph.

(g) Documentation.

(i) The state Department of Education shall develop a behavior incidence checklist that the governing authority of each public elementary and secondary school shall use to document the details of each reported incident of bullying.

(ii) The governing authority of each public elementary and secondary school shall report all such documented incidences of bullying to the state Department of Education as prescribed in rules adopted by the State Board of Elementary and Secondary Education in accordance with the Administrative Procedure Act and documented incidents in reports received by the local superintendent of schools pursuant to R.S. 17:415.

(iii) After the investigation and meeting with the parents, pursuant to this Section, a school, local school board or other local school governing authority shall:

(aa) Compose a written document containing the findings of the investigation, including input from the students' parents or legal guardian, and the decision by the school or school system official. The document shall be placed in the school records of both students.

(bb) Promptly notify the complainant of the findings of the investigation and that remedial action has been taken, if such release of information does not violate the law.

(cc) Keep complaints and investigative reports confidential, except as provided in this Section and where disclosure is required to be made pursuant to 20 U.S.C. 1232g or by other applicable federal laws, rules, or regulations or by state law.

(dd) Maintain complaints and investigative reports for three years in the event that disclosure is warranted by law enforcement officials.

(ee) As applicable, provide a copy of any reports and investigative documents to the governing authority of the school in order that the governing authority can comply with the provisions of R.S. 17:416.1.

(ff) As applicable, provide a copy of any reports and investigative documents to the state Department of Education. Upon receipt, the department shall remove any reports related to the investigative documents from notation on the department's website, but shall maintain a record of those reports for three years.

E. Parental Responsibilities. --Nothing herein shall be deemed to interfere with the authority and the responsibility that a parent or legal guardian has for the student at all times, but particularly when the student is not on the school premises, is not engaged in a school-sponsored function or school-sponsored activity, and is not being transported by school-sponsored means of transportation.

F. This Section shall not be interpreted to conflict with or supercede the provisions requiring mandatory reporting pursuant to Louisiana Children's Code Article 609 and as enforced through R.S. 14:403.

G. Preclusion.

(1) This Section shall not be interpreted to prevent a victim of bullying, or his parent or legal guardian, from seeking redress under any other available law, either civil or criminal.

(2) Nothing in this Section is intended to infringe upon the right of a school employee or student to exercise their right of free speech.

H. Construction; equal protection. --All students subject to the provisions of this Section shall be protected equally and without regard to the subject matter or the motivating animus of the bullying.

§17:1801. Hazing prohibited; penalties.

Hazing in any form, or the use of any method of initiation into fraternal organizations in any educational institution supported wholly or in part by public funds, which is likely to cause bodily danger or physical punishment to any student or other person attending any such institution is prohibited.

Whoever violates the provisions of this Section shall be fined not less than ten dollars nor more than one hundred dollars, or imprisoned for not less than ten days nor more than thirty days, or both, and in addition, shall be expelled from the educational institution and not permitted to return during the current session or term in which the violation occurs.

ADMINISTRATIVE CODE

§1303. Bullying.

A. Policy. Each LEA shall develop and adopt a policy that prohibits the bullying of a student by another student.

1. The bullying policy must be implemented in a manner that is ongoing throughout the year and integrated with a school's curriculum, a school's discipline policies, and other violence prevention efforts.

2. The policy shall contain the definition of bullying found in this Section and shall address the following:

a. behavior constituting bullying;

b. the effect the behavior has on others, including bystanders; and

c. the disciplinary and criminal consequences of bullying another student

Other special infractions or conditions

STATUTES

§17.416.12. Students; appropriate conduct; compliance.

A. Beginning with the 1999-2000 school year and thereafter, each city and parish school board shall require each student in each public school in kindergarten through fifth grade under the jurisdiction of the board to exhibit appropriate conduct as required in Subsection B of this Section.

B. When any public school student is speaking with any public school system employee while on school property or at a school sponsored event, such student shall address and respond to such public school system employee by using the respectful terms "Yes, Ma'am" and "No, Ma'am" or "Yes, Sir" and "No, Sir", as appropriate, or "Yes, Miss, Mrs., or Ms. (Surname)" and "No, Miss, Mrs., or Ms. (Surname)" or "Yes, Mr. (Surname)" and "No, Mr. (Surname)", as appropriate, each such title to be followed by the appropriate surname.

C. Each city and parish school board shall provide for incorporation of the requirements of this Section into any existing discipline policy or policies or any code of conduct of the school system or of each school within its jurisdiction.

D. Each city and parish school board shall take or provide for such appropriate actions necessary to discipline any student who fails to comply with the requirements of Subsection B of this Section. Provided however, no school board may provide suspension nor expulsion from school as an appropriate punishment for violation of the mandates of this Section.

§17:416.15. Zero tolerance policies; authorization; conflict resolution classes; fees; compliance.

Any city, parish, or other local public school board may adopt and implement a zero tolerance policy for fighting in the schools under its jurisdiction. Such policy may include a requirement that a student who is disciplined pursuant to the policy and such student's parent or parents shall attend a conflict resolution class or classes and may include provisions for the school board to take appropriate action, as determined by the board, against any student or parent who fails to comply with the class attendance requirement. Such classes may be provided by the school board or other appropriate provider as determined by the board. Any city, parish, or other local public school board may charge a fee for such attendance in an amount as may be determined by the board. However, such fee amount shall not exceed one hundred dollars.

Prevention and Behavioral Interventions (Non-Punitive)

Prevention

STATUTES

§17:416.13. Student code of conduct; requirement; bullying; prohibition; notice; reporting; accountability.

B. (1) Bullying Policy. --The governing authority of each public elementary and secondary school shall adopt, and incorporate into the student code of conduct, a policy prohibiting the bullying of a student by another student, which includes the definition of bullying as provided in Subsection C of this Section. This policy must be implemented in a manner that is ongoing throughout the school year and integrated with a school's curriculum, a school's discipline policies, and other violence prevention efforts.

§17:416.17. Youth development and assistance programs; legislative findings and purpose; school authority for programs for elementary students.

A.(1) The legislature finds that early identification and intervention of aggressive, antisocial, or delinquent behaviors are critical components in recognizing and preventing chronic juvenile delinquency in later years.

(2) The legislature further finds that school-based preventive interventions for violent or aggressive behavior in youth are recognized as beneficial to the overall developmental success of students.

(3) The legislature recognizes that the introduction of violence prevention strategies in the early elementary grades may reduce the incidence of delinquent behaviors in the later grades, especially when such programs include parental involvement in the prevention and intervention strategies.

(4) The purpose of this Section is to authorize elementary schools to develop prevention and intervention strategies to address disruptions and violence in schools to create safe school environments in which teachers can teach and students can learn and which increase student and family connectedness to the school.

B. A school may, upon approval of its governing authority, develop and offer youth development and assistance programs that employ violence prevention and intervention initiatives for students in kindergarten and the elementary grades. Such programs shall provide for early identification of and support for students who are at risk before their behavior escalates into aggression or disruption, disciplinary problems, or juvenile delinquency.

C.(1) A youth development and assistance program may consist of age- or grade-appropriate alternative classrooms during school or special intervention or prevention programs before, after, or during the school day.

(2) Such programs may include but shall not be limited to the following components:

(a) Provision of services for students including behavioral training and intervention techniques that promote cooperation and enhance interpersonal and conflict resolution skills, peer mediation, anger management, bullying prevention, life skills training, mentoring, counseling, and tutoring programs that improve academic achievement.

(b)(i) Provision of services which support the parents of students identified with behavioral needs that may need intervention or support. Such parent services may include literacy services or parental training.

(ii) Required participation of any parent of a student so identified in such intervention at the school or other designated facility.

(c) Collaboration with community-based organizations, including but not limited to youth services, civic, social services, mental health, volunteer services, and juvenile justice agencies.

D. The provisions of this Section shall be implemented upon the approval of each city, parish, or other local public school board of any program submitted by a school and the availability of funds to a school for such purpose.

§17.2404.1. Additional powers of the council, school resource officers, School Violence Prevention Training Program.

A. In accordance with the provisions of R.S. 40:2404(11) and R.S. 17:416.19, the Council on Peace Officer Standards and Training shall develop and implement a School Violence Prevention Training Program under their jurisdiction and within the existing school resource officer program in conjunction with the Louisiana Commission on Law Enforcement and Administration of Criminal Justice, the office of state police, local law enforcement agencies, and the State Board of Elementary and Secondary Education.

Behavioral interventions and student support services

STATUTES

§17.416. Discipline of students; suspension; expulsion.

(d)(i) In addition to any other limitations established by this Subsection on the admission of previously expelled pupils to public elementary and secondary schools in Louisiana, no pupil who has been expelled from any public or nonpublic school within or outside the state of Louisiana for possessing on school property or on a school bus a firearm, knife, or other dangerous weapon or instrumentality customarily used or intended for probable use as a dangerous weapon, or for possessing, possessing with intent to distribute, or distributing, selling, giving, or loaning while on school property or on a school bus any controlled dangerous substance governed by the Uniform Controlled Dangerous Substances Law shall be admitted to any public elementary or secondary school in the state, or readmitted to any such school on a probationary basis prior to the completion of the minimum period of expulsion as provided in Subsection C of this Section, until the pupil produces written documentation that he and his parent or legal guardian have enrolled and participated in an appropriate rehabilitation or counseling program related to the reason or reasons for the pupil's expulsion.

(ii) The rehabilitation or counseling required by the provisions of this Subparagraph shall be provided by existing or new programs approved by the juvenile or family court having jurisdiction, if applicable, or by the school system and shall be at no additional cost to the school system. Such rehabilitation or counseling programs may include the following components relative to successful programs, approaches, and activities for parental involvement which better equip parents to provide support for the education of their children:

(aa) Enhancing parenting skills and expanding curriculum offerings relative to character development, the development of a healthy self-esteem and sense of personal and social responsibility, violence prevention, and conflict resolution.

(bb) Raising the educational level of the parents of public school students through instruction in basic skills.

(cc) Improving developmental skills of students to prepare them for academic success.

(dd) Providing a role model for the child through parental interest in education.

(ee) Enabling parents to become familiar with and comfortable in the school setting.

(ff) Enhancing the relationship of the parent and child through planned, structured parent-school interaction.

(gg) Demonstrating to parents their power to affect their child's ability to learn.

(iii) The requirements of this Subparagraph for a student's enrollment and participation in a rehabilitation or counseling program shall be waived by the school system upon a documented showing by the student that no appropriate program is available in the area or that the student cannot enroll or participate due to financial hardship.

A.(1)(b)(i) Each teacher may take disciplinary action to correct a student who disrupts normal classroom activities, who is disrespectful to a teacher, who willfully disobeys a teacher, who uses abusive or foul language directed at a teacher or another student, who engages in bullying, who violates school rules, or who interferes with an orderly education process.

(ii) In addition to those procedures set forth in R.S. 17:416.13 regarding bullying, disciplinary action may include but is not limited to:

(aa) Oral or written reprimands.

(bb) Referral for a counseling session which shall include but shall not be limited to conflict resolution, social responsibility, family responsibility, peer mediation, and stress management.

(cc) Written notification to parents of disruptive or unacceptable behavior, a copy of which shall be provided to the principal.

A.(1)(c)(v) Upon the third removal from the same classroom pursuant to this Subparagraph, the teacher and the principal shall discuss the disruptive behavior patterns of the pupil and the potentially appropriate disciplinary measure before the principal implements a disciplinary measure. If appropriate, a referral of the matter may be made to an appropriate building level committee. In addition, a conference between the teacher or other appropriate school employee and the pupil's parent, tutor, or legal guardian shall be required prior to the pupil being readmitted.

(vi)(aa) If disruptive behavior persists, the teacher may request that the principal transfer the pupil into another setting.

A.(1)(c)(vi)(bb) Each city, parish, or other local public school board may adopt a policy that requires the parent or legal guardian of a pupil removed from the classroom pursuant to this Subparagraph to attend after school or Saturday intervention sessions with the pupil. The school board may refer a parent who fails to attend such session to the court of competent jurisdiction in accordance with Chapter 2 of Title VII of the Louisiana Children's Code. Each time a parent is referred to the court of competent jurisdiction, the court may impose a fine of not less than twenty-five dollars and not more than two hundred fifty dollars, forty hours of court-approved school or community service activities, or a combination of forty hours of court-approved school or community service and attendance at a court-approved family counseling program by both a parent or legal guardian and the pupil, and may suspend any recreational license issued by the Department of Wildlife and Fisheries.

A.(3) (f) When a pupil is suspended for a second time within one school year, the principal may require that a counseling session be held with the parent and pupil by the school counselor if a counselor is assigned or available to that school. In the event there is no school counselor available, the principal may require a conference between the parent, pupil, and all the pupil's teachers and the principal or other administrator.

§17:416.2. Supervision of suspended or expelled students; alternative education programs.

D. (1) The State Board of Elementary and Secondary Education shall adopt the necessary rules and regulations to provide for the implementation of the provisions of this Section.

(3) Rules and regulations pursuant to Paragraph (2) of this Subsection shall include all of the following:

(b) In an effort to support the on-time graduation of students who are suspended, expelled, or at high risk for dropping out or entry into the juvenile justice system, academic, behavioral, and mental health interventions must be provided. Interventions offered shall include but not be limited to the following:

(i) Academic interventions and supports:

(aa) Targeted academic interventions focused on assessed needs in math and reading using an evidence-based and research-supported curriculum.

(bb) Use of validated monthly assessments to monitor individual student academic progress.

(cc) Implementation of research-supported instructional strategies such as differentiated instruction, experiential education, project-based learning, and computer-assisted instruction to support assessed needs and content mastery.

(dd) Opportunities to participate in credit recovery to support progression towards on-time graduation.

(ee) On-site access to at least one career or vocational certification option.

(ii) Behavioral interventions and supports:

(aa) Positive behavioral supports with a high ratio of positive reinforcement over punishment.

(bb) Behavioral shaping steps aligned to assessed behavioral needs and goals.

(cc) Mentoring and frequent behavioral feedback focused on individualized shaping steps for students enrolled.

(dd) Successive approximations and reinforcements to develop more complex social behaviors.

(iii) Mental health interventions and supports:

(aa) Evidence-based cognitive behavioral interventions to address, anger, impulsivity, and aggression.

(bb) Interventions to address past childhood traumas, including forms of abuse and neglect, being a victim of or a witness to violence, and involvement in natural disasters.

(cc) Interventions to address substance use and to prevent substance abuse.

(dd) Interventions to build life skills and social skills in order to increase employability and success in the community.

§17:416.16. School crisis management and response plans.

A.(1) For the purposes of this Section, a "crisis management and response plan" means a plan to address school safety and the incidence of violence at schools, on school buses, and at school-related activities; to respond effectively to such incidents; and to ensure that every student, teacher, and school employee has access to a safe, secure, and orderly school that is conducive to learning. Such plans shall also address the management of any other emergency situation.

(2) A school crisis management and response plan shall be prepared by each public school principal in accordance with guidelines adopted pursuant to school board policy. In preparing the plan, the principal shall consider and include, where appropriate, input from students enrolled in the school and their parents, teachers at the school, other school employees, community leaders, local law enforcement, and fire, public safety, and emergency preparedness officials.

(3) The plan shall detail the roles and responsibilities of each school employee and the relevant coordination agreements, services, and security measures of a school in the event of a violent incident or emergency situation.

(4) The plan may include provision for encouraging peer helper programs and identifying students who may have experienced rejection or other traumatic life events.

B.(1) Each public school shall submit such plan in writing to its school board for approval.

(2) Not later than January 1, 2002, each city, parish, and other local public school board shall have approved a crisis management and response plan for each public school under its jurisdiction.

C. Each school crisis management and response plan shall be reviewed by the public school annually and revised as necessary. Any revised school plan shall be resubmitted to the school board for review and approval of the revisions.

§17:416.17. Youth development and assistance programs; legislative findings and purpose; school authority for programs for elementary students.

A.(1) The legislature finds that early identification and intervention of aggressive, antisocial, or delinquent behaviors are critical components in recognizing and preventing chronic juvenile delinquency in later years.

(2) The legislature further finds that school-based preventive interventions for violent or aggressive behavior in youth are recognized as beneficial to the overall developmental success of students.

(3) The legislature recognizes that the introduction of violence prevention strategies in the early elementary grades may reduce the incidence of delinquent behaviors in the later grades, especially when such programs include parental involvement in the prevention and intervention strategies.

(4) The purpose of this Section is to authorize elementary schools to develop prevention and intervention strategies to address disruptions and violence in schools to create safe school environments in which teachers can teach and students can learn and which increase student and family connectedness to the school.

B. A school may, upon approval of its governing authority, develop and offer youth development and assistance programs that employ violence prevention and intervention initiatives for students in kindergarten and the elementary grades. Such programs shall provide for early identification of and support for students who are at risk before their behavior escalates into aggression or disruption, disciplinary problems, or juvenile delinquency.

C.(1) A youth development and assistance program may consist of age- or grade-appropriate alternative classrooms during school or special intervention or prevention programs before, after, or during the school day.

(2) Such programs may include but shall not be limited to the following components:

(a) Provision of services for students including behavioral training and intervention techniques that promote cooperation and enhance interpersonal and conflict resolution skills, peer mediation, anger management, bullying prevention, life skills training, mentoring, counseling, and tutoring programs that improve academic achievement.

(b)(i) Provision of services which support the parents of students identified with behavioral needs that may need intervention or support. Such parent services may include literacy services or parental training.

(ii) Required participation of any parent of a student so identified in such intervention at the school or other designated facility.

(c) Collaboration with community-based organizations, including but not limited to youth services, civic, social services, mental health, volunteer services, and juvenile justice agencies.

D. The provisions of this Section shall be implemented upon the approval of each city, parish, or other local public school board of any program submitted by a school and the availability of funds to a school for such purpose.

§17.221. School attendance; compulsory ages; duty of parents; excessive absences; condition for driving privileges.

A.(1) Every parent, tutor, or other person residing within the state of Louisiana having control or charge of any child from that child's seventh birthday until his eighteenth birthday shall send such child to a public or private day school, unless the child graduates from high school prior to his eighteenth birthday. Any child below the age of seven who legally enrolls in school shall also be subject to the provisions of this Subpart. Every parent, tutor, or other person responsible for sending a child to a public or private day school under provisions of this Subpart shall also assure the attendance of such child in regularly assigned classes during regular school hours established by the school board and shall assure that such child is not habitually tardy from school pursuant to the provisions of R.S. 17:233.

(2) Whoever violates the provisions of this Subsection or R.S. 17:234 shall be fined not more than two hundred and fifty dollars or imprisoned not more than thirty days, or both. The court shall impose a minimum condition of probation which may include that the parent, tutor, or other person having control or charge of the child participate in forty hours of school or community service activities, or a combination of forty hours of school or community service and attendance in parenting classes or family counseling sessions or programs approved by the court having jurisdiction, as applicable, or the suspension of any state-issued recreational license.

Professional development

STATUTES

§17.252. School master plans for supporting student behavior and discipline.

D.(1) The school master plans required of city, parish, and other local public school boards by [Section 252] shall make provision for pre-service and ongoing grade appropriate classroom management training for teachers, principals, and other appropriate school personnel regarding positive behavioral supports and reinforcement, conflict resolution, mediation, cultural competence, restorative practices, guidance and discipline, and adolescent development.

(2) City, parish, and other local public school boards shall provide ongoing classroom management courses and regularly review discipline data from each school to determine what additional classroom management training is needed, if any, and what additional classroom support activities should be provided by the principal and school administration.

§17:416.13. Student code of conduct; requirement; bullying; prohibition; notice; reporting; accountability.

B. (2) By not later than January 1, 2013, the governing authority of each public elementary and secondary school shall: (b) Create a program to provide a minimum of four hours of training each year for all school employees, including bus drivers, with respect to bullying. The training shall specifically include the following:

(i) How to recognize the behaviors defined as bullying in Subsection C of this Section.

(ii) How to identify students at each grade level in the employee's school who are most likely to become victims of bullying, while not excluding any student from protection from bullying.

(iii) How to use appropriate intervention and remediation techniques and procedures.

(iv) The procedures by which incidents of bullying are to be reported to school officials.

(v) Information on suicide prevention, including the relationship between suicide risk factors and bullying. This content shall be based on information supported by peer-reviewed research conducted in compliance with accepted scientific methods and recognized as accurate by leading professional organizations and agencies with relevant experience.

ADMINISTRATIVE CODE

§1303. Bullying.

B. Training for School Personnel. Each LEA shall create a program to provide a minimum of four hours of training each year for all school employees, including bus drivers, with respect to bullying. The training shall specifically include the following:

1. how to recognize the behaviors defined as bullying;
2. how to identify students at each grade level who are most likely to become victims of bullying, while not excluding any student from protection from bullying;
3. how to use appropriate intervention and remediation techniques and procedures;
4. the procedures by which incidents of bullying are to be reported to school officials; and
5. information on suicide prevention, including the relationship between suicide risk factors and bullying.

§1304. Classroom Management Training for School Staff.

A. The school master plans required of city, parish, and other local public school boards shall make provision for pre-service and ongoing grade appropriate classroom management training for teachers, principals, and other appropriate school personnel regarding positive behavioral supports and reinforcement, conflict resolution, mediation, cultural competence, restorative practices, guidance and discipline, and adolescent development.

B. City, parish, and other local public school boards shall provide ongoing classroom management courses and regularly review discipline data from each school to determine what additional classroom management training is needed, if any, and what additional classroom support activities should be provided by the principal and school administration.

Monitoring and Accountability

Formal incident reporting of conduct violations

STATUTES

§17.7. Duties, functions, and responsibilities of board.

In addition to the authorities granted by R.S. 17:6 and any powers, duties, and responsibilities vested by any other applicable laws, the board shall:

(5)(a) Approve courses of study and prepare and adopt rules and regulations for the discipline of students and the governance of the public elementary and secondary schools and other public schools and programs under its jurisdiction, which shall not be inconsistent with law and which shall be enforced by the city, parish, and other local public school boards and the local school superintendents; however, the board shall have no control over the business affairs of a city, parish, or other local public school board or the selection or removal of its officers and employees.

(b) Prepare and adopt rules and guidelines for the appropriate use of seclusion, physical restraint, and mechanical restraint of students with exceptionalities as defined in R.S. 17:1942, in accordance with the Administrative Procedure Act.

(32) Report in writing to the House Committee on Education and the Senate Committee on Education by not later than September 15, 2010, relative to the standards and criteria used by the board to approve alternative schools and alternative education programs for students in public elementary and secondary schools who are suspended for more than ten days or who are expelled from school for violations of school discipline law or policy and who remain under the supervision of the city, parish, or other local public school taking the action. The report shall specify in detail all minimum standards and criteria that must be met in order for the board to approve the alternative school or program and note standards and criteria that are subject to waiver by the board in making approval determinations.

§17.416. Discipline of students; suspension; expulsion.

A.(4) The governing authority of each public elementary and secondary school shall adopt such rules and regulations as it deems necessary to implement the provisions of this Subsection and of R.S. 17:416.13. Such rules and regulations shall include but not be limited to the following provisions:

(a) A procedure permitting any teacher or other school employee to report any violation of the provisions of this Subsection to the appropriate school principal. The procedure shall provide for the uniform use throughout the school system of two forms to report incidents of alleged discipline violations. One form shall be used to report only school transportation-related incidents and one form shall be used to report all other incidents.

(i) The form for reporting a transportation-related incident shall provide for the following information:

(aa) Bus number and name of driver.

(bb) Pupil name and grade level.

(cc) School name and name of the principal.

(dd) Date of the incident and whether it occurred on the way to or on the way from the school or school function.

(ee) A menu of check-off items to indicate the nature of the incident, including fighting or bullying at the bus stop, fighting or bullying on the bus, smoking on the bus, leaving the bus without permission, boarding the bus at the incorrect stop, showing disrespect toward the driver, committing

an immoral or vicious act, throwing objects within the bus or out of bus windows or doors, refusing to occupy an assigned seat, using profane language, showing willful disobedience, defacing the bus, carrying objects or implements which can be used as weapons, or committing some other undesignated violation.

(ff) Space to provide specific remarks and comments concerning the incident and alleged discipline violation.

(gg) Space to indicate a pupil's prior history of discipline violations related to school transportation incidents.

(hh) A statement to be signed and dated by the bus driver or other school employee, if applicable, that the named pupil is causing a discipline problem, that disciplinary action against the pupil is recommended, and that the signatory desires to be informed of action taken on the incident report or the reasons for not taking action.

(ii) A space to report action taken on the incident report, including a menu of check off items to indicate that a parent or other person responsible for the pupil's school attendance has been contacted, that a conference has been conducted with the pupil's parent or other responsible person, that the pupil has been reprimanded, that the pupil has been suspended from receiving school transportation services and for what period of time, that the pupil has been suspended from school and for what period of time, or that some other action has been taken and an explanation of such action. The report on action taken shall be dated and signed by the school principal.

(jj) Space for comments and remarks by the pupil or a pupil's parent or other responsible person concerning the incident and action taken.

(kk) A menu of check off items to indicate that copies of the completed document have been supplied to the pupil's parent or other responsible person, the school's pupil file, the school employee filing the incident report, the supervisor of transportation services for the school system, and the principal.

(ll) Such other information as may be determined by the city or parish school board.

(ii) The form for reporting a nontransportation-related incident shall provide for the following information:

(aa) School name.

(bb) Name and telephone number of the pupil.

(cc) Indication of whether the pupil is in regular or special education and the pupil's homeroom number.

(dd) Time and location of the incident.

(ee) Space to provide specific remarks and comments concerning the incident and alleged discipline violation.

(ff) A menu of check off items indicating action taken by the teacher, including having a conference with the pupil, assigning remedial work, referring the pupil to a counselor, referring the pupil to a social worker, placing the pupil in detention, or taking other action with an explanation of such other action.

(gg) A menu of check off items indicating the type and date of contact with the pupil's parent or other person responsible for the pupil's school attendance, including by phone, by letter, by school conference, or by behavior reports.

(hh) A space for recommendations from the teacher or other school employee initiating the incident report.

(ii) A statement to be signed and dated by the teacher or other school employee initiating the incident report that the named pupil is causing a discipline problem, that disciplinary action against the pupil is recommended, and that the signatory desires to be informed of action taken on the incident report or the reasons for not taking action.

(jj) A space to report action taken on the incident report, including a menu of check off items to indicate contact with the pupil's parent or other responsible person, conduct of a conference with the pupil and the pupil's parent or other responsible person and a summary of conference proceedings, referral to a counselor, issuance of a reprimand, placement on detention, placement on probation, suspension, or that some other action has been taken and an explanation of such action. The report on action taken shall be dated and signed by the school principal.

(kk) Space for comments and remarks by the pupil or a pupil's parent or other responsible person concerning the incident and action taken.

(ll) A menu of check off items to indicate that copies of the completed document have been supplied to the pupil's parent or other responsible person, the school's pupil file, the teacher or other school employee filing the incident report, and the principal.

(mm) Such other information as may be determined by the city or parish school board.

(iii) The State Board of Elementary and Secondary Education shall develop the forms necessary to implement the provisions of this Subparagraph and such forms shall be used by each city and parish school board.

§17:416.13. Student code of conduct; requirement; bullying; prohibition; notice; reporting; accountability.

(2) (a) Reporting. --The governing authority of each public elementary and secondary school shall develop a procedure for the reporting of incidents of bullying. This shall include a form for the purposes of bullying reports. The form shall include an affirmation of truth of statement. Any bullying report submitted regardless of recipient shall use this form, but additional information may be provided. The form shall be available on the Department of Education's website.

(b) Students and parents. --Any student who believes that he has been, or is currently, the victim of bullying, or any student, or any parent or guardian, who witnesses bullying or has good reason to believe bullying is taking place, may report the situation to a school official. A student, or parent or guardian, may also report concerns regarding bullying to a teacher, counselor, other school employee, or to any parent chaperoning or supervising a school function or activity. Any report of bullying shall remain confidential.

(c) School personnel. --Any teacher, counselor, bus driver, or other school employee, whether full or part time, and any parent chaperoning or supervising a school function or activity, who witnesses bullying or who learns of bullying from a student pursuant to Subparagraph (b) of this Paragraph, shall report the incident to a school official. A verbal report shall be submitted by the school employee or the parent on the same day as the employee or parent witnessed or otherwise learned of the bullying incident and a written report shall be filed no later than two days thereafter.

(d) Retaliation. --Retaliation against any person who reports bullying in good faith, who is thought to have reported bullying, who files a complaint, or who otherwise participates in an investigation or inquiry concerning allegations of bullying is prohibited conduct and subject to discipline. School and district resources shall not be used to prohibit or dissuade any person who meets the specifications of this Item.

(e) False Reports. --Intentionally making false reports about bullying to school officials is prohibited conduct and will result in the appropriate disciplinary measures as determined by the governing

authority of the school in accordance with the rules and regulations of the State Board of Elementary and Secondary Education.

(3) Investigation Procedure. --By not later than January 1, 2013, the State Board of Elementary and Secondary Education shall develop and adopt a procedure for the investigation of reports of bullying of a student by another student. The procedure shall include the following:

(a) Scope of investigation. --An investigation shall include an interview of the reporter, the victim, the alleged bully, and any witnesses, and shall include obtaining copies or photographs of any audio-visual evidence.

(b) Timing. --The school shall begin an investigation of any complaint that is properly reported and that alleges conduct prohibited in this Section the next business day during which school is in session after the report is received by the school official. The investigation shall be completed not later than ten school days after the date the written report of the incident is submitted to the appropriate school official. If additional information is received after the end of the ten-day period, the school principal or his designee shall amend all documents and reports required by this Section to reflect such information.

(c) Appeal.

(i) If the school official does not take timely and effective action pursuant to this Section, the student, parent, or school employee may report the bullying incident to the city, parish, or other local school board or local school governing authority. The school board or school governing authority shall begin an investigation of any complaint that is properly reported and that alleges conduct prohibited in this Section the next business day during which school is in session after the report is received by a school board or governing authority official.

(ii) If the school board does not take timely and effective action, the student, parent, or other school employee may report the bullying incident to the state Department of Education. The department shall track the number of reports, shall notify in writing the superintendent and the president of the school's governing authority, and shall publish the number of reports by school district or governing authority on its website. The department shall provide both the number of actual reports received and the number of reports received by affected student.

(iii) For the purposes of this Section, a report means a written document that meets the requirements of Subparagraph (2)(a) of this Subsection.

§17:416.21. Behavior of students with exceptionalities; use of seclusion and physical restraint.

I (2) The director or supervisor of special education shall be notified any time a student is placed in seclusion or is physically restrained.

J. A school employee who has placed a student in seclusion or who has physically restrained a student shall document and report each incident in accordance with the policies adopted by the school's governing authority. Such report shall be submitted to the school principal not later than the school day immediately following the day on which the student was placed in seclusion or physically restrained and a copy shall be provided to the student's parent or legal guardian.

K. If a student is involved in five incidents in a single school year involving the use of physical restraint or seclusion, the student's Individualized Education Plan team shall review and revise the student's behavior intervention plan to include any appropriate and necessary behavioral supports.

L. The documentation compiled for a student who has been placed in seclusion or has been physically restrained and whose challenging behavior continues or escalates shall be reviewed at least once every three weeks.

M. (1) The governing authority of each public elementary and secondary school shall adopt written guidelines and procedures regarding:

(a) Reporting requirements and follow-up procedures.

(b) Notification requirements for school officials and a student's parent or other legal guardian.

(c) An explanation of the methods of physical restraint and the school employee training requirements relative to the use of restraint.

(2) These guidelines and procedures shall be provided to all school employees and every parent of a child with an exceptionality.

N.(1) The governing authority of each public elementary and secondary school shall report all instances where seclusion or physical restraint is used to address student behavior to the Department of Education.

(2) The Department of Education shall maintain a database of all reported incidents of seclusion and physical restraint of students with exceptionalities and shall disaggregate the data for analysis by school; student age, race, ethnicity, and gender; student disability, where applicable; and any involved school employees.

§17.223. Discipline of pupils; suspension from school, corporal punishment.

B. […] Principals shall notify the visiting teacher, or supervisor of child welfare and/or attendance, of all suspensions. In all cases of suspensions, the parent, the superintendent of schools, and the visiting teacher, or supervisor of child welfare and/or attendance, shall be notified in writing of the facts concerning each suspension, including reasons therefor and terms thereof.

ADMINISTRATIVE CODE

§1301. Disciplinary Regulations.

D. Any principal who fails to act on a report of student violations of disciplinary regulations shall explain his/her reasons for such an action to the superintendent of the LEA by which he or she is employed, or to the superintendent's designee.

§1303. Bullying.

E. Reporting Incidents of Bullying. The LEA shall develop a procedure for the reporting of incidents of bullying using the bullying report form approved by BESE and available on the DOE website. The procedure shall include the following.

1. Students and Parents

a. Any student who believes that he or she is or has been the victim of bullying, or any student or parent or legal guardian, who witnesses bullying or has good reason to believe bullying is taking place, may report the bullying to a school official.

b. A student, or parent or guardian, may also report concerns regarding bullying to a teacher, counselor, other school employee, or to any parent chaperoning or supervising a school function or activity.

c. Any report of bullying shall remain confidential.

2. School Personnel and Chaperones. Any teacher, counselor, bus driver, or other school employee, whether full or part time, and any parent chaperoning or supervising a school function or activity, who witnesses or who learns of bullying of a student, shall report the incident to a school official. A verbal report shall be submitted by the school employee or parent on the same day as the school employee or parent witnessed or otherwise learned of the bullying incident, and a written report must be filed no later than two days thereafter.

3. Retaliation. Retaliation against any person who reports bullying in good faith, who is thought to have reported bullying, who files a complaint, or who otherwise participates in an investigation or inquiry concerning allegations of bullying is prohibited conduct and subject to disciplinary action.

4. False Reports. Making false reports about bullying to school officials is prohibited conduct and will result in disciplinary action.

6. LEA Reporting

a. The LEA shall electronically report all such documented incidences of bullying to the DOE using the DOE behavior report and incidence checklist to document the details of each reported incident of bullying.

Parental notification

STATUTES

§17.221. School attendance; compulsory ages; duty of parents; excessive absences; condition for driving privileges.

D. Each school shall develop and implement a system whereby the school shall attempt to provide verbal notification and, if such verbal notification cannot be provided, then shall provide written notification to a child's parent, tutor, or legal guardian when that child has been absent from school for five school days in schools operating on a semester basis, and for ten days in schools not operating on a semester basis.

§17.223. Discipline of pupils; suspension from school, corporal punishment.

B. Principals shall notify the visiting teacher, or supervisor of child welfare and/or attendance, of all suspensions. In all cases of suspensions, the parent, the superintendent of schools, and the visiting teacher, or supervisor of child welfare and/or attendance, shall be notified in writing of the facts concerning each suspension, including reasons therefor and terms thereof.

§17.416. Discipline of students; suspension; expulsion.

A.(1)(c)(ii)(bb) The principal or his designee shall provide oral or written notification to the parent or legal guardian of any pupil removed from the classroom pursuant to the provisions of this Subparagraph. Such notification shall include a description of any disciplinary action taken.

A.(3) (b)(i) ... In each case of suspension or expulsion the school principal, or his designee, shall contact by telephone at the telephone number shown on the pupil's registration card or send a certified letter at the address shown on the pupil's registration card to the parent, tutor, or legal guardian of the pupil in question giving notice of the suspension or expulsion, the reasons therefor and establishing a date and time for a conference with the principal or his designee as a requirement for readmitting the pupil provided that in the case of expulsion, the contact with the parent or guardian shall include a certified letter. If the parent, tutor, or legal guardian fails to attend the required conference within five school days of mailing the certified letter or other contact with the parent, the truancy laws shall become effective. On not more than one occasion each school year when the parent, tutor, or legal guardian refuses to respond, the principal may determine whether readmitting the pupil is in the best interest of the student. On any subsequent occasions in the same year, the pupil shall not be readmitted unless the parent, tutor, legal guardian, court, or other appointed representative responds.

A.(3) (b)(ii)(aa) In any case where a teacher, principal, or other school employee is authorized in this Section to require the parent, tutor, or legal guardian of a pupil who is under the age of eighteen and not judicially emancipated or emancipated by marriage to attend a conference or meeting regarding the pupil's behavior and, after notice, the parent, tutor, or legal guardian willfully refuses to attend, the principal or his designee, shall file a complaint with a court exercising juvenile jurisdiction, pursuant to

Children's Code Article 730(8) and 731. The principal may file a complaint pursuant to Children's Code Article 730(1) or any other applicable ground when, in his judgment, doing so is in the best interests of the pupil.

(bb) The principal, assistant principal, or child attendance and welfare supervisor or his assistant of any school, public or nonpublic, shall be a representative of an agency having the responsibility or ability to supply services to a family as that phrase is used in Children's Code Article 731(A).

§17:416.13. Student code of conduct; requirement; bullying; prohibition; notice; reporting; accountability.

(d) Parental Notification.

(i) Upon receiving a report of bullying, the school official shall notify the student's parent or legal guardian according to the definition of notice created by the state Department of Education.

(ii) Under no circumstances shall the delivery of the notice to the parent or legal guardian, which is required by this Subsection, be the responsibility of an involved student. Delivery of the notice by an involved student shall not constitute notice as is required pursuant to this Subsection.

(iii) Before any student under the age of eighteen is interviewed, his parent or legal guardian shall be notified by the school official of the allegations made and shall have the opportunity to attend any interviews with their child conducted as part of the investigation.

(iv) The State Board of Elementary and Secondary Education, in collaboration with the state Department of Education, shall develop a procedure for meetings with the parent or legal guardian of the victim and the parent or legal guardian of the alleged perpetrator. This procedure shall include:

(aa) Separate meetings with the parents or legal guardians of the victim and the parents or legal guardians of the alleged perpetrator.

(bb) Notification of parents or legal guardians of the victim and of the alleged perpetrator of the available potential consequences, penalties, and counseling options.

(cc) In any case where a teacher, principal, or other school employee is authorized in this Section to require the parent or legal guardian of a student who is under the age of eighteen and not judicially emancipated or emancipated by marriage to attend a conference or meeting regarding the student's behavior and, after notice, the parent, tutor, or legal guardian willfully refuses to attend, that the principal or his designee shall file a complaint with a court exercising juvenile jurisdiction, pursuant to Children's Code Article 730(8) and 731. The principal may file a complaint pursuant to Children's Code Article 730(1) or any other applicable ground when, in his judgment, doing so is in the best interests of the student.

(e) Disciplinary Action. --If the school has received a report of bullying, has determined that an act of bullying has occurred, and after meeting with the parent or legal guardian of the students involved, the school official shall:

(i) Take prompt and appropriate disciplinary action, pursuant to R.S. 17:416 and 416.1, against the student that the school official determines has engaged in conduct which constitutes bullying, if appropriate.

§17:416.21. Behavior of students with exceptionalities; use of seclusion and physical restraint.

I. (1) The parent or other legal guardian of a student who has been placed in seclusion or physically restrained shall be notified as soon as possible. The student's parent or other legal guardian shall also be notified in writing, within twenty-four hours, of each incident of seclusion or physical restraint. Such notice shall include the reason for such seclusion or physical restraint, the procedures used, the length of time of the student's seclusion or physical restraint, and the names and titles of any school employee involved.

ADMINISTRATIVE CODE

§1303. Bullying.

D. Notice of Bullying Policy to students and parents. The LEA shall inform each student orally and in writing of the prohibition against the bullying of a student by another student, the nature and consequences of such actions, including the potential criminal consequences and loss of driver's license, and the proper process and procedure for reporting any incidents of bullying. A copy of the written notice shall also be delivered to each student's parent or legal guardian.

F. Investigation Procedure. When a report of the bullying of a student by another student is received, the school shall conduct an investigation using the following procedure.

2. Parental Notification of Allegation of Bullying

a. Upon receiving a report of bullying, the school shall notify the parents or legal guardians of the alleged offender and the alleged victim no later than the following school day.

b. Under no circumstances shall the delivery of this notice to the parent or legal guardian, be the responsibility of an involved student. Delivery of notice by an involved student shall not constitute notice as is required by this Section.

c. Before any student under the age of 18 is interviewed, his parents or legal guardians shall be notified of the allegations made and shall have the opportunity to attend any interviews conducted with their child as part of the investigation.

d. All meetings with the parents or legal guardians of an alleged victim or an alleged offender shall be in compliance with the following:

i. separate meetings with the parents or legal guardians of the alleged victim and the alleged offender;

ii. parents or legal guardians of the alleged victim and alleged offender must be notified of the potential consequences, penalties and counseling options.

e. In any case where a school official is authorized to require a parent or legal guardian of a student under the age of 18 to attend a conference or meeting regarding the student's behavior, and after notice willfully refuses to attend, the principal or designee shall file a complaint with a court of competent juvenile jurisdiction, pursuant to Children's Code Article 730(8) and 731.

f. A principal or designee may file a complaint pursuant to Children's Code Article 730(1) or any other applicable ground when, in his judgment, doing so is in the best interests of the student.

§1306. Due Process for Suspensions.

A. Prior to any suspension, the school principal or the principal's designee shall advise the student in question of the particular misconduct of which he or she is accused as well as the basis for such accusation, and the student shall be given an opportunity at that time to explain his or her version of the facts to the school principal or his or her designee.

B. The principal, or the principal's designee, shall contact by telephone at the telephone number shown on the pupil's registration card or send a certified letter at the address shown on the pupil's registration card to the parent or guardian of the student, giving notice of the suspension, the reasons therefore and establishing a date and time for a conference with the principal or his designee as a requirement for readmitting the student.

1. If the parent or guardian fails to attend the required conference within five school days of mailing the certified letter or other contact with the parent, the truancy laws shall become effective.

2. On not more than one occasion each school year when the parent or guardian refuses to respond, the principal may determine whether readmitting the student is in the best interest of the student.

3. On any subsequent occasions in the same year, the student shall not be readmitted unless the parent, guardian, or other appointed representative responds.

C. A student whose presence in or about a school poses a continued danger to any person or property or an ongoing threat of disruption to the academic process shall be immediately removed from the school premises without the benefit of the procedure described above; however, the necessary procedure shall follow as soon as is practicable.

D. Notice in writing of the suspension and the reasons thereof shall be given to the parent or parents of the suspended student.

E. Any parent, tutor, or legal guardian of a suspended student shall have the right to appeal to the superintendent or to a designee of the superintendent, who shall conduct a hearing on the merits of the case.

F. In all cases of suspensions, the parent, the superintendent of schools, and the visiting teacher and/or supervisor of child welfare and attendance shall be notified in writing of the facts concerning each suspension, including the reasons therefore and terms thereof.

G. The decision of the superintendent on the merit of the case, as well as the term of suspension, shall be final, reserving the right to the superintendent to remit any portion

Reporting and referrals between schools and law enforcement

STATUTES

§17:224. Unadjustable or incorrigible children; reports to juvenile courts; expulsion, assignments, and transfers.

A. Unadjustable or incorrigible children, who, through no fault of their parents or tutors or other persons having charge of them, regularly disrupt the orderly processes of the school to which they have been assigned, shall be considered as delinquents and may be reported by the visiting teacher, or supervisor of child welfare and attendance, to the juvenile court of the parish, there to be dealt with in the manner prescribed by law.

B. Notwithstanding the provisions of R.S. 17:416 to the contrary, any student who exhibits disruptive behavior, an incorrigible attitude, or any other discipline problems in general, may be recommended by the principal for expulsion, assignment to an appropriate alternative education program, or transfer to adult education if such student is:

(1) Seventeen years of age or older with less than five units of credit toward graduation.

(2) Eighteen years of age or older with less than ten units of credit toward graduation

(3) Nineteen years of age or older with less than fifteen units of credit toward graduation.

§17.416.1. Discipline of pupils; additional disciplinary authority.

D.(1) In addition to the specific disciplinary measures authorized in R.S. 17:416, a principal or headmaster at a public or private school shall notify the Department of Public Safety and Corrections, office of motor vehicles, of any student between the ages of fourteen and eighteen who has been subjected to a disciplinary action as provided in Paragraph (2) of this Subsection.

(2) As used in this Subsection, "disciplinary action" means an expulsion or suspension from school for ten or more consecutive school days or an assignment to an alternative educational setting for ten or more consecutive school days in accordance with any policy of the school or of the local public school board, limited to expulsions, suspensions, and assignments to alternative educational settings for infractions involving the sale or possession of drugs, alcohol, or any other illegal substance, the

possession of a firearm, or an infraction involving assault or battery on a member of the school faculty or staff. The governing authority of any public elementary or secondary school shall promulgate rules and regulations to implement the provisions of this Section.

(3) Any such student who has been subjected to a disciplinary action as provided in Paragraph (2) of this Subsection shall have his driver's license for the operation of a motor vehicle suspended for a period of one year, in accordance with the provisions of R.S. 32:431. The terms "license" or "driver's license" shall include a Class "E" learner's license and intermediate license as provided for in R.S. 32:407.

§17:416.3. Search of students' persons, desks, lockers, other areas; defense of suits against school personnel; indemnification; reporting of implements seized.

D. (1) Upon the seizure by any public school teacher, principal, school security guard, or administrator of any firearm, bomb, knife, or other implement which can be used as a weapon and the careless use of which might inflict harm or injury or any controlled dangerous substance as defined in R.S. 40:961(7), the principal or his designated administrator shall report the confiscation of such implement or material to the appropriate law enforcement officials. The principal or his designated administrator may report the confiscation of any other implement or material.

(2) Any implement or material required by Paragraph (1) of this Subsection to be reported to law enforcement officials shall be retained and secured by the school principal in such a manner as to prevent the destruction, alteration, or disappearance of it until such time as the law enforcement authority either takes custody of the implement or material or provides notice to the school principal that it need no longer be retained. In the case that it need not be retained, the school principal shall comply with his school board's policy regarding disposal of the item.

(3) The failure of any principal or designated administrator to report the confiscation of such implement or material or the failure to retain and secure such implement or material shall be reported by the law enforcement authority to the employing school board which shall take disciplinary action pursuant to its policy.

E. The provisions of this Section shall apply to the State Board of Elementary and Secondary Education as it relates to state schools operated by the board in the same way it applies to city and parish school boards.

§17:416.13. Student code of conduct; requirement; bullying; prohibition; notice; reporting; accountability.

D. (3) Investigation Procedure. --By not later than January 1, 2013, the State Board of Elementary and Secondary Education shall develop and adopt a procedure for the investigation of reports of bullying of a student by another student. The procedure shall include the following:

(e) Disciplinary Action. --If the school has received a report of bullying, has determined that an act of bullying has occurred, and after meeting with the parent or legal guardian of the students involved, the school official shall:

(i) Take prompt and appropriate disciplinary action, pursuant to R.S. 17:416 and 416.1, against the student that the school official determines has engaged in conduct which constitutes bullying, if appropriate.

(ii) Report criminal conduct to law enforcement, if appropriate.

ADMINISTRATIVE CODE

§1301. Disciplinary regulations.

E. Students, who, through no fault of their parents or guardians or other persons having charge of them, regularly disrupt the orderly processes of the school to which they have been assigned, shall be considered as delinquents and may be reported by the visiting teacher or supervisor of child welfare and attendance, to the district or family court of the parish having jurisdiction in juvenile matters, there to be dealt with in the manner prescribed by law.

Disclosure of school records

STATUTES

§17.416. Discipline of students; suspension; expulsion.

B.(3)(a)(i) No student who has been expelled pursuant to the provisions of this Section shall be admitted to any public school in any other parish or city school system in the state except upon the review and approval of the school board of the school system to which he seeks admittance.

(ii) No student who has been expelled from any public or nonpublic school outside the state of Louisiana or any nonpublic school within Louisiana for committing any of the offenses enumerated in this Section shall be admitted to any public school in the state except upon the review and approval of the governing body of the admitting school.

(b) No student who has been expelled pursuant to the provisions of Paragraph (C)(2) of this Section shall be readmitted to a public school in the city, parish, or other local public school system from which he was expelled prior to the completion of the specified period of expulsion, unless he has complied with the provisions of Subparagraph (C)(2)(d) of this Section.

(c) To facilitate the review and approval mandated by this Paragraph, any student who has been expelled from any public or nonpublic school within or outside the state of Louisiana shall provide to any public school or school system in the state to which the student is seeking admission information on the dates of any expulsions and the reason or reasons for which the student was expelled. Additionally, the transfer of a student's records by any public school or school system in the state to any other public or nonpublic school or school system shall include information on the dates of any expulsions and the reason or reasons for which the student was expelled.

ADMINISTRATIVE CODE

§1309. Guidelines for expulsions.

C. Any student who has been expelled from any public or nonpublic school within or outside the state of Louisiana shall provide to any public school or school system in the state to which the student is seeking admission, information on the dates of any expulsion and the reason(s) for which the student was expelled. Additionally, the transfer of a student’s records by any public school or school system in the state to any other public or nonpublic school or school system shall include information on the dates of any suspensions or expulsions and the reason or reason(s) for which the student was suspended or expelled. Refer to R.S. 17:416(B)(3).

Data collection, review, and reporting of disciplinary policies and actions

STATUTES

§17:416.13. Student code of conduct; requirement; bullying; prohibition; notice; reporting; accountability.

(a) Conduct a review of the student code of conduct required by this Section and amend the code as may be necessary to assure that the policy prohibiting the bullying of a student by another student specifically addresses the behavior constituting bullying, the effect the behavior has on others, including bystanders, and the disciplinary and criminal consequences, and includes the definition of bullying as provided in Subsection C of this Section.

§17.416.8. Discipline policy review committees; school option.

A.(1)(a) Each city and parish school board shall establish a discipline policy review committee composed of sixteen members as follows:

(i) Five classroom teachers to be elected by their peers with at least one teacher each representing an elementary, middle or junior high, and high school.

(ii) One special education teacher to be elected by his peers.

(iii) Two guidance counselors to be elected by their peers.

(iv) Two principals to be elected by their peers, one representing an elementary school and one representing a high school.

(v) One school bus operator to be elected by his peers.

(vi) One child welfare and attendance supervisor to be elected by his peers.

(vii) One school board member to be elected by his peers.

(viii) The local superintendent or his designee.

(ix) Two parents to be appointed by a method as provided by rules and regulations adopted by the State Board of Elementary and Secondary Education.

(b) The discipline policy review committee shall review all school board discipline policies and make recommendations to the school board for appropriate revisions to such policies.

(c) Each committee shall be established no later than November 1, 1994, and shall make its recommendations to its respective school board no later than February 1, 1995.

(2) Each school board shall review its discipline policies prior to the end of the 1994-1995 school year and shall review such policies at least annually thereafter. Following a public hearing on the recommendations of the discipline policy review committee, each school board's discipline policies shall delineate the specific consistent actions to be taken by teachers and other designated school employees to maintain order in the schools and on the school grounds. In addition, such policies shall contain specific consistent penalties which shall be imposed when pupils violate school discipline policies or state laws on school discipline. Copies of school board discipline policies shall be distributed to each school within its jurisdiction prior to the beginning of the 1995-1996 school session. In addition, copies of current school board discipline policies shall be distributed to each school within its jurisdiction prior to the beginning of the 1999-2000 school year and each school year thereafter. Each board shall provide each pupil and his parent, tutor, or legal guardian with a copy of the board's current discipline policy. In addition, each school shall plan and conduct meetings necessary to fully inform all employees and pupils of all such policies within the first week of each school year. Meetings also shall be held throughout the school year as may be necessary to inform new employees and new pupils of such policies.

B. Except as may be provided otherwise for the development or review of a school's discipline policy under the terms of a collective bargaining agreement applicable to the public school, the administrators, teachers, and parents at each public school shall meet during the 1995-1996 school year and develop or review the discipline policy for their school and such policy shall be reviewed at least annually thereafter. In all cases, a school's discipline policy shall be in compliance with current state law and school board policies.

C. However, if, on August 27, 1994, there is in existence a discipline policy review committee which serves the same function for any city or parish school board or for any public school in the state, such existing committee shall remain in existence and shall retain the composition and authority under which it was created.

§17:416.13. Student code of conduct; requirement; bullying; prohibition; notice; reporting; accountability.

(g) Documentation.

(i) The state Department of Education shall develop a behavior incidence checklist that the governing authority of each public elementary and secondary school shall use to document the details of each reported incident of bullying.

(ii) The governing authority of each public elementary and secondary school shall report all such documented incidences of bullying to the state Department of Education as prescribed in rules adopted by the State Board of Elementary and Secondary Education in accordance with the Administrative Procedure Act and documented incidents in reports received by the local superintendent of schools pursuant to R.S. 17:415.

(iii) After the investigation and meeting with the parents, pursuant to this Section, a school, local school board or other local school governing authority shall:

(aa) Compose a written document containing the findings of the investigation, including input from the students' parents or legal guardian, and the decision by the school or school system official. The document shall be placed in the school records of both students.

(bb) Promptly notify the complainant of the findings of the investigation and that remedial action has been taken, if such release of information does not violate the law.

(cc) Keep complaints and investigative reports confidential, except as provided in this Section and where disclosure is required to be made pursuant to 20 U.S.C. 1232g or by other applicable federal laws, rules, or regulations or by state law.

(dd) Maintain complaints and investigative reports for three years in the event that disclosure is warranted by law enforcement officials.

(ee) As applicable, provide a copy of any reports and investigative documents to the governing authority of the school in order that the governing authority can comply with the provisions of R.S. 17:416.1.

(ff) As applicable, provide a copy of any reports and investigative documents to the state Department of Education. Upon receipt, the department shall remove any reports related to the investigative documents from notation on the department's website, but shall maintain a record of those reports for three years.

E. Parental Responsibilities. --Nothing herein shall be deemed to interfere with the authority and the responsibility that a parent or legal guardian has for the student at all times, but particularly when the student is not on the school premises, is not engaged in a school-sponsored function or school-sponsored activity, and is not being transported by school-sponsored means of transportation.

F. This Section shall not be interpreted to conflict with or supercede the provisions requiring mandatory reporting pursuant to Louisiana Children's Code Article 609 and as enforced through R.S. 14:403.

G. Preclusion.

(1) This Section shall not be interpreted to prevent a victim of bullying, or his parent or legal guardian, from seeking redress under any other available law, either civil or criminal.

(2) Nothing in this Section is intended to infringe upon the right of a school employee or student to exercise their right of free speech.

H. Construction; equal protection. --All students subject to the provisions of this Section shall be protected equally and without regard to the subject matter or the motivating animus of the bullying.

§17:416.21. Behavior of students with exceptionalities; use of seclusion and physical restraint.

(2) The director or supervisor of special education shall be notified any time a student is placed in seclusion or is physically restrained.

J. A school employee who has placed a student in seclusion or who has physically restrained a student shall document and report each incident in accordance with the policies adopted by the school's governing authority. Such report shall be submitted to the school principal not later than the school day immediately following the day on which the student was placed in seclusion or physically restrained and a copy shall be provided to the student's parent or legal guardian.

K. If a student is involved in five incidents in a single school year involving the use of physical restraint or seclusion, the student's Individualized Education Plan team shall review and revise the student's behavior intervention plan to include any appropriate and necessary behavioral supports.

L. The documentation compiled for a student who has been placed in seclusion or has been physically restrained and whose challenging behavior continues or escalates shall be reviewed at least once every three weeks.

M. (1) The governing authority of each public elementary and secondary school shall adopt written guidelines and procedures regarding:

(a) Reporting requirements and follow-up procedures.

(b) Notification requirements for school officials and a student's parent or other legal guardian.

(c) An explanation of the methods of physical restraint and the school employee training requirements relative to the use of restraint.

(2) These guidelines and procedures shall be provided to all school employees and every parent of a child with an exceptionality.

N. (1) The governing authority of each public elementary and secondary school shall report all instances where seclusion or physical restraint is used to address student behavior to the Department of Education.

(2) The Department of Education shall maintain a database of all reported incidents of seclusion and physical restraint of students with exceptionalities and shall disaggregate the data for analysis by school; student age, race, ethnicity, and gender; student disability, where applicable; and any involved school employees.

ADMINISTRATIVE CODE

§1301. Disciplinary regulations.

I. Each LEA shall establish a discipline policy review committee comprised of sixteen members in accordance with the mandates of R.S. 17:416.8. The LEA shall establish procedures for appointing the two parent members.

School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers

Authority and power to implement school arrest

STATUTES

§17.416.19. School resource officers.

A. Any city, parish, or other local public school system and any nonpublic school may make or enter into agreements with a local law enforcement agency to provide for school resource officers. Any city, parish, or other local public school system and any nonpublic school shall ensure that any school resource officer provided by a local law enforcement agency as provided in this Section is in compliance with the provisions of Subsection B of this Section.

B.(1) A "school resource officer" shall be a peace officer as defined in R.S. 40:2402(3).

(2) A "school resource officer" shall be certified by a nationally accredited school resource officer program or a state school resource officer training program certified by the Council on Peace Officer Standards and Training.

C. The Council on Peace Officers Standards and Training shall review and approve any advanced, in-service, or specialized training for school resource officers as the council shall deem advisable.

§40.2404.1. Additional powers of the council, school resource officers, School Violence Prevention Training Program.

A. In accordance with the provisions of R.S. 40:2404(11) and R.S. 17:416.19, the Council on Peace Officer Standards and Training shall develop and implement a School Violence Prevention Training Program under their jurisdiction and within the existing school resource officer program in conjunction with the Louisiana Commission on Law Enforcement and Administration of Criminal Justice, the office of state police, local law enforcement agencies, and the State Board of Elementary and Secondary Education.

B. The Council on Peace Officer Standards and Training shall have the power to establish and appoint a committee with members representing the Louisiana Commission on Law Enforcement and Administration of Criminal Justice, the accredited law enforcement training centers, the office of state police, local law enforcement agencies, and the State Board of Elementary and Secondary Education.

C. The committee shall have the following powers:

(1) To develop minimum curriculum requirements for the training and certification of school security guards, which standards shall apply uniformly throughout the state for all school security guards.

(2) To establish minimum law enforcement instruction qualifications at an accredited P.O.S.T. academy.

(3) To approve and certify a school security guard program and to establish other requirements relative to such program.

D. A portion of the funds appropriated for the program shall be allocated to local law enforcement agencies to be utilized for the cost of investigation, detection, and forensics costs of crime committed on school property.

E. After a secure funding source for this program becomes available, the Louisiana Commission on Law Enforcement and Administration of Criminal Justice shall have six months to implement a one-year pilot test of the School Violence Prevention Training Program. The commission shall evaluate the results of the pilot test before recommending statewide implementation.

Certification or training

No relevant statutes found.

MOUs, authorization and/or funding

No relevant statutes found.

State Education Agency Support

State model policies and implementation support

STATUTES

§17.252. School master plans for supporting student behavior and discipline.

A.(1) The State Board of Elementary and Secondary Education, in collaboration with the Louisiana Juvenile Justice Planning and Coordination Board, shall formulate, develop, and recommend to the Juvenile Justice Reform Act Implementation Commission by March 1, 2004, a model master plan for improving behavior and discipline within schools.

(2) The model master plan may include but need not be limited to guidelines for accomplishing the following:

(a) Improving communication, coordination, and collaboration between the schools and juvenile justice agencies.

(b) Improving safe school planning.

(c) Revising school zero tolerance policies to ensure compliance with all applicable provisions of law to ensure that schools do not make inappropriate referrals to juvenile justice agencies.

(d) Providing improved mental health services in or through the schools.

(e) Providing better assistance to parents in knowing about and accessing family strengthening programs.

(f) Improving the coordination of special education and juvenile justice services.

(g) Improving classroom management using positive behavioral supports and other effective disciplinary tools.

(h) Improving methods and procedures for the handling of school suspensions and the referral of students to alternative schools.

(i) Providing for better and more useful reporting on an annual basis of school behavioral and disciplinary problems.

B. Each city, parish, and other local public school board shall cause to be developed and shall submit by October 1, 2004, a master plan for each school under the board's jurisdiction for improving behavior and discipline in each such school based on the model master plan developed and approved by the State Board of Elementary and Secondary Education.

C. The model master plan for improving behavior and discipline within the schools and the school master plans required of city, parish, and other local public school boards by this Section shall not prohibit a teacher from removing a pupil from the classroom for disciplinary reasons in accordance with the provisions of R.S. 17:416.

Funding appropriations

STATUTES

§17.100.1. Alternative educational programs; certain adjudicated students; students in the custody of the office of juvenile justice; funding; authority of the local school board to contract; inclusion in minimum foundation program; funding formula.

C.(1) An alternative school located in a secure care facility under the jurisdiction of the office of juvenile justice shall be considered a public elementary or secondary school and, as such, shall be included by the State Board of Elementary and Secondary Education in the formula required by Article VIII, Section 13 of the Constitution of Louisiana used to determine the cost of a minimum foundation program of education in all public elementary and secondary schools.

(2) Each student in such an alternative school shall be provided for and funded at one hundred percent of the state share per pupil amount as provided in the approved minimum foundation program formula for the city, parish, or other local public school system in which such student would otherwise have been enrolled, as contained in the budget letter approved by the State Board of Elementary and Secondary Education, and the board shall allocate such funds to the office of juvenile justice.

(3) In addition to the allocation of the state share per pupil amount provided for in Paragraph (2) of this Subsection, the city, parish, or other local public school system in which the student would have otherwise been enrolled shall allocate and transfer to the office of juvenile justice an amount of money equal to the local share per pupil amount allocated by such system times the number of students enrolled in alternative schools located in secure care facilities under the jurisdiction of the office of juvenile justice who would have otherwise been enrolled in such local school system. The State Board of Elementary and Secondary Education shall provide for the transfer of the local share per pupil amount from the appropriate city, parish, or other local public school system to the office of juvenile justice.

(4) The office of juvenile justice shall expend all minimum foundation program funds allocated to it pursuant to this Subsection to operate the alternative schools located in secure care facilities under its jurisdiction.

(5) The State Board of Elementary and Secondary Education, in collaboration with the office of juvenile justice, shall develop an equitable means by which to identify and determine the number of students eligible for funding each year pursuant to this Subsection.

(6) The State Board of Elementary and Secondary Education shall adopt necessary rules and regulations to assure that no funds provided through the Minimum Foundation Program or any other state or federal program as provided in this Section shall supplant any other funding provided to the office of juvenile justice for the educational services for such children.

§40.2404.1. Additional powers of the council, school resource officers, School Violence Prevention Training Program.

A. In accordance with the provisions of R.S. 40:2404(11) and R.S. 17:416.19, the Council on Peace Officer Standards and Training shall develop and implement a School Violence Prevention Training Program under their jurisdiction and within the existing school resource officer program in conjunction with the Louisiana Commission on Law Enforcement and Administration of Criminal Justice, the office of state police, local law enforcement agencies, and the State Board of Elementary and Secondary Education.

D. A portion of the funds appropriated for the program shall be allocated to local law enforcement agencies to be utilized for the cost of investigation, detection, and forensics costs of crime committed on school property.

E. After a secure funding source for this program becomes available, the Louisiana Commission on Law Enforcement and Administration of Criminal Justice shall have six months to implement a one-year pilot test of the School Violence Prevention Training Program. The commission shall evaluate the results of the pilot test before recommending statewide implementation.

Other/Uncategorized

Professional immunity or liability

STATUTES

§17.416.1. Discipline of pupils; additional disciplinary authority.

C. Should any teacher, principal, or administrator in the public school system be sued for damages by any student, the parent of any student or other persons qualified to bring suit on behalf of such student based upon the act or omission of such teacher, principal, or administrator in the directing of and disciplining of school children under their care and supervision, it shall be the responsibility of the school board employing such teacher, principal, or administrator to provide such defendant with a legal defense to such suit including reasonable attorney's fees, investigatory costs, and other related expenses. Should any such teacher, principal, or administrator be cast in judgment for damages in such suit, it shall be the obligation of the school board employing such defendant to indemnify him fully against such judgment including all principal, interest, and costs. Nothing in this Section shall require a school board to indemnify a teacher, principal, or administrator against a judgment wherein there is a specific decree in the judgment that the action of the teacher, principal, or administrator was malicious, and willfully and deliberately intended to cause bodily harm.

§17:416.11. Discipline of pupils; limitation of liability.

A. No teacher, principal, or administrator in a public school system or in an approved nonpublic school shall be personally liable for any act or failure to act in the directing of or disciplining of school children under his care and supervision, unless such act or failure to act was malicious and willfully and deliberately intended to cause bodily harm.

B. This Section shall not be applicable to the operation, use, or maintenance of any motor vehicle.

Community input or involvement

STATUTES

§17:416.17. Youth development and assistance programs; legislative findings and purpose; school authority for programs for elementary students.

A.(1) The legislature finds that early identification and intervention of aggressive, antisocial, or delinquent behaviors are critical components in recognizing and preventing chronic juvenile delinquency in later years.

(2) The legislature further finds that school-based preventive interventions for violent or aggressive behavior in youth are recognized as beneficial to the overall developmental success of students.

(3) The legislature recognizes that the introduction of violence prevention strategies in the early elementary grades may reduce the incidence of delinquent behaviors in the later grades, especially when such programs include parental involvement in the prevention and intervention strategies.

(4) The purpose of this Section is to authorize elementary schools to develop prevention and intervention strategies to address disruptions and violence in schools to create safe school environments in which teachers can teach and students can learn and which increase student and family connectedness to the school.

B. A school may, upon approval of its governing authority, develop and offer youth development and assistance programs that employ violence prevention and intervention initiatives for students in kindergarten and the elementary grades. Such programs shall provide for early identification of and support for students who are at risk before their behavior escalates into aggression or disruption, disciplinary problems, or juvenile delinquency.

C.(1) A youth development and assistance program may consist of age- or grade-appropriate alternative classrooms during school or special intervention or prevention programs before, after, or during the school day.

(2) Such programs may include but shall not be limited to the following components:

(a) Provision of services for students including behavioral training and intervention techniques that promote cooperation and enhance interpersonal and conflict resolution skills, peer mediation, anger management, bullying prevention, life skills training, mentoring, counseling, and tutoring programs that improve academic achievement.

(b)(i) Provision of services which support the parents of students identified with behavioral needs that may need intervention or support. Such parent services may include literacy services or parental training.

(ii) Required participation of any parent of a student so identified in such intervention at the school or other designated facility.

(c) Collaboration with community-based organizations, including but not limited to youth services, civic, social services, mental health, volunteer services, and juvenile justice agencies.

D The provisions of this Section shall be implemented upon the approval of each city, parish, or other local public school board of any program submitted by a school and the availability of funds to a school for such purpose.

§40.2404.1. Additional powers of the council, school resource officers, School Violence Prevention Training Program.

A. In accordance with the provisions of R.S. 40:2404(11) and R.S. 17:416.19, the Council on Peace Officer Standards and Training shall develop and implement a School Violence Prevention Training Program under their jurisdiction and within the existing school resource officer program in conjunction with the Louisiana Commission on Law Enforcement and Administration of Criminal Justice, the office of state police, local law enforcement agencies, and the State Board of Elementary and Secondary Education.

Other/uncategorized

No relevant statutes found.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by Louisiana provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
Website		
Louisiana Department of Education webpage	Templates and resources related to bullying and discipline referrals, including: • Bullying incident report forms • Presentations about bullying • Bullying reporting responsibility flow chart • Corporal Punishment Incidence Checklist • School behavior report forms • Bus behavior report forms	http://www.louisianabelieves.com/resources/library/public-schools
Louisiana Department of Education webpage on "Discipline. "	Describes their prevention model.	http://www.louisianabelieves.com/schools/public-schools/discipline
Bullying Prevention Toolkit	Developed by the Louisiana Department of Education, this toolkit provides resources to assist school district prevent and end bullying.	http://www.louisianabelieves.com/schools/public-schools/bullying
Documents		
Reporting and Investigating Incidences of Bullying	Guidance on reporting and investigating incidences of bullying, as provided in Act 861 of 2012.	http://www.louisianabelieves.com/docs/public-school/overview---reporting-and-investigating-incidences-of-bullying.pdf?sfvrsn=3
Sample School Board Policy "Prohibition Against Bullying":	PDF document with Louisiana's sample bullying prohibition policy; generated by the Office of Student Programs.	http://www.louisianabelieves.com/docs/public-school/template---sample-bullying-policy12EA763F2BB4D1C6A5423027.pdf?sfvrsn=3
Other Resources		
No relevant resources found		

Maine
Compilation of School Discipline Laws and Regulations

Prepared: August 12, 2013

Introduction

This compilation presents school discipline-related state statutes, school discipline-related regulations, and, where available, links to state-sponsored websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSLE). For example, one major category encompasses all state laws or regulations mandating specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of state legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in each state.

Discipline categories were not mutually exclusive. Statutes and regulations often appeared across multiple categories. For states with more extensive statutes covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. State laws, ordered by chapter and section number, appear first within each category followed by state regulations. All statutes and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists statutes by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to state-sponsored websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of May 2013, with the exception of the state laws related to seclusion and restraint, which are complete and current as of December 2012. Readers should also note that the information in this document was compiled from individual state sources that are created by each state and which are maintained and updated with varying frequencies. Readers should consult the source information provided for each state directly in order to check for updates to this state's laws and regulations or conduct further research.

For further information, including definitions of the different policy categories, please refer to the Discipline Laws and Regulations Compendium posted on the Center's website.

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Safe Supportive Learning
Engagement | Safety | Environment

Table of Contents

Maine State Codes Cited **1**

General Provisions **3**

Authority to develop and establish rules of conduct 3
Scope 4
Communication of policy 4

In-School Discipline **6**

Use of multi-tiered discipline approaches 6
Teacher authority to remove students from classrooms 6
Alternatives to suspension 6
Use of corporal punishment 6
Use of student and locker searches 6
Other in-school disciplinary approaches 6

Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements **7**

Grounds for possible suspension or expulsion 7
Grounds for mandatory suspension or expulsion 7
Limitations, conditions or exclusions for use of suspension and expulsion 7
Administrative procedures related to suspension and expulsion 8
In-school suspension 8
Return to school following removal 9
Use of restraint and seclusion 9
Alternative placements 12

Disciplinary Approaches Addressing Specific Infractions and Conditions **16**

Firearms (as required by the Guns-Free Schools Act) 16
Other weapons 17
Students with chronic disciplinary issues 17
Attendance and truancy 17
Substance use 19
Bullying, harassment, or hazing 19
Other special infractions or conditions 21

Prevention and Behavioral Interventions (Non-Punitive) **23**

Prevention 23
Behavioral interventions and student support services 23
Professional development 23

Monitoring and Accountability **25**

Formal incident reporting of conduct violations 25
Parental notification 26
Reporting and referrals between schools and law enforcement 28
Disclosure of school records 29
Data collection, review, and reporting of disciplinary policies and actions 31

School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers 33
Authority and power to implement school arrest 33
Certification or training 33
MOUs, authorization, and/or funding 33
State Education Agency Support 34
State model policies and implementation support 34
Funding appropriations 35
Other/Uncategorized 36
Professional immunity or liability 36
Community input or involvement 36
Other/Uncategorized 38
State-Sponsored, Publicly Available Websites or Other Resources on School Discipline 39

Maine State Codes Cited

Maine Revised Statutes

Title 20-A. Education

Chapter 3. Department of Education

Subchapter 2. Commissioner

§254. Educational duties
§255. School administrative unit; reports, records, information
§263. Response to school bomb threats

Chapter 101. General Provisions

Subchapter 1. School Boards

§1001. Duties of school boards

Subchapter 2. Superintendents

§1055. Superintendent; powers and duties

Chapter 119. Unorganized Territory

Subchapter 2-A. Compulsory School Attendance

§3271. Compulsory attendance at school
§3272. Truancy; excusable absences
§3273. Enforcement

Chapter 201. General Provisions

§4007. Secret societies prohibited
§4009. Civil liability

Chapter 211. Attendance

Subchapter 1. Attendance

§5001-A. Compulsory attendance

Subchapter 2. Truants

§5051-A. Truancy
§5053-A. Enforcement

Subchapter 4. Technical Assistance

§5151. Technical assistance for truants, dropout prevention and reintegration and alternative education
§5152. Advisory committee

Chapter 221. School Records, Audits And Reports

Subchapter 1. Student Records

§6001. Dissemination of information
§6001-A. Parental access to information on school activities
§6001-B. Transfer of education records

Chapter 222. Standards And Assessment Of Student Performance

§6213. Innovative public school zones and innovative public school districts

Chapter 223. Health, Nutrition And Safety

Subchapter 6. Safety

§6552. Firearms
§6553. Prohibition of hazing
§6554. Prohibition on bullying in public schools

Maine Administrative Code

05 071. Education / General

05-071 CMR Ch. 33. Rules governing physical restraint and seclusion

General Provisions

Authority to develop and establish rules of conduct

STATUTES

§254. Educational duties.

11. Statewide standards for behavior. In consultation with organizations representing school boards, school administrators, teachers, parents and other interested local officials and community members, the commissioner shall develop statewide standards for responsible and ethical student behavior. The standards must require annual reporting of incidents of violent and harmful behavior by or against students to the department by school administrative units. The department shall provide forms for reporting.

§263. Response to school bomb threats.

1. Prototype guidelines, policies and protocols. The commissioner, in consultation with state and local emergency services officials and representatives of school personnel and school board members, shall develop prototypical guidelines, policies and protocols for school administrative units to present to their communities when those communities are considering implementing local policies that concern prevention of and response to school bomb threats. The prototypical guidelines, policies and protocols developed by the commissioner must be made available to all schools in the State no later than December 31, 2001.

§1001. Duties of school boards

15. Adoption of student code of conduct. With input from educators, administrators, parents, students and community members, they shall adopt a district-wide student code of conduct consistent with the statewide standards for student behavior developed under section 254, subsection 11. The student code of conduct must:

A. Define unacceptable student behavior;

B. Establish standards of student responsibility for behavior;

C. Prescribe consequences for violation of the student code of conduct, including first-time violations, when appropriate;

D. Describe appropriate procedures for referring students in need of special services to those services;

E. Establish criteria to determine when further assessment of a current individual education plan is necessary, based on removal of the student from class;

F. Establish policies and procedures concerning the removal of disruptive or violent students or students threatening death or bodily harm to others from a classroom or a school bus, as well as student disciplinary and placement decisions, when appropriate;

G. Establish guidelines and criteria concerning the appropriate circumstances when the superintendent or the superintendent's designee may provide information to the local police or other appropriate law enforcement authorities regarding an offense that involves violence committed by any person on school grounds or other school property; and

H. Establish policies and procedures to address bullying, harassment and sexual harassment as set forth in section 6554.

18. Bomb threat information in student handbooks. Beginning with the 2002-2003 school year, each school board shall include in its student handbook a section that addresses in detail the school's bomb threat policies and protocols. The section of the handbook must contain an explanation of the portions of the policies and protocols relevant to students and their families and explain to the students the educational and legal consequences of making a bomb threat to a school.

ADMINISTRATIVE CODE

05-071 CMR Ch. 33

SECTION 4. LOCAL POLICY; NOTICE TO PARENTS

1. Local Policy Required. All covered entities shall have local policies, consistent with this rule, regarding the use of physical restraint and seclusion. Covered entities must also have a procedure available by which parents may submit a complaint regarding the use of physical restraint or seclusion on their child, based upon which the covered entity shall investigate the circumstances surrounding the incident complained of, make written findings and, where appropriate, determine to take corrective action. Covered entities shall revise existing policies or develop policies consistent with this rule within 90 calendar days of the effective date of this rule.

Scope

STATUTES

§6554. Prohibition on bullying in public schools.

2. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

E. "School grounds" means a school building; property on which a school building or facility is located; and property that is owned, leased or used by a school for a school-sponsored activity, function, program, instruction or training. "School grounds" also includes school-related transportation vehicles

4. Scope. This section applies to bullying that:

A. Takes place at school or on school grounds, at any school-sponsored or school-related activity or event or while students are being transported to or from school or school-sponsored activities or events; or

B. Takes place elsewhere or through the use of technology, but only if the bullying also infringes on the rights of the student at school as set forth in subsection 2, paragraph B.

Communication of policy

STATUTES

§ 255. School administrative unit; reports, records, information.

5. INFORMATION. The commissioner shall:

A. Obtain information on school systems in this State and other states and other countries and the condition and progress of public education throughout the world;

B. Disseminate this information, with practical hints upon the conduct of schools, improved systems of instruction and the true theory of education by public addresses, circulars and articles prepared for the press;

C. Disseminate this information by outlines, suggestions and directions concerning the management, discipline and methods employed in teaching to teachers and school officers of the State;

§1001. Duties of school boards.

15. Adoption of student code of conduct. […] The school board is responsible for ensuring that school officials inform students, parents and community members of the student code of conduct.

15-A. School disciplinary policies. […] The school board shall ensure that administrators inform students, parents and school personnel of the districtwide school disciplinary policies.

18. Bomb threat information in student handbooks. Beginning with the 2002-2003 school year, each school board shall include in its student handbook a section that addresses in detail the school's bomb threat policies and protocols. The section of the handbook must contain an explanation of the portions of the policies and protocols relevant to students and their families and explain to the students the educational and legal consequences of making a bomb threat to a school.

§6553. Prohibition of hazing.

5. Dissemination. The school board shall clearly set forth the policy and penalties adopted and shall distribute copies of them to all students enrolled in the public school.

§6554. Prohibition of bullying in public schools.

6. Dissemination of policy. Each school board shall annually provide the written policies and procedures adopted pursuant to subsection 5 to students, parents, volunteers, administrators, teachers and school staff. The policies and procedures must be posted on the school administrative unit's publicly accessible website. Each school board shall include in its student handbook a section that addresses in detail the policies and procedures adopted pursuant to subsection 5.

ADMINISTRATIVE CODE

05-071 CMR Ch. 33

SECTION 4. LOCAL POLICY; NOTICE TO PARENTS

1. Local Policy Required. All covered entities shall have local policies, consistent with this rule, regarding the use of physical restraint and seclusion. Covered entities must also have a procedure available by which parents may submit a complaint regarding the use of physical restraint or seclusion on their child, based upon which the covered entity shall investigate the circumstances surrounding the incident complained of, make written findings and, where appropriate, determine to take corrective action. Covered entities shall revise existing policies or develop policies consistent with this rule within 90 calendar days of the effective date of this rule.

2. Annual notification of rule and local policies. Annually, each covered entity shall provide overview and awareness information to all staff, including contracted providers, regarding the content of this rule and any local policies or procedures related to the use of physical restraint and seclusion. Each covered entity shall provide an annual notice informing parents of students enrolled at the covered entity of this rule and any local policies or procedures related to the use of physical restraint and seclusion, including the local complaint process.

In-School Discipline

Use of multi-tiered discipline approaches

No relevant statutes found.

Teacher authority to remove students from classrooms

No relevant statutes found.

Alternatives to suspension

STATUTES

§6554. Prohibition on bullying in public schools.

2. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Alternative discipline" means disciplinary action other than suspension or expulsion from school that is designed to correct and address the root causes of a student's specific misbehavior while retaining the student in class or school, or restorative school practices to repair the harm done to relationships and persons from the student's misbehavior. "Alternative discipline" includes, but is not limited to:

(1) Meeting with the student and the student's parents;

(2) Reflective activities, such as requiring the student to write an essay about the student's misbehavior;

(3) Mediation when there is mutual conflict between peers, rather than one-way negative behavior, and when both parties freely choose to meet;

(4) Counseling;

(5) Anger management;

(6) Health counseling or intervention;

(7) Mental health counseling;

(8) Participation in skills building and resolution activities, such as social-emotional cognitive skills building, resolution circles and restorative conferencing;

(9) Community service; and

(10) In-school detention or suspension, which may take place during lunchtime, after school or on weekends.

Use of corporal punishment

No relevant statutes found.

Use of student and locker searches

No relevant statutes found.

Other in-school disciplinary approaches

No relevant statutes found.

Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements

Grounds for possible suspension or expulsion

No relevant statutes found.

Grounds for mandatory suspension or expulsion

STATUTES

§1001. Duties of school boards.

9. Students expelled or suspended. Following a proper investigation of a student's behavior and due process proceedings pursuant to subsection 8-A, if found necessary for the peace and usefulness of the school, a school board shall expel any student:

A. Who is deliberately disobedient or deliberately disorderly;

B. For infractions of violence;

C. Who possesses on school property a firearm as defined in Title 17-A, section 2, subsection 12-A or a dangerous weapon as defined in Title 17-A, section 2, subsection 9 without permission of a school official;

D. Who, with use of any other dangerous weapon as defined in Title 17-A, section 2, subsection 9, paragraph A, intentionally or knowingly causes injury or accompanies use of a weapon with a threat to cause injury; or

E. Who possesses, furnishes or trafficks in any scheduled drug as defined in Title 17-A, chapter 45.

9-A. Students expelled or suspended under the requirements of the federal Gun-Free Schools Act. The school boards shall adopt a policy for expelling a student who is determined to have brought a firearm, as defined in 18 United States Code, Section 921, to school or to have possessed a firearm at school and for referring the matter to the appropriate local law enforcement agency.

A. A student who is determined to have brought a firearm to school or to have possessed a firearm at school under this subsection must be expelled from school for a period of not less than one year, except that the school board may authorize the superintendent to modify the requirement for expulsion of a student on a case-by-case basis. A decision to change the placement of a student with a disability must be made in accordance with the federal Individuals With Disabilities Education Act, 20 United States Code, Section 1400 et seq.

C. In accordance with the proper investigation and due process provisions required in subsection 9, a principal may suspend immediately for good cause a student who is determined to have brought a firearm to school or to have possessed a firearm at school under this subsection.

Limitations, conditions or exclusions for use of suspension and expulsion

STATUTES

§1001. Duties of school boards.

9. Students expelled or suspended. […] The school board may authorize the principal to suspend students up to a maximum of 10 days for infractions of school rules. […]

9-C. Reentry for students after expulsion. Upon making a decision to expel a student in accordance with procedures set forth in subsections 8-A and 9, a school board may exercise one of the following options in expelling a student:

A. The school board may expel the student for a specific period of time not to exceed the total number of instructional days approved by the school board for the current school year; or

B. The school board may expel the student for an unspecified period of time and authorize the superintendent to provide the expelled student with a reentry plan that specifies the conditions that must be met in order for the student to be readmitted to school after the expulsion. If a school board authorizes the superintendent to provide the expelled student with a reentry plan, the school board shall ensure that the student who has been expelled is provided with a reentry plan in accordance with this paragraph. […]

Administrative procedures related to suspension and expulsion

STATUTES

§1001. Duties of school boards.

8-A. Due process standards for expulsion proceedings. Following a proper investigation of a student's behavior, a school board that intends to consider expulsion shall ensure proceedings include the following due process provisions.

A. Before a hearing on the expulsion, the superintendent shall:

(1) Provide written notice to the parents and the student of:

(a) The date, time and location of the hearing;

(b) A description of the incident or incidents that occasioned the expulsion hearing;

(c) The student's and parents' right to review the school records prior to the hearing;

(d) A description of the hearing process; and

(e) An explanation of the consequences of an expulsion; and

(2) Invite the parents and student to a meeting prior to the expulsion hearing to discuss the procedures of the hearing.

B. At a hearing on the expulsion:

(1) The student has the right to present and cross-examine witnesses;

(2) The student has the right to an attorney or other representation; and

(3) Witnesses must be sworn in and the chair of the hearing has the authority to swear in witnesses.

C. After a hearing on the expulsion, the school board shall provide written notice of its decision to the parents and the student by certified mail. The notice of the school board's written decision may include a reentry plan developed in accordance with subsection 9-C.

In-school suspension

No relevant statutes found.

Return to school following removal

STATUTES

§1001. Duties of school boards.

9-C. Reentry for students after expulsion. Upon making a decision to expel a student in accordance with procedures set forth in subsections 8-A and 9, a school board may exercise one of the following options in expelling a student:

A. The school board may expel the student for a specific period of time not to exceed the total number of instructional days approved by the school board for the current school year; or [2011, c. 614, §5 (NEW).]

B. The school board may expel the student for an unspecified period of time and authorize the superintendent to provide the expelled student with a reentry plan that specifies the conditions that must be met in order for the student to be readmitted to school after the expulsion. If a school board authorizes the superintendent to provide the expelled student with a reentry plan, the school board shall ensure that the student who has been expelled is provided with a reentry plan in accordance with this paragraph.

(1) The reentry plan must be developed by the superintendent or the superintendent's designee in consultation with the student and the student's parents to provide guidance that helps the student understand what the student must do to establish satisfactory evidence that the behavior that resulted in the expulsion will not likely recur.

(2) The superintendent or the superintendent's designee shall send a certified letter, return receipt requested, or hand deliver a letter to the parents of the expelled student giving notice of the date, time and location of a meeting to develop a reentry plan for the student.

(3) If the student and the student's parents do not attend the meeting under subparagraph (2), the reentry plan must be developed by school staff.

(4) The reentry plan must be provided to the parents and the student in writing.

(5) The superintendent shall designate a school employee to review the student's progress with the reentry plan at intervals of one month, 3 months and 6 months after the meeting and at other times as determined necessary by the designated school employee.

(6) The reentry plan may require the student to take reasonable measures determined by the superintendent to be helpful to establish the student's readiness to return to school. Professional services determined to be necessary by the superintendent must be provided at the expense of the student and the student's parents.

(7) The superintendent may, as appropriate, notify an individualized education program team for a child with a disability who has been expelled by a school board.

(8) The superintendent shall annually report data on the number of students who are expelled from school and the number of students who are readmitted to school after expulsion to the commissioner's consultant on truancy, dropouts and alternative education under section 5151.

Use of restraint and seclusion

ADMINISTRATIVE CODE

05-071 CMR Ch. 33

SECTION 1. POLICY AND PURPOSE

This rule establishes standards for the use of physical restraint and seclusion to provide for the safety of all individuals. Physical restraint and seclusion may only be used as an emergency intervention when the behavior of a student presents a risk of injury or harm to the student or others.

SECTION 2. DEFINITIONS

16. Physical Restraint is an intervention that restricts a student's freedom of movement or normal access to his or her body, and includes physically moving a student who has not moved voluntarily. Physical restraint does not include:

A. Physical escort;

B. Physical prompt;

C. Physical contact when the purpose of the intervention is to comfort a student and the student voluntarily accepts the contact;

D. Momentarily deflecting the movement of a student when the student's movement would be destructive, harmful or dangerous to the student or to others;

E. The use of seat belts, safety belts or similar passenger restraint, when used as intended, during the transportation of a child in a motor vehicle; or

F. The use of a medically prescribed harness, when used as intended; or

G. A brief period of physical contact necessary to break up a fight.

19. Seclusion is the involuntary confinement of a student alone in a room or clearly defined area from which the student is physically prevented from leaving. Seclusion is not timeout.

SECTION 5. SECLUSION

1. Permitted uses of seclusion

A. Seclusion may be used only as an emergency intervention when the behavior of a student presents a risk of injury or harm to the student or others, and only after other less intrusive interventions have failed or been deemed inappropriate.

B. Seclusion must be implemented by staff certified in a state-approved training program to the extent possible. If, due to the nature of the emergency, untrained staff have intervened and initiated a seclusion, trained personnel must be summoned to the scene and assume control of the situation as rapidly as possible.

2. Prohibited uses of seclusion

A. Seclusion may not be used for punitive purposes, staff convenience or to control challenging behavior.

B. Seclusion may not be used to prevent property destruction or disruption of the environment in the absence of a risk of injury or harm.

C. Seclusion may not be used as a therapeutic or educational intervention.

D. Seclusion may not take place in a locked room.

3. Monitoring of a student in seclusion

A. At least one adult must be physically present to continuously monitor a student in seclusion The adult, while not present in the room or defined area, must be situated so that the student is visible at all times. Students must be continuously monitored until the student no longer presents a risk of injury or harm to self or others.

B. In the event of an injury to the student or staff, the local policy for emergency response must be initiated.

4. Termination of seclusion

A. The staff involved in the use of seclusion shall continually assess for signs that the student is no longer presenting a risk of injury or harm to self or others, and the seclusion must be discontinued as soon as possible.

B. Time must be recorded consistent with the requirements of the documentation section of this rule and local policy.

C. The covered entity may request assistance from parents at any time during the incident.

D. If attempts to release from seclusion have been unsuccessful and a student is still presenting behaviors that create a risk of injury or harm to self or others, then the covered entity may request assistance from outside sources such as caregivers, case managers, crisis intervention teams, local EMS, or other community resources.

E. If seclusion continues for more than 10 minutes, an administrator or designee shall determine whether continued seclusion is warranted, and shall continue to monitor the status of the seclusion every 10 minutes until the seclusion is terminated.

5. Location of seclusion

Seclusion can be achieved in any part of a school building with adequate light, heat, ventilation and of normal room height. If a specific room is designated as a seclusion room, it must be a minimum of 60 square feet with adequate light, heat, ventilation, be of normal room height, contain an unbreakable observation window in a wall or door and be free of hazardous material and objects with which a student could self-inflict bodily injury.

SECTION 6. PHYSICAL RESTRAINT

1. Permitted uses of physical restraint

A. Physical restraint may be used only as an emergency intervention when the behavior of a student presents a risk of injury or harm to the student or others, and only after other less intrusive interventions have failed or been deemed inappropriate.

B. Physical restraint must be implemented by staff certified in a state-approved training program to the extent possible. If, due to the nature of the emergency, untrained staff have intervened and initiated a physical restraint and if the need for physical restraint continues, trained personnel must be summoned to the scene and must assume control of the situation as rapidly as possible.

C. Physical restraint may be used to move a student only if the need for movement outweighs the risks involved in such movement.

D. Protective equipment or devices that are part of a treatment plan as prescribed by a licensed health care provider are not prohibited by this rule.

2. Prohibited forms and uses of physical restraint

A. Physical restraint may not be used for punitive purposes, staff convenience or to control challenging behavior.

B. Physical restraint may not be used to prevent property destruction or disruption of the environment in the absence of a risk of injury or harm.

C. No physical restraint may be used that restricts the free movement of the diaphragm or chest or that restricts the airway so as to interrupt normal breathing or speech (restraint-related positional asphyxia) of a student.

D. No physical restraint may be used that relies on pain for control, including but not limited to joint hyperextension, excessive force, unsupported take-down (e.g. tackle), the use of any physical structure (e.g. wall, railing or post), punching and hitting.

E. Physical restraint may not be used as a therapeutic or educational intervention.

F. Aversive procedures and mechanical and chemical restraints may not be used under any circumstances.

G. Prescribed assistive devices are not considered mechanical restraints when used as prescribed. Their use must be supervised by qualified and trained individuals in accordance with professional standards.

H. Prescribed medications are not considered chemical restraints when administered by a health care provider consistent with a student's health care plan are permitted.

3. Monitoring of a student in physical restraint

A. At least two adults must be present at all times when physical restraint is used except when, for safety reasons, waiting for a second adult is precluded.

B. A student in physical restraint must be continuously monitored until the student no longer presents a risk of injury or harm to self or others.

C. In the event of an injury, local policy must be followed.

4. Termination of physical restraint

A. The staff involved in the use of physical restraint must continually assess for signs that the student in physical restraint is no longer presenting a risk of injury or harm to self or others, and the physical restraint must be discontinued as soon as possible.

B. Time must be recorded consistent with the requirements of the documentation section of this rule and local policy.

C. The covered entity may request assistance from parents at any time during the incident.

D. If attempts to release the student from physical restraint have been unsuccessful and the student is still presenting behaviors that create a risk of injury or harm to self or others, the covered entity may request assistance from outside sources such as caregivers, case managers, crisis intervention teams, local emergency medical services, or other community resources.

E. If physical restraint continues for more than 10 minutes, an administrator or designee shall determine whether continued physical restraint is warranted, and shall continue to monitor the status of the physical restraint every 10 minutes until the physical restraint is terminated.

5. Exclusions

Those restraints used by law enforcement officers or school resource officers employed by a police department in the course of their professional duties are not subject to this rule.

Alternative placements

STATUTES

<u>§1001. Duties of school boards.</u>

9. Students expelled or suspended. […] The school board may authorize the principal to suspend students up to a maximum of 10 days for infractions of school rules. In addition to other powers and duties under this subsection, the school board may develop a policy requiring a student who is in violation of school substance abuse or possession rules to participate in substance abuse services as provided in section 6606. Nothing in this subsection or subsection 9-C prevents a school board from providing educational services in an alternative setting to a student who has been expelled.

9-A. Students expelled or suspended under the requirements of the federal Gun-Free Schools Act. […]

B. Nothing in this subsection prevents a school board from:

(1) Offering instructional activities related to firearms or from allowing a firearm to be brought to school for instructional activities sanctioned by the school board and for which the school board has adopted appropriate safeguards to ensure student safety; or

(2) Providing educational services in an alternative setting to a student who has been expelled.

§3271. Compulsory attendance at school.

2. Alternative instruction. Alternative instruction may be substituted for attendance in a day school in the following cases when approved by the school principal.

A. The person is enrolled in an approved special education program.

B. The person obtains equivalent instruction through alternative learning or in any other manner arranged or approved by the commissioner.

3. Exceptions. Attendance at school or an alternative education program is not required of:

A. A person who has graduated from high school before the person's 17th birthday;

B. A person who is at least 15 years old, has completed the 9th grade and has permission to leave school to participate in a suitable program of training or combined work and study from a parent and the commissioner; and

C. A person who has been adjudged a truant and has been excused from attendance pursuant to procedures established by the commissioner.

§5001-A. Compulsory attendance.

3. Alternatives to attendance at public day school. Alternatives to attendance at public day school are as follows.

A. Equivalent instruction alternatives are as follows.

(1) A person is excused from attending a public day school if the person obtains equivalent instruction in:

(a) A private school approved for attendance purposes pursuant to section 2901;

(b) A private school recognized by the department as providing equivalent instruction;

(c-1) A home instruction program that complies with the requirements of subparagraph (4); or

(d) Any other manner arranged for by the school board and approved by the commissioner.

(2) A student is credited with attendance at a private school only if a certificate showing the name, residence and attendance of the person at the school, signed by the person or persons in charge of the school, has been filed with the school officials of the administrative unit in which the student resides.

(4) The following provisions govern a home instruction program.

(a) The student's parent or guardian shall provide a written notice of intent to provide home instruction simultaneously to the school officials of the administrative unit in which the student resides and to the commissioner within 10 calendar days of the beginning of home instruction. The notice must contain the following information:

(i) The name, signature and address of the student's parent or guardian;

(ii) The name and age of the student;

(iii) The date the home instruction program will begin;

(iv) A statement of assurance that indicates the home instruction program will provide at least 175 days annually of instruction and will provide instruction in the following subject areas: English and language arts, math, science, social studies, physical education, health education, library skills,

fine arts and, in at least one grade from grade 6 to 12, Maine studies. At one grade level from grade 7 to 12, the student will demonstrate proficiency in the use of computers; and

(v) A statement of assurance that indicates that the home instruction program will include an annual assessment of the student's academic progress that includes at least one of the forms of assessment described in division (b).

(b) On or before September 1st of each subsequent year of home instruction, the student's parent or guardian shall file a letter with the school officials of the administrative unit in which the student resides and the commissioner stating the intention to continue providing home instruction and enclose a copy of one of the following forms of annual assessment of the student's academic progress:

(i) A standardized achievement test administered through the administrative unit in which the student resides or through other arrangements approved by the commissioner. If the test is administered through the administrative unit in which the student resides, that administration must be agreed to by the school officials of the administrative unit prior to submission of the written notice of intent to provide home instruction;

(ii) A test developed by the school officials of the administrative unit in which the student resides appropriate to the student's home instruction program, which must be agreed to by the school officials of the administrative unit prior to submission of the written notice of intent to provide home instruction;

(iii) A review and acceptance of the student's progress by an identified individual who holds a current Maine teacher's certificate;

(iv) A review and acceptance of the student's progress based on, but not limited to, a presentation of an educational portfolio of the student to a local area homeschooling support group whose membership for this purpose includes a currently certified Maine teacher or administrator; or

(v) A review and acceptance of the student's progress by a local advisory board selected by the superintendent of the administrative unit in which the student resides that includes one administrative unit employee and 2 home instruction tutors. For the purpose of this subdivision, a "home instruction tutor" means the parent, guardian or other person who acts or will act as a primary teacher of the student in the home instruction program. This provision must be agreed to by the school officials of the administrative unit in which the student resides prior to submission of the written notice of intent to provide home instruction.

(c) Dissemination of any information filed under this subparagraph is governed by the provisions of section 6001; the federal Family Educational Rights and Privacy Act of 1974, 20 United States Code, Section 1232g (2002); and the federal Education for All Handicapped Children Act of 1975, 20 United States Code, Sections 1401 to 1487 (2002), except that "directory information," as defined by the federal Family Educational Rights and Privacy Act of 1974, is confidential and is not subject to public disclosure unless the parent or guardian specifically permits disclosure in writing or a judge orders otherwise. Copies of the information filed under this subparagraph must be maintained by the student's parent or guardian until the home instruction program concludes. The records must be made available to the commissioner upon request.

(d) If the home instruction program is discontinued, students of compulsory school age must be enrolled in a public school or an equivalent instruction alternative as provided for in this paragraph. The receiving school shall determine the placement of the student. At the secondary level, the principal of the receiving school shall determine the value of the prior educational experience toward meeting the standards of the system of learning results as established in section 6209.

B. A person may be excused from attendance at a public day school pursuant to section 5104-A or section 8605.

§5104-A. Alternative education programs outside the school administrative unit.

1. Alternative education programs. If the superintendents approve, a school administrative unit may enroll a student in an alternative education program in another school administrative unit or in an approved private alternative education program.

Disciplinary Approaches Addressing Specific Infractions and Conditions

Firearms (as required by the Guns-Free Schools Act)

STATUTES

§1001. Duties of school boards.

9-A. Students expelled or suspended under the requirements of the federal Gun-Free Schools Act. The school boards shall adopt a policy for expelling a student who is determined to have brought a firearm, as defined in 18 United States Code, Section 921, to school or to have possessed a firearm at school and for referring the matter to the appropriate local law enforcement agency.

A. A student who is determined to have brought a firearm to school or to have possessed a firearm at school under this subsection must be expelled from school for a period of not less than one year, except that the school board may authorize the superintendent to modify the requirement for expulsion of a student on a case-by-case basis. A decision to change the placement of a student with a disability must be made in accordance with the federal Individuals With Disabilities Education Act, 20 United States Code, Section 1400 et seq.

B. Nothing in this subsection prevents a school board from:

(1) Offering instructional activities related to firearms or from allowing a firearm to be brought to school for instructional activities sanctioned by the school board and for which the school board has adopted appropriate safeguards to ensure student safety; [...]

C. In accordance with the proper investigation and due process provisions required in subsection 9, a principal may suspend immediately for good cause a student who is determined to have brought a firearm to school or to have possessed a firearm at school under this subsection.

§6552. Firearms.

1. Prohibition. A person may not possess a firearm on public school property or the property of an approved private school or discharge a firearm within 500 feet of public school property or the property of an approved private school.

2. Exceptions. The provisions under subsection 1 do not apply to the following.

A. The prohibition on the possession and discharge of a firearm does not apply to law enforcement officials.

B. The prohibition on the possession of a firearm does not apply to the following persons, if the possession is authorized by a written policy adopted by the school board:

(1) A person who possesses an unloaded firearm for use in a supervised educational program approved and authorized by the school board and for which the school board has adopted appropriate safeguards to ensure student safety; and

(2) A person who possesses an unloaded firearm that is stored inside a locked vehicle in a closed container, a zipped case or a locked firearms rack while the person is attending a hunter's breakfast or similar event that:

(a) Is held during an open firearm season established under Title 12, Part 13 for any species of wild bird or wild animal;

(b) Takes place outside of regular school hours; and

(c) Is authorized by the school board.

C. The prohibition on possession and discharge of a firearm does not apply to a person possessing a firearm at a school-operated gun range or a person discharging a firearm as part of a school-sanctioned program at a school-operated gun range if the gun range and the program are authorized by a written policy adopted by the school's governing body.

3. Penalty. A person who violates this section is guilty of a Class E crime.

Other weapons

STATUTES

§1001. Duties of school boards.

9. Students expelled or suspended. Following a proper investigation of a student's behavior and due process proceedings pursuant to subsection 8-A, if found necessary for the peace and usefulness of the school, a school board shall expel any student:

C. Who possesses on school property a firearm as defined in Title 17-A, section 2, subsection 12-A or a dangerous weapon as defined in Title 17-A, section 2, subsection 9 without permission of a school official;

D. Who, with use of any other dangerous weapon as defined in Title 17-A, section 2, subsection 9, paragraph A, intentionally or knowingly causes injury or accompanies use of a weapon with a threat to cause injury;

Students with chronic disciplinary issues

No relevant statues found.

Attendance and truancy

STATUTES

§3271. Compulsory attendance at school.

1. Required attendance. Persons residing in the unorganized territory who are at least 7 and under 17 years of age shall attend a public day elementary or secondary school or an approved private school during the time it is in session.

2. Alternative instruction. Alternative instruction may be substituted for attendance in a day school in the following cases when approved by the school principal.

A. The person is enrolled in an approved special education program.

B. The person obtains equivalent instruction through alternative learning or in any other manner arranged or approved by the commissioner.

3. Exceptions. Attendance at school or an alternative education program is not required of:

A. A person who has graduated from high school before the person's 17th birthday;

B. A person who is at least 15 years old, has completed the 9th grade and has permission to leave school to participate in a suitable program of training or combined work and study from a parent and the commissioner; and

C. A person who has been adjudged a truant and has been excused from attendance pursuant to procedures established by the commissioner.

§3272. Truancy; excusable absences.

2. Truancy. A person is truant if:

A. The person is required to attend school or alternative instruction and has completed grade 6 under this chapter and has the equivalent of 10 full days of unexcused absences or 7 consecutive school days of unexcused absences during a school year; or

B. The person is required to attend school or alternative instruction and is at least 7 years of age and has not completed grade 6 under this chapter and has the equivalent of 7 full days of unexcused absences or 5 consecutive school days of unexcused absences during a school year.

§3273. Enforcement.

1. Civil violations. A parent who has control of a person who is truant under section 3272, subsection 2 and who is primarily responsible for that person's truancy commits a civil violation under this chapter.

2. Jurisdiction. The District Court shall have jurisdiction over these violations.

3. Process. Service of the petition on the parent shall be in accordance with the Maine Rules of Civil Procedure.

4. Penalties.

5. Disposition. The court may order injunctive relief of one or more of the following actions against any person who commits a civil violation under subsection 1:

A. Ordering the offender to comply with this chapter;

B. Ordering the offender to take specific action to ensure the student's attendance at school;

C. Enjoining the offender from engaging in specific conduct which interferes with or may interfere with the student's attendance at school; or

D. Ordering the offender to undergo counseling by a professional selected by the offender, with the court's approval, or by the court. The counselor shall submit a written evaluation to the court and to the offender.

6. Fine. For a civil violation under this section, the court may impose a fine not to exceed $250, all or part of which may be suspended upon the offender's compliance with a court order under this section.

§5001-A. Compulsory attendance.

1. Requirement. Persons 7 years of age or older and under 17 years shall attend a public day school during the time it is in regular session.

2. Exceptions. Attendance at school shall not be required of the following:

A. A person who graduates from high school before that person's 17th birthday;

B. A person who has:

(1) Reached the age of 15 years or completed the 9th grade;

(2) Permission to leave school from that person's parent;

(3) Been approved by the principal for a suitable program of work and study or training;

(4) Permission to leave school from the school board or its designee; and

(5) Agreed in writing with that person's parent and the school board or its designee to meet annually until that person's 17th birthday to review that person's educational needs. When the request to be excused from school has been denied pursuant to this paragraph, the student's parent may appeal to the commissioner;

[…]

D. A person who has matriculated and is attending an accredited, post-secondary, degree-granting institution as a full-time student. An exception to attendance in public school under this paragraph must be approved by the commissioner; or

E. A person enrolled in an online learning program or course.

§5053-A. Enforcement.

1. Civil violation. If a parent has control of a student who is truant under section 5051-A, subsection 1 and that parent is primarily responsible for that truancy, that parent commits a civil violation for which a fine of not more than $250 may be adjudged, all or part of which may be suspended upon the parent's compliance with a court order under subsection 2.

2. Dispositions. The court may also order a parent adjudicated as violating subsection 1 to take specific action to ensure the child's attendance at school; comply with the intervention plan developed in accordance with section 5051-A, subsection 2, paragraph A-2; participate in a parent-training class; attend school with the child; perform community service hours at the school; or participate in counseling or other services as appropriate.

3. Notice required. Notice must be provided to the parent pursuant to section 5051-A, subsection 2, paragraph C before a prosecution for violating subsection 1 may be brought against the parent.

4. Prima facie proof. Evidence that shows that the parent received the notice under section 5051-A, subsection 2 and that the child has accumulated 10 cumulative full days of absences or 5 consecutive school days of absences that are not justified under the established attendance policies of the school administrative unit is prima facie proof that the parent is primarily responsible for the child's truancy or the parent failed to take corrective measures for the child's truancy.

5. Defense. It is a defense to a prosecution under subsection 1 that the parent has exercised reasonable diligence in attempting to cause a child in the parent's custody to attend school or that the administrators of the child's school did not perform their duties as required by law.

6. Process. Service of a summons on the parent pursuant to subsection 1 must be in accordance with the Maine Rules of Civil Procedure.

7. Jurisdiction. The District Court has jurisdiction over violations under subsection 1.

Substance use

No relevant statutes found.

Bullying, harassment, or hazing

STATUES

§6553. Prohibition of hazing.

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Injurious hazing" means any action or situation, including harassing behavior, that recklessly or intentionally endangers the mental or physical health of any school personnel or a student enrolled in a public school.

B. "Violator" means any person or any organization which engages in injurious hazing.

2. Adoption of policy. The school board shall adopt a policy which establishes that "injurious hazing," either on or off school property, by any student, staff member, group or organization affiliated with the public school is prohibited.

3. Penalties. The school board shall establish penalties for violation of the rules established in subsection 2. The penalties shall include, but not be limited to, pr ovisions for:

A. In the case of a person not associated with the public school, the ejection of the violator from school property;

B. In the case of a student, administrator or staff violator, the individual's suspension, expulsion or other appropriate disciplinary action; and

C. In the case of an organization affiliated with the public school which authorizes hazing, rescission of permission for that organization to operate on school property or receive any other benefit of affiliation with the public school.

These penalties shall be in addition to any other civil or criminal penalty to which the violator or organization may be subject.

4. Administrative responsibility. The school board shall assign responsibility for administering the policy to the superintendent of schools and establish procedures for appealing the action or lack of action of the superintendent.

5. Dissemination. The school board shall clearly set forth the policy and penalties adopted and shall distribute copies of them to all students enrolled in the public school.

§6554. Prohibition on bullying in public schools

3. Prohibition. A person may not engage in bullying on school grounds. This section does not modify or eliminate a school's obligation to comply with state and federal constitutional protections and civil rights laws applicable to schools.

5. Adoption of policy. When revising the policies and procedures it has established to address bullying pursuant to section 1001, subsection 15, paragraph H, a school board shall ensure that its policies and procedures are consistent with the model policy developed or revised by the commissioner pursuant to section 254, subsection 11-A. The policies and procedures must include, but are not limited to:

A. A provision identifying the responsibility of students and others on school grounds to comply with the policies;

B. A clear statement that bullying, harassment and sexual harassment and retaliation for reporting incidents of such behavior are prohibited;

C. A provision outlining the responsibility of a superintendent to implement and enforce the bullying policies required by this section, including:

(1) A requirement that the superintendent designate a school principal or other school personnel to administer the policies at the school level; and

(2) A procedure for publicly identifying the superintendent's designee or designees for administering the policies at the school level;

D. A requirement that school staff members, coaches and advisors for extracurricular and cocurricular activities report incidents of bullying to the school principal or other school personnel designated by the superintendent pursuant to paragraph C;

E. Procedures for students, school staff members, parents and others to report incidents of bullying. The procedures must permit reports of bullying to be made anonymously;

F. A procedure for promptly investigating and responding to incidents of bullying, including written documentation of reported incidents and the outcome of the investigations;

G. A clear statement that any person who engages in bullying, who is determined to have knowingly and falsely accused another of bullying or who engages in acts of retaliation against a person who

reports a suspected incident of bullying is subject to disciplinary actions, which actions may include but are not limited to imposing a series of graduated consequences that include alternative discipline;

H. A procedure for a person to appeal a decision of a school principal or a superintendent's designee related to taking or not taking disciplinary action in accordance with the policies adopted pursuant to this subsection. The appeals procedure must be consistent with other appeals procedures established by the school board and may include an appeal to the superintendent;

I. A procedure to remediate any substantiated incident of bullying to counter the negative impact of the bullying and reduce the risk of future bullying incidents, which may include referring the victim, perpetrator or other involved persons to counseling or other appropriate services;

J. A process for the school to communicate to the parent of a student who has been bullied the measures being taken to ensure the safety of the student who has been bullied and to prevent further acts of bullying; and

K. A procedure for communicating with a local or state law enforcement agency if the school principal or the superintendent's designee believes that the pursuit of criminal charges or a civil action under the Maine Civil Rights Act is appropriate.

School boards may combine the policies and procedures required by this subsection with nondiscrimination, harassment and sexual harassment policies and grievance procedures.

6. Dissemination of policy. Each school board shall annually provide the written policies and procedures adopted pursuant to subsection 5 to students, parents, volunteers, administrators, teachers and school staff. The policies and procedures must be posted on the school administrative unit's publicly accessible website. Each school board shall include in its student handbook a section that addresses in detail the policies and procedures adopted pursuant to subsection 5.

7. Application. A superintendent or the superintendent's designee shall ensure that every substantiated incident of bullying is addressed.

A. The prohibition on bullying and retaliation and the attendant consequences apply to any student, school employee, contractor, visitor or volunteer who engages in conduct that constitutes bullying or retaliation.

B. Any contractor, visitor or volunteer who engages in bullying must be barred from school grounds until the superintendent is assured that the person will comply with this section and the policies of the school board.

C. Any organization affiliated with the school that authorizes or engages in bullying or retaliation forfeits permission for that organization to operate on school grounds or receive any other benefit of affiliation with the school.

9. Staff training. A school administrative unit shall provide professional development and staff training in the best approaches to implementing this section.

Other special infractions or conditions

STATUTES

§4007. Secret societies prohibited.

Secret societies shall be prohibited as follows.

1. Prohibition. Secret fraternities or societies in or associated with public schools shall be prohibited.

2. Enforcement. School boards shall enforce this section.

3. Penalty. School boards may expel or otherwise discipline any student for failure or refusal to comply with this section.

Prevention and Behavioral Interventions (Non-Punitive)

Prevention

No relevant statutes found.

Behavioral interventions and student support services

STATUTES

§1001. Duties of school boards.

15-A. School disciplinary policies. When revising the prescribed consequences for violation of the student code of conduct pursuant to subsection 15, paragraph C, a school board shall consider districtwide disciplinary policies that:

A. Focus on positive interventions and expectations and avoid focusing exclusively on unacceptable student behavior. For the purpose of this subsection, "positive interventions" means instructional and environmental supports that are designed to teach students prosocial alternatives to problem behaviors with high rates of positive feedback;

B. Focus on positive and restorative interventions that are consistent with evidence-based practices rather than set punishments for specific behavior and avoid so-called zero-tolerance practices unless specifically required by federal or state laws, rules or regulations. For the purpose of this paragraph, "restorative interventions" means school practices that are designed to strengthen relationships, improve the connection to school and promote a strong sense of accountability and that help students learn from their mistakes, understand the impact of their actions on others and find opportunities to repair the harm they have caused through their misbehavior;

C. Allow administrators to use their discretion to fashion appropriate discipline that examines the circumstances pertinent to the case at hand; and

D. Provide written notice to the parents of a student when a student is suspended from school, regardless of whether the suspension is an in-school or out-of-school suspension.

§6213. Innovative public school zones and innovative public school districts.

7. Innovations. In considering or creating an innovation plan, each school board may consider innovations in the following areas:

C. Provision of services, including, but not limited to, special education services; services for gifted and talented students; services for students with limited English proficiency; educational services for students at risk of academic failure, expulsion or dropping out; and support services provided by the Department of Health and Human Services or the Department of Corrections to a state ward or to a state agency client;

Professional development

STATUTES

§6554. Prohibition on bullying in public schools.

9. Staff training. A school administrative unit shall provide professional development and staff training in the best approaches to implementing this section.

ADMINISTRATIVE CODE

05-071 CMR Ch. 33

SECTION 12. STAFF TRAINING; APPROVED PROGRAM

The Department of Education shall maintain a directory of approved training programs on its website at http://maine.gov/education/. The list of approved training programs may include regional training programs and regional "train the trainer" model programs. These training programs must require participants to demonstrate competency to achieve certification, and must include instruction in at least the following core components:

1. The use of non-physical interventions for responding to potentially dangerous behaviors, including de-escalation and the use of positive alternatives;
2. Identification of dangerous behaviors that may indicate the need for physical restraint or seclusion and methods for evaluating the risk of harm to determine whether such interventions are warranted;
3. Instruction and simulated experience in administering safe physical restraint techniques across a range of increasingly restrictive interventions, including the safe movement of a student, and in recognizing and avoiding positions involving a high risk of restraint-related positional asphyxia (restricting a student's ability to breathe);
4. The effects of physical restraint and seclusion on a student, including monitoring physical and psychological signs of distress and when to obtain medical assistance in compliance with the covered entity's procedures for emergency interventions;
5. The risks and realities of physical restraint and seclusion; and
6. A review of the process of student and staff debriefing.

Each covered entity shall ensure that a sufficient number of administrators or designees, general and special education staff, maintain certification in an approved training program. A list of staff with the required approved training must be made available in each building office, as well as any central office, along with other school-wide emergency procedures and must be updated at least annually.

Monitoring and Accountability

Formal incident reporting of conduct violations

STATUTES

§254. Educational duties.

11. Statewide standards for behavior. In consultation with organizations representing school boards, school administrators, teachers, parents and other interested local officials and community members, the commissioner shall develop statewide standards for responsible and ethical student behavior. The standards must require annual reporting of incidents of violent and harmful behavior by or against students to the department by school administrative units. The department shall provide forms for reporting.

§263. Response to school bomb threats.

2. Reporting of school bomb threats. Beginning with the 2001-2002 school year, all public schools and private schools enrolling more than 60% of their students at public expense in the State must report each bomb threat incident to the commissioner. The initial report must be made to the office of the superintendent within the school administrative unit or to the headmaster of the private school. The office of the superintendent or headmaster receiving a report of a bomb threat at a school must report that threat to the commissioner within 2 business days of the occurrence of the bomb threat. The commissioner shall report annually on the nature, frequency and impacts of school bomb threats in the State's schools to the joint standing committee of the Legislature having jurisdiction over education matters.

ADMINISTRATIVE CODE

05-071 CMR Ch. 33

SECTION 7. NOTIFICATION OF INCIDENT

1. Reporting to an Administrator or Designee, others

After each incident of physical restraint or seclusion, a staff member involved shall:

A. Report to the administrator or designee by oral notification as soon as possible after each incident, but in no event later than the end of the school day of its occurrence, and

B. If the student is receiving his or her education in an out-of-district placement through a tuition agreement or other agreement, report the incident to the entity responsible for the student's education within 24 hours or by the end of the next business day.

SECTION 8. DOCUMENTATION; INCIDENT REPORT

1. Incident Report

Each use of physical restraint or seclusion must be documented in an incident report. The incident report must be completed and provided to an administrator or designee as soon as practical after the incident, and in all cases within two school days. At a minimum, the incident report must include:

A. Student name;

B. Age, gender, grade;

C. Location of the incident;

D. Date of incident;

E. Date of report;

F. Person completing the report;

G. Beginning and ending time of each physical restraint and seclusion;

H. Total time of incident;

I. Description of prior events and circumstances;

J. Less restrictive interventions tried prior to the use of physical restraint or seclusion. If none used, explain why;

K. The student behavior that justified the use of physical restraint or seclusion;

L. A detailed description of the physical restraint or seclusion used;

M. The staff person(s) involved, their role in the use of physical restraint or seclusion and their certification, if any, in an approved training program;

N. Description of the incident, including the resolution and process of return to program, if appropriate;

O. Whether the Student has an: a. IEP; b. 504 plan; c. behavior plan; d. IHP; or e. other plan;

P. If a student or staff sustained bodily injury, the date and time of nurse or response personnel notification and the treatment administered, if any;

Q. Date, time, and method of parent notification; and

R. Date, time of staff debriefing.

2. Incident Report Provided to Parents, others

A copy of the incident report must be provided, within 7 calendar days of the incident to:

A. The parent; and

B. If the student is receiving his or her education in an out-of-district placement through a tuition agreement or other agreement, the entity responsible for the student's education.

3. Duration of Incident

For purposes of this Section and Section 9, an "incident" consists of all actions between the time a student begins to create a risk of harm and the time the student ceases to pose a risk of harm and returns to his or her regular programming.

Parental notification

STATUTES

§1001. Duties of school boards.

15-A. School disciplinary policies. When revising the prescribed consequences for violation of the student code of conduct pursuant to subsection 15, paragraph C, a school board shall consider districtwide disciplinary policies that:

D. Provide written notice to the parents of a student when a student is suspended from school, regardless of whether the suspension is an in-school or out-of-school suspension.

9-C. Reentry for students after expulsion.

(2) The superintendent or the superintendent's designee shall send a certified letter, return receipt requested, or hand deliver a letter to the parents of the expelled student giving notice of the date, time and location of a meeting to develop a reentry plan for the student.

(3) If the student and the student's parents do not attend the meeting under subparagraph (2), the reentry plan must be developed by school staff.

(4) The reentry plan must be provided to the parents and the student in writing.

§6001-A. Parental access to information on school activities.

1. Parental notification. Upon written request by a parent, a school administrative unit may provide written notification of all school activities and programs for which parental participation, involvement, notification or awareness is in the best interest of the student. A noncustodial parent may have access to information on school activities and programs upon written request and with the mutual agreement of the custodial parent and the school administrative unit.

2. Exemption. This section does not apply to a parent denied parental rights and responsibilities in a court order.

§6001-B. Transfer of education records.

4. Notice to parents and guardians. Prior to the start of the 2000-01 school year and each school year thereafter, a school administrative unit shall send a written notice to parents or guardians of every student enrolled in the school administrative unit that education records must be sent to a school administrative unit to which a student applies for transfer. Beginning with the 2001-2002 school year, an educational program or school for juveniles located in or operated by a correctional facility shall send a written notice to parents, guardians and custodians of every student enrolled in that educational program or school for juveniles located in or operated by the correctional facility that education records must be sent to a school administrative unit to which a student applies for transfer. The notice provided to parents, guardians and custodians must comply with the standards of the federal Family Education Rights and Privacy Act of 1974, Public Law 93-380, as amended by Public Law 93-568.

ADMINISTRATIVE CODE

05-071 CMR Ch. 33

SECTION 7. NOTIFICATION OF INCIDENT

2. Notification to parents

A. An administrator or designee shall notify the parent that physical restraint or seclusion and any related first aid have occurred as soon as practical but within the school day in which the incident occurred, utilizing all available phone numbers and other appropriate means. If the parent is unavailable, a phone message must be left for the parent to contact the school as soon as possible. If a parent does not have access to a phone, the entity must use whatever contact information is available for emergencies. The parent must be informed that written documentation will be provided to them within 7 calendar days.

B. If a restraint or seclusion has occurred outside the school day, notification of the restraint or seclusion and any related first aid must occur as soon as possible in compliance with the entity's procedures for emergency situations

SECTION 8. DOCUMENTATION; INCIDENT REPORT

1. Incident Report

Each use of physical restraint or seclusion must be documented in an incident report. The incident report must be completed and provided to an administrator or designee as soon as practical after the incident, and in all cases within two school days. At a minimum, the incident report must include:

A. Student name;

B. Age, gender, grade;

C. Location of the incident;

D. Date of incident;

E. Date of report;

F. Person completing the report;

G. Beginning and ending time of each physical restraint and seclusion;

H. Total time of incident;

I. Description of prior events and circumstances;

J. Less restrictive interventions tried prior to the use of physical restraint or seclusion. If none used, explain why;

K. The student behavior that justified the use of physical restraint or seclusion;

L. A detailed description of the physical restraint or seclusion used;

M. The staff person(s) involved, their role in the use of physical restraint or seclusion and their certification, if any, in an approved training program;

N. Description of the incident, including the resolution and process of return to program, if appropriate;

O. Whether the Student has an: a. IEP; b. 504 plan; c. behavior plan; d. IHP; or e. other plan;

P. If a student or staff sustained bodily injury, the date and time of nurse or response personnel notification and the treatment administered, if any;

Q. Date, time, and method of parent notification; and

R. Date, time of staff debriefing.

2. Incident Report Provided to Parents, others

A copy of the incident report must be provided, within 7 calendar days of the incident to:

A. The parent; and

B. If the student is receiving his or her education in an out-of-district placement through a tuition agreement or other agreement, the entity responsible for the student's education.

3. Duration of Incident

For purposes of this Section and Section 9, an "incident" consists of all actions between the time a student begins to create a risk of harm and the time the student ceases to pose a risk of harm and returns to his or her regular programming.

Reporting and referrals between schools and law enforcement

STATUTES

<u>§1001. Duties of school boards</u>

9-A. Students expelled or suspended under the requirements of the federal Gun-Free Schools Act. The school boards shall adopt a policy for expelling a student who is determined to have brought a firearm, as defined in 18 United States Code, Section 921, to school or to have possessed a firearm at school and for referring the matter to the appropriate local law enforcement agency.

15. Adoption of student code of conduct. With input from educators, administrators, parents, students and community members, they shall adopt a district-wide student code of conduct consistent with the statewide standards for student behavior developed under section 254, subsection 11. The student code of conduct must:

G. Establish guidelines and criteria concerning the appropriate circumstances when the superintendent or the superintendent's designee may provide information to the local police or other appropriate law

enforcement authorities regarding an offense that involves violence committed by any person on school grounds or other school property;

Disclosure of school records

STATUTES

§6001. Dissemination of information

1. Federal and state law. The provisions of this section, the United States Family Educational Rights and Privacy Act of 1974, Public Law 93-380, as amended by Public Law 93-568, and the United States Education of All Handicapped Children Act, Public Law 94-142 govern the dissemination of information about students, as well as written notices of intent to provide equivalent instruction through home instruction and all education records of students receiving equivalent instruction through home instruction.

2. Internet restrictions. A public school may not publish on the Internet or provide for publication on the Internet any personal information about its students without first obtaining the written approval of those students' parents. For the purpose of this section, "personal information" means information that identifies a student, including, but not limited to, the student's full name, photograph, personal biography, e-mail address, home address, date of birth, social security number and parents' names.

3. Dissemination of education records to criminal justice agencies. A school may disseminate education records as defined in 20 United States Code, Section 1232 g(a)(4) regarding a juvenile if:

A. The juvenile has not been adjudicated as having committed a juvenile crime;

B. The education records are disseminated to:

(1) Criminal justice agencies; or

(2) Agencies that by court order or agreement of the juvenile are responsible for the health or welfare of the juvenile and that have provided the school with a statement describing the purpose of the dissemination; and

C. The education records are relevant to and disseminated for the purpose of creating or maintaining an individualized plan for the juvenile's rehabilitation.

Education records received under this subsection are confidential and may not be further disseminated, except to the court or as otherwise provided by law. The persons to whom the education records are disseminated shall certify in writing to the school that the records will not be disclosed to any other party, except the court or as otherwise provided by law, without the written consent of the juvenile or the juvenile's parent or guardian.

§6001-B. Transfer of education records.

1. Education records must follow students who transfer. Education records must follow students who transfer to a school in another school administrative unit in the State. The education records of students who transfer from educational programs or schools for juveniles located in or operated by correctional facilities or out-of-state schools are also subject to this requirement. For a student who experiences education disruption, as defined in section 5161, subsection 9, the sending school shall send or electronically transfer pertinent records, including but not limited to academic and health information records, to the receiving school or educational program no later than 5 school days after the student enrolls in the receiving school or educational program.

2. Transfer of records. Upon application of a student to transfer to another school administrative unit in this State or to enroll at a school administrative unit in this State from an educational program or school for juveniles located in or operated by a correctional facility or a school outside of the State, and upon the written request of the superintendent of the school administrative unit into which the student seeks

admission, school administrators at the school administrative unit from which the student is transferring shall provide all of the student's education records, including disciplinary records, attendance records, health records other than confidential health records for which consent for dissemination has not been obtained and special education records, to school administrators at the school administrative unit to which the student is seeking a transfer. Confidential health records may be provided under this subsection only if the school administrator at the school administrative unit from which the student is transferring receives the authorization or consent necessary for the dissemination of information contained in the following records:

A. Records concerning information on a person's HIV infection status, including the results of an HIV test, as those records are described in Title 5, section 19203-D;

B. Records concerning information on a person's alcohol and other drug abuse treatment as those records are described in Title 5, section 20047;

C. Records concerning information on a person's health care and treatment as those records are described in Title 22, section 1711-C; and

D. Records concerning information on a person's mental health treatment as those records are described in Title 34-B, section 1207.

3. Determination of disciplinary status of student applying for transfer; discretion of school to accept student. At the request of the superintendent of the school administrative unit into which a student seeks admission, the student's current or former school administrators shall provide, in a timely fashion, an oral or written report to the receiving school administrative unit indicating whether the student has been expelled or suspended or is the subject of an expulsion or suspension proceeding. In the case of a student who has been expelled or suspended or is the subject of an expulsion or suspension proceeding, the receiving school administrative unit may deny admission or participation in public school programs, facilities or activities as part of an equivalent instruction program pursuant to section 5021 until the school administrative unit is satisfied that the conditions of the expulsion or suspension have been met.

3-A. Determination of status of juvenile applying for admission; discretion of school to accept juvenile. If the receiving school administrative unit receives information under Title 15, section 3308, subsection 7, paragraph B-1, subparagraph (3) and Title 34-A, section 1216, subsection 1, paragraph F that a student is not in compliance with a condition of an individualized plan for the juvenile's rehabilitation and that condition is relevant to the juvenile's reintegration into the school, the receiving school administrative unit may deny admission or participation in public school programs, facilities or activities as part of an equivalent instruction program pursuant to section 5021 until the school administrative unit is satisfied that the condition has been met.

4. Notice to parents and guardians. Prior to the start of the 2000-01 school year and each school year thereafter, a school administrative unit shall send a written notice to parents or guardians of every student enrolled in the school administrative unit that education records must be sent to a school administrative unit to which a student applies for transfer. Beginning with the 2001-2002 school year, an educational program or school for juveniles located in or operated by a correctional facility shall send a written notice to parents, guardians and custodians of every student enrolled in that educational program or school for juveniles located in or operated by the correctional facility that education records must be sent to a school administrative unit to which a student applies for transfer. The notice provided to parents, guardians and custodians must comply with the standards of the federal Family Education Rights and Privacy Act of 1974, Public Law 93-380, as amended by Public Law 93-568.

Data collection, review, and reporting of disciplinary policies and actions

STATUTES

§1001. Duties of school boards.

9-C. Reentry for students after expulsion.

(8) The superintendent shall annually report data on the number of students who are expelled from school and the number of students who are readmitted to school after expulsion to the commissioner's consultant on truancy, dropouts and alternative education under section 5151.

§ 1055. Superintendent; powers and duties.

2. INSPECT SCHOOLS; ANNUAL REPORT. The superintendent is responsible for:

A. Inspecting the schools and reviewing the operating rules, the discipline and the proficiency of the students;

§6554. Prohibition on bullying in public schools.

8. Transparency and monitoring. Each school administrative unit shall file its policies to address bullying and cyberbullying with the department.

ADMINISTRATIVE CODE

05-071 CMR Ch. 33

SECTION 10. CUMULATIVE REPORTING

1. Building-level reporting, analysis

A cumulative report by building must be made to the superintendent or chief administrator on a quarterly and annual basis to include:

A. Aggregate number of uses of physical restraint;

B. Aggregate number of students placed in physical restraint;

C. Aggregate number of uses of seclusion;

D. Aggregate number of students placed in seclusion;

E. Aggregate number of serious bodily injuries to students related to the use of restraint and seclusions; and

F. Aggregate number of serious bodily injuries to staff related to physical restraint and seclusion.

The superintendent or chief administrator shall review cumulative reports received as set forth in this section and identify those areas that can be addressed to reduce the future use of physical restraint and seclusion. These cumulative reports may be requested by the Department of Education at any time.

2. Reporting Data to the Department of Education

Each covered entity shall submit to the Department of Education an annual report of the incidence of physical restraint and seclusion that must include:

A. Aggregate number of uses of physical restraint;

B. Aggregate number of students placed in physical restraint;

C. Aggregate number of uses of seclusion;

D. Aggregate number of students in placed in seclusion;

E. Aggregate number of serious bodily injuries to students related to physical restraint and seclusion; and

F. Aggregate number of serious bodily injuries to staff related to physical restraint and seclusion.

School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers

Authority and power to implement school arrest

No relevant statutes found.

Certification or training

No relevant statutes found.

MOUs, authorization, and/or funding

No relevant statutes found.

State Education Agency Support

State model policies and implementation support

STATUTES

§254. Educational duties.

11-A. Model policy; reporting. By January 1, 2013, the commissioner shall develop a model policy to address bullying and cyberbullying for use by school administrative units pursuant to section 6554. A copy of the model policy must be sent to each school administrative unit in the State and posted on the publicly accessible portion of the department's website along with any training and instructional materials related to the policy that the commissioner determines necessary.

A. The commissioner shall create a procedure by which school administrative units report substantiated incidents of bullying and cyberbullying to the department on at least an annual basis. These reports may not contain personally identifying information about students or other involved persons, but must delineate the specific nature of the incidents, the consequences and the actions taken.

B. The commissioner may update or revise the model policy and shall post the update or revision on the publicly accessible portion of the department's website and send a copy of the update or revision to each school administrative unit.

§5151. Technical assistance for truants, dropout prevention and reintegration and alternative education.

The commissioner shall provide technical assistance regarding truancy, dropouts and reintegration and alternative education programs. To do this, the commissioner shall employ at least one consultant whose sole responsibility is to cover the area of truancy, dropouts and alternative education.

1. Qualifications. Any consultant must be knowledgeable in the problems of truancy, dropouts and reintegration and policies and programs pertaining to the problems and have this as the consultant's sole responsibility.

2. Duties. The consultant shall:

A. Provide technical assistance to school administrative units and private schools approved for tuition purposes to establish alternative education programs;

B. Develop screening tools for early identification of potential dropouts;

C. Act as a clearinghouse for information on alternative education programs in the State, on exemplary programs in other states and on research pertaining to the subject, and promote effective programs;

D. Function as a liaison among the commissioner, department staff, advisory committee and school administrative units and private schools as it pertains to truants, dropouts and reintegration, alternative education programs, alternative learning and adult education;

E. Develop model curricula and programs for alternative education schools and programs;

F. Assess and provide for the evaluation of alternative education programs consistent with the standards established by the commissioner;

G. Develop training programs for superintendents, principals and school attendance officers to improve effectiveness in performance of their duties as pertains to truants, dropouts and reintegration and alternative education programs;

H. Develop and submit a plan on behalf of the commissioner for the joint standing committee of the Legislature having jurisdiction over education and the state board on the prevalence of truancy and

dropouts, assess alternative and adult education programs and prepare positive strategies to prevent and remedy the problems identified, including reintegration planning for juvenile offenders who have been released from juvenile facilities and are enrolling in schools in the State;

I. Have the responsibility for preventive programs and alternative education programs;

J. Collect data on the scope of the dropout and truancy problem in the State, including data on the number of students who are expelled from school and the number who are readmitted to school after expulsion;

K. Evaluate the scope of the problem of dropouts and truants and programs and policies directed to meet it, including reintegration planning and aftercare services provided for juvenile offenders who have been released from juvenile facilities and have enrolled in schools in the State;

L. Provide staff services to the advisory committee; and

M. Plan and coordinate programs and grant writing to stimulate programs and research on the problem of dropouts, truants, alternative education, alternative learning and adult education.

Funding appropriations

No relevant statutes found.

Other/Uncategorized

Professional immunity or liability

STATUTES

§4009. Civil liability.

The following provisions apply to civil liability.

1. Reasonable force. A teacher or other person entrusted with the care or supervision of a person for special or limited purposes may not be held civilly liable for the use of a reasonable degree of force against the person who creates a disturbance if the teacher or other person reasonably believes it is necessary to:

A. Control the disturbing behavior; or

B. Remove the person from the scene of the disturbance.

2. Exceptions. Subsection 1 shall not apply to the intentional or reckless use of force that creates a substantial risk of death, serious bodily injury or extraordinary pain.

3. Effect on civil liability. This section may not be construed to increase the scope of potential civil liability of a teacher or other person entrusted with the care or supervision of a person for special or limited purposes.

4. Emergency medical treatment. Notwithstanding any other provision of any public or private and special law, any nonlicensed agent or employee of a school or school administrative unit who renders first aid, emergency treatment or rescue assistance to a student during a school program may not be held liable for injuries alleged to have been sustained by that student or for the death of that student alleged to have occurred as a result of an act or omission in rendering such aid, treatment or assistance. This subsection does not apply to injuries or death caused willfully, wantonly or recklessly or by gross negligence on the part of the agent or employee.

Community input or involvement

STATUTES

§254. Educational duties.

16. Parental involvement initiatives. The commissioner shall strongly encourage each school board to adopt local procedures for implementing a districtwide parental involvement initiative as school board policy in accordance with section 255, subsection 6.

§255. School administrative unit; reports, records, information.

6. Parental involvement initiatives; post. Beginning with the 2013-2014 school year, a school administrative unit that adopts a parental involvement initiative may submit a copy of that initiative to the department, and the commissioner shall post that initiative on the department's publicly accessible website. The commissioner also shall post on the department's publicly accessible website links to the publicly accessible websites of those school administrative units that have chosen to adopt districtwide parental involvement initiatives as school board policy and that have submitted those initiatives to the department.

§5152. Advisory committee.

1. Commissioner. The commissioner shall appoint an advisory committee on truancy, dropouts and alternative education.

2. Duties of the advisory committee, as appointed by the commissioner. The advisory committee shall advise the commissioner on the development and implementation of state and local policies and programs that are needed to deal effectively with the incidence of truancy and dropouts in state schools. The committee should consider its mandate in a broad context to assess the causes of truancy and dropouts, the effectiveness of alternative education and prevention programs and the social and educational programs or changes needed to encourage students to remain in school, including reintegration planning and aftercare services provided for juvenile offenders who have been released from juvenile facilities in the State and have enrolled in schools in the State.

3. Membership. The advisory committee must have a broad membership reflecting the range of individuals and public and private institutions that are involved or interested in the problem and its solution. It must include representation from each of the following:

A. Teachers;

B. Elementary school principals;

C. Secondary school principals;

D. Guidance counselors;

E. Adult education teachers with experience in high school completion education;

F. Superintendents;

G. Administrators from private schools involved in alternative education programs;

H. Department of Health and Human Services;

I. [2005, c. 397, Pt. A, §16 (RP).]

J. Department of Corrections;

K. Department of Labor;

L. A local positive action committee on truancy, dropout and alternative education programs;

M. Representatives from the business community; and

N. Other individuals who the commissioner feels will contribute to the development of effective policies and programs.

Two of the representatives in paragraphs A to D must be directly involved in alternative education programs. There may be no more than 15 members on the committee.

4. Term of office. The members of the advisory committee shall serve for 2 years and may be reappointed.

5. Expenses. Members of the advisory committee shall be reimbursed for expenses only for attending meetings or performing other functions authorized by the committee.

6. Annual reports. The committee shall report annually by February 1st to the joint standing committee of the Legislature having jurisdiction over education.

Other/Uncategorized

STATUTES

§1001. Duties of school boards.

9-D. Professional services after expulsion for a child with a disability. Nothing in subsection 9-C may be interpreted to require payment from the parents of an expelled student for professional services determined by the superintendent to be necessary to establish the student's readiness to return to school if:

A. The student is a child with a disability who has been determined to be eligible for a free, appropriate public education in accordance with 34 Code of Federal Regulations, Section 300.530, Paragraph (d); or

B. The school administrative unit did not have knowledge that the student was a child with a disability prior to taking disciplinary measures against the student and, based on a subsequent evaluation, the student is determined to be a child with a disability who is eligible for a free, appropriate public education in accordance with 34 Code of Federal Regulations, Section 300.534, Paragraph (d).

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by Maine provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
Website		
Model Policy for Bullying and Cyberbullying	For all schools to use to help them revise and edit their current policies.	http://maine.gov/doe/bullying/laws/modelpolicy.html
Maine's Best Practices in Bullying and Harassment Prevention	Offers suggestions for a comprehensive approach to bullying and cyberbullying.	http://maine.gov/doe/bullying/procedures/index.html
Maine DOE webpage on bullying	Includes information about steps to assess and improve school climate and safety, particularly in the areas of bullying, harassment, and sexual harassment. Links to addition resources describing procedures for documenting, investigating and responding to incidents of bullying and cyberbullying.	http://maine.gov/doe/bullying/index.html
Documents		
No relevant resources found		
Other Resources		
No relevant resources found		

Maryland Compilation of School Discipline Laws and Regulations

Prepared: August 12, 2013

Introduction

This compilation presents school discipline-related state statutes, school discipline-related regulations, and, where available, links to state-sponsored websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSLE). For example, one major category encompasses all state laws or regulations mandating specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of state legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in each state.

Discipline categories were not mutually exclusive. Statutes and regulations often appeared across multiple categories. For states with more extensive statutes covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. State laws, ordered by chapter and section number, appear first within each category followed by state regulations. All statutes and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists statutes by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to state-sponsored websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of May 2013, with the exception of the state laws related to seclusion and restraint, which are complete and current as of December 2012. Readers should also note that the information in this document was compiled from individual state sources that are created by each state and which are maintained and updated with varying frequencies. Readers should consult the source information provided for each state directly in order to check for updates to this state's laws and regulations or conduct further research.

For further information, including definitions of the different policy categories, please refer to the Discipline Laws and Regulations Compendium posted on the Center's website.

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Safe Supportive Learning
Engagement | Safety | Environment

Table of Contents

Maryland State Codes Cited **1**

General Provisions **3**

Authority to develop and establish rules of conduct 3
Scope 5
Communication of policy 6

In-School Discipline **7**

Use of multi-tiered discipline approaches 7
Teacher authority to remove students from classrooms 7
Alternatives to suspension 8
Use of corporal punishment 9
Use of student and locker searches 9
Other in-school disciplinary approaches 10

Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements **11**

Grounds for possible suspension or expulsion 11
Grounds for mandatory suspension or expulsion 11
Limitations, conditions or exclusions for use of suspension and expulsion 11
Administrative procedures related to suspension and expulsion 12
In-school suspension 13
Return to school following removal 13
Use of restraint and seclusion 14
Alternative placements 19

Disciplinary Approaches Addressing Specific Infractions and Conditions **20**

Firearms (as required by the Guns-Free Schools Act) 20
Other weapons 20
Students with chronic disciplinary issues 21
Attendance and truancy 21
Substance use 23
Bullying, harassment, or hazing 25
Other special infractions or conditions 30

Prevention and Behavioral Interventions (Non-Punitive) **31**

Prevention 31
Behavioral interventions and student support services 31
Professional development 33

Monitoring and Accountability **34**

Formal incident reporting of conduct violations 34
Parental notification 36
Reporting and referrals between schools and law enforcement 37
Disclosure of school records 38
Data collection, review, and reporting of disciplinary policies and actions 39

School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers 40
Authority and power to implement school arrest 40
Certification or training 42
MOUs, authorization, and/or funding 42
State Education Agency Support 44
State model policies and implementation support 44
Funding appropriations 44
Other/Uncategorized 45
Professional immunity or liability 45
Community input or involvement 46
Other/Uncategorized 46
State-Sponsored, Publicly Available Websites or Other Resources on School Discipline 47

Maryland State Codes Cited

Maryland Revised Statutes

Title 3. Other Crimes against the Person

Subtitle 8. Stalking and Harassment

§ 3-805. Misuse of electronic communication

Subtitle 6. Abuse and Other Offensive Conduct

§ 3-607. Hazing

Title 4. Local School Administration

Subtitle 1. General Provisions

§ 4-102. Deadly weapons on school property

Subtitle 3. Baltimore City

§ 4-318. Baltimore City School Police Force

Title 5. Controlled Dangerous Substances, Prescriptions, and Other Substances

Subtitle 6. Crimes involving controlled Dangerous Substances and Paraphernalia

§ 5-627. Controlled dangerous substance near school

Subtitle 8. Immunities and Prohibited Actions -- Miscellaneous

§ 5-803. School employees

Title 7. Public Schools

Subtitle 3. Attendance and Discipline of Students

§ 7-301. Compulsory attendance
§ 7-302. Report of absences and maladjustment
§ 7-303. Arrest for reportable offense
§ 7-304. Special programs for disruptive students
§ 7-304.1. Positive Behavioral Interventions and Support Program
§ 7-305. Suspension and expulsion
§ 7-306. Corporal punishment; State code of discipline
§ 7-307. Principals, teachers, and school security guards intervening in fights
§ 7-308. Searches of students and schools
§ 7-310. Dissemination of community resources list

Subtitle 4. Health and Safety of Students

§ 7-412. Preservation of rights of student seeking to overcome drug abuse
§ 7-424. Reporting incidents of harassment or intimidation against students
§ 7-424.1. Model policy prohibiting bullying, harassment and intimidation

§ 7-424.3. Bullying, harassment and intimidation policy
§ 7-435. Evaluation of emergency management plans [Section subject to abrogation]

Subtitle 11. Student Behavior Intervention

§ 7-1102. Appointment of task force
§ 7-1103. Development of policies and procedures
§ 7-1104. Consultation concerning training requirements

Title 26. Prohibitions and Penalties

Subtitle 1. School Security

§ 26-102. Trespass on the grounds of a public institution of elementary, secondary, or higher education
§ 26-103. Drinking or possessing intoxicating beverages on school premises

Maryland Administrative Code

13A.01.04.03.03. School Safety
13A.08.04.02.02. Definitions
13A.08.04.03.03. Student Behavior Interventions
13A.08.04.04.04. Use of Exclusion
13A.08.04.05.05. General Requirements for the Use of Restraint or Seclusion
13A.08.04.06.06. Administrative Procedures

General Provisions

Authority to develop and establish rules of conduct

STATUTES

4-318. Baltimore City School Police Force.

(f) Regulations. -- The Baltimore City Board of School Commissioners shall adopt regulations governing the:

(1) Operation of the Baltimore City School Police Force; and

(2) Conduct of each Baltimore City school police officer.

7-304. Special programs for disruptive students.

(b) Authority to establish programs. Each county board of education and the Board of School Commissioners of Baltimore City shall establish special programs in the county and Baltimore City for students in the public school system who exhibit disruptive classroom behavior.

(c) Joint use. Two or more county boards may establish special programs for their joint use.

7-306. Corporal punishment; State code of discipline.

(b) Standards of conduct; implementation. The State Board of Education shall:

(1) Establish guidelines that define a State code of discipline for all public schools with standards of conduct and consequences for violations of the standards; and

(2) Assist each county board with the implementation of the guidelines.

(c) Regulations. -

(1) Subject to the provisions of subsections (a) and (b) of this section, each county board shall adopt regulations designed to create and maintain within the schools under its jurisdiction the atmosphere of order and discipline necessary for effective learning.

(2) The regulations adopted by a county board under this subsection:

(i) Shall provide for educational and behavioral interventions, counseling, and student and parent conferencing; and

(ii) Shall provide alternative programs, which may include in-school suspension, suspension, expulsion, or other disciplinary measures that are deemed appropriate.

7-424.1. Model policy prohibiting bullying, harassment and intimidation.

(b) In general.-

(1) By March 31, 2009, the State Board, after consultation with and input from local school systems, shall develop a model policy prohibiting bullying, harassment, or intimidation in schools.

(2) The model policy developed under paragraph (1) of this subsection shall include:

(i) A statement prohibiting bullying, harassment, and intimidation in schools;

(ii) A statement prohibiting reprisal or retaliation against individuals who report acts of bullying, harassment, or intimidation;

(iii) A definition of bullying, harassment, or intimidation that is either the same as set forth in subsection (a)(2) of this section or a definition that is not less inclusive than that definition;

(iv) Standard consequences and remedial actions for persons committing acts of bullying, harassment, or intimidation and for persons engaged in reprisal or retaliation;

(v) Standard consequences and remedial actions for persons found to have made false accusations;

(vi) Model procedures for reporting acts of bullying, harassment, and intimidation;

(vii) Model procedures for the prompt investigation of acts of bullying, harassment, and intimidation;

(viii) Information about the types of support services available to the student bully, victim, and any bystanders; and

(ix) Information regarding the availability and use of the bullying, harassment, or intimidation form under § 7-424 of this subtitle.

(c) Development of policy by county boards.

(1) Each county board shall establish a policy prohibiting bullying, harassment, or intimidation at school based on the model policy.

(2) The policy shall address the components of the model policy specified in subsection (b)(2) of this section.

(3) A county board shall develop the policy in consultation with representatives of the following groups:

(i) Parents or guardians of students;

(ii) School employees and administrators;

(iii) School volunteers;

(iv) Students; and

(v) Members of the community.

7-424.3. Bullying, harassment and intimidation policy.

(a) (4) "Nonpublic school" means a nonpublic school that participates in State-funded education programs.

(b) Adoption by nonpublic school. By March 31, 2012, each nonpublic school shall adopt a policy prohibiting bullying, harassment, and intimidation.

(c) Contents. The policy adopted under subsection (b) of this section shall include:

(1) A statement prohibiting bullying, harassment, and intimidation in the school;

(2) A statement prohibiting reprisal or retaliation against individuals who report acts of bullying, harassment, or intimidation;

(3) A definition of bullying, harassment, and intimidation that is either the same as set forth in subsection (a) of this section or a definition that is not less inclusive than that definition;

(4) Standard consequences and remedial actions for persons committing acts of bullying, harassment, or intimidation and for persons engaged in reprisal or retaliation, including:

(i) Specific penalties for persons who repeatedly commit acts of bullying, harassment, or intimidation; and

(ii) A requirement that persons who commit acts of bullying, harassment, or intimidation receive educational and therapeutic services concerning bullying prevention;

(5) Standard consequences and remedial actions for persons found to have made false accusations;

(6) Standard procedures for reporting acts of bullying, harassment, or intimidation, including a chain of command in the reporting process;

(7) Standard procedures for the prompt investigation of acts of bullying, harassment, or intimidation;

(8) Standard procedures for protecting victims of bullying, harassment, or intimidation from additional acts of bullying, harassment, or intimidation, and from retaliation; and

(9) Information about the types of support services available to a student bully or victim and any bystanders.

(d) Consultation with groups. A nonpublic school is encouraged to develop the policy adopted under subsection (b) of this section in consultation with the following groups:

(1) Parents or guardians of students;

(2) School employees and administrators;

(3) School volunteers; and

(4) Students.

7-1102. Appointment of task force.

(a) In general. The State Superintendent shall appoint a task force to propose regulations to the State Board regarding student behavior intervention practices. (c). Issues for consideration. The task force shall consider:

(7) Appropriate behavioral interventions, including but not limited to crisis intervention and prevention techniques; (8) Definitions of "positive behavioral supports" and "behavior interventions and strategies plan"; etc.

7-1103. Development of policies and procedures.

Each local school system, State operated program, and nonpublic school shall develop policies and procedures in compliance with this subtitle and the regulations adopted by the Department.

Scope

STATUTES

7-424. Reporting incidents of harassment or intimidation against students.

(a) Definitions.-

(2) "Bullying, harassment, or intimidation" means intentional conduct, including verbal, physical, or written conduct, or an intentional electronic communication, that:

(i) Creates a hostile educational environment by substantially interfering with a student's educational benefits, opportunities, or performance, or with a student's physical or psychological well-being and is:

1. Motivated by an actual or a perceived personal characteristic including race, national origin, marital status, sex, sexual orientation, gender identity, religion, ancestry, physical attributes, socioeconomic status, familial status, or physical or mental ability or disability; or

2. Threatening or seriously intimidating; and

(ii) 1. Occurs on school property, at a school activity or event, or on a school bus; or

2. Substantially disrupts the orderly operation of a school.

7-424.1. Model policy prohibiting bullying, harassment and intimidation.

(a) Definitions.-

(2) "Bullying, harassment, or intimidation" means intentional conduct, including verbal, physical, or written conduct, or an intentional electronic communication, that:

(ii) 1. Occurs on school property, at a school activity or event, or on a school bus; or

2. Substantially disrupts the orderly operation of a school.

7-424.3. Bullying, harassment and intimidation policy.

(a) (2) "Bullying, harassment, and intimidation" means any intentional written, verbal, or physical act, including an electronic communication, that:

(ii) 1. Occurs on school property, at a school activity or event, or on a school bus; or

2. Substantially disrupts the orderly operation of a school.

Communication of policy

STATUTES

7-306. Corporal punishment; State code of discipline.

(b) Standards of conduct; implementation. The State Board of Education shall:

(1) Establish guidelines that define a State code of discipline for all public schools with standards of conduct and consequences for violations of the standards; and (2) Assist each county board with the implementation of the guidelines.

7-308. Searches of students and schools.

(d) Authority to search school.-

(2) The right of the school official to search the locker shall be announced or published previously in the school.

7-424.1. Model policy prohibiting bullying, harassment and intimidation.

(d) Publication of policy. Each county board shall publicize its policy in student handbooks, school system websites, and any other location or venue the county board determines is necessary or appropriate.

7-424.3. Bullying, harassment and intimidation policy.

(e) Publication. A nonpublic school is encouraged to publicize the policy adopted under subsection (b) of this section in student handbooks, on the school's website, and any other location or venue the school determines is necessary or appropriate.

In-School Discipline

Use of multi-tiered discipline approaches

No relevant statutes found.

Teacher authority to remove students from classrooms

STATUTES

7-305. Suspension and expulsion [Amendment subject to contingent abrogation].

(e) Returning to school premises or classroom.-

(4) (i) If a student has been suspended or expelled, the principal or a designee of the principal may not return the student to the classroom without conferring with the teacher who referred the student to the principal, if the student was referred by a teacher, other teachers as appropriate, other appropriate school personnel, the student, and the student's parent or guardian.

(ii) If the disruptive behavior results in action less than suspension, the principal or a designee of the principal shall confer with the teacher who referred the student to the principal prior to returning the student to that teacher's classroom.

ADMINISTRATIVE CODE

13A.08.04.02.02. Definitions.

A. In this chapter, the following terms have the meanings indicated.

(4) "Exclusion" means the removal of a student to a supervised area for a limited period of time during which the student has an opportunity to regain self-control and is not receiving instruction including special education, related services, or support.

13A.08.04.03.03. Student Behavior Interventions.

A. General. School personnel are encouraged to use an array of positive behavior interventions, strategies, and supports to increase or decrease targeted student behaviors.

B. School personnel shall only use exclusion, restraint, or seclusion:

(1) After less restrictive or alternative approaches have been considered, and:

(a) Attempted; or

(b) Determined to be inappropriate;

(2) In a humane, safe, and effective manner;

(3) Without intent to harm or create undue discomfort; and

(4) Consistent with known medical or psychological limitations and the student's behavioral intervention plan.

C. This chapter does not prohibit:

(1) School personnel from initiating appropriate student disciplinary actions pursuant to Education Article §7-305, Annotated Code of Maryland, COMAR 13A.08.01.11, and COMAR 13A.08.03; or

(2) Law enforcement, judicial authorities, or school security personnel from exercising their responsibilities, including the physical detainment of a student or other person alleged to have

committed a crime or posing a security risk in accordance with relevant law, regulation, policy, or procedures.

13A.08.04.04.04. Use of Exclusion.

A. School personnel may use exclusion to address a student's behavior:

(1) If the student's behavior unreasonably interferes with the student's learning or the learning of others;

(2) If the student's behavior constitutes an emergency and exclusion is necessary to protect a student or other person from imminent, serious, physical harm after other less intrusive, nonphysical interventions have failed or been determined inappropriate;

(3) If exclusion is requested by the student; or

(4) If supported by the student's behavior intervention plan.

B. A setting used for exclusion shall:

(1) Provide school personnel with the ability to see the student at all times;

(2) Provide adequate lighting, ventilation, and furnishings; and

(3) Be unlocked and free of barriers to prevent egress.

C. School personnel shall monitor a student placed in exclusion and provide a student in exclusion with:

(1) An explanation of the behavior that resulted in the removal; and

(2) Instructions on the behavior required to return to the learning environment.

D. School personnel shall ensure that each period of exclusion:

(1) Is appropriate to the developmental level of the student and the severity of the behavior; and

(2) Does not exceed 30 minutes.

E. Parents and school personnel may at any time request a meeting to address the use of exclusion and to:

(1) Conduct a functional behavioral assessment; and

(2) Develop, review, or revise a student's behavioral intervention plan.

F. School personnel shall consider the need to initiate a referral to a pupil services or IEP team if a nondisabled student has experienced excessive exclusion, to determine if the student has a disability that may require the provision of special education and related services, in accordance with COMAR 13A.05.01.

G. School personnel shall ensure the implementation of appropriate procedures, in accordance with COMAR 13A.08.03, if a student with a disability has experienced an excessive period of exclusion that may result in a change of placement.

Alternatives to suspension

STATUTES

7-1102. Appointment of task force.

(a) In general. The State Superintendent shall appoint a task force to propose regulations to the State Board regarding student behavior intervention practices.

(c). Issues for consideration. The task force shall consider:

(7) Appropriate behavioral interventions, including but not limited to crisis intervention and prevention techniques;

(8) Definitions of "positive behavioral supports" and "behavior interventions and strategies plan"; etc.

Use of corporal punishment

STATUTES

7-306. Corporal punishment; State code of discipline.

(a) Corporal punishment prohibited. Notwithstanding any bylaw, rule, or regulation made or approved by the State Board, a principal, vice principal, or other employee may not administer corporal punishment to discipline a student in a public school in the State.

(c) Regulations.

(1) Subject to the provisions of subsections (a) and (b) of this section, each county board shall adopt regulations designed to create and maintain within the schools under its jurisdiction the atmosphere of order and discipline necessary for effective learning.

(2) The regulations adopted by a county board under this subsection:

(i) Shall provide for educational and behavioral interventions, counseling, and student and parent conferencing; and

(ii) Shall provide alternative programs, which may include in-school suspension, suspension, expulsion, or other disciplinary measures that are deemed appropriate.

Use of student and locker searches

STATUTES

7-308. Searches of students and schools.

(a) Authority to search student. A principal, assistant principal, or school security guard of a public school may make a reasonable search of a student on the school premises or on a school-sponsored trip if the searcher has a reasonable belief that the student has in the student's possession an item, the possession of which is a criminal offense under the laws of this State or a violation of any other State law or a rule or regulation of the county board.

(b) Authority to search student. By teacher.

(1) Subject to the provisions of paragraph (2) of this subsection, a county board may authorize a teacher of a public school to make a reasonable search of a student on a school-sponsored trip if the teacher has a reasonable belief that the student has in the student's possession an item, the possession of which is a criminal offense under the laws of this State or a violation of any other State law or a rule or regulation of the county board.

(2) To qualify to conduct a search under this subsection, a teacher shall be designated in writing by a principal and receive training to conduct a search commensurate with the training received by a principal.

(c) Presence of third party required. A search under subsection (a) or (b) of this section shall be made in the presence of a third party.

(d) Authority to search school.

(1) A principal, assistant principal, or school security guard of a public school may make a search of the physical plant of the school and its appurtenances including the lockers of students.

(2) The right of the school official to search the locker shall be announced or published previously in the school.

(e) Rules and regulations. The Department shall adopt rules and regulations relating to the searches permitted under this section.

Other in-school disciplinary approaches

STATUTES

7-306. Corporal punishment; State code of discipline.

(c) Regulations.

(1) Subject to the provisions of subsections (a) and (b) of this section, each county board shall adopt regulations designed to create and maintain within the schools under its jurisdiction the atmosphere of order and discipline necessary for effective learning.

(2) The regulations adopted by a county board under this subsection:

(i) Shall provide for educational and behavioral interventions, counseling, and student and parent conferencing; and

(ii) Shall provide alternative programs, which may include in-school suspension, suspension, expulsion, or other disciplinary measures that are deemed appropriate.

Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements

Grounds for possible suspension or expulsion

STATUTES

7-305. Suspension and expulsion [Amendment subject to contingent abrogation].

(a) Suspension for not more than 10 school days.

(1) Except as provided in subsection (b) of this section, in accordance with the rules and regulations of the county board, each principal of a public school may suspend for cause, for not more than 10 school days, any student in the school who is under the direction of the principal.

(c) Suspension for more than 10 school days or expulsion. At the request of a principal, a county superintendent may suspend a student for more than 10 school days or expel the student.

Grounds for mandatory suspension or expulsion

STATUTES

7-305. Suspension and expulsion [Amendment subject to contingent abrogation].

(f) Bringing a firearm onto school property.

(1) In this subsection, "firearm" means a firearm as defined in 18 U.S.C. § 921.

(2) Except as provided in paragraph (3) of this subsection, if the county superintendent or the superintendent's designated representative finds that a student has brought a firearm onto school property, the student shall be expelled for a minimum of 1 year.

Limitations, conditions or exclusions for use of suspension and expulsion

STATUTES

7-305. Suspension and expulsion [Amendment subject to contingent abrogation].

(a) Suspension for not more than 10 school days.

(1) Except as provided in subsection (b) of this section, in accordance with the rules and regulations of the county board, each principal of a public school may suspend for cause, for not more than 10 school days, any student in the school who is under the direction of the principal.

(b) Suspension and expulsion procedures for attendance-related offenses.

(1) Except as provided in paragraph (2) of this subsection, a student may not be suspended or expelled from school solely for attendance-related offenses.

(2) Paragraph (1) of this subsection does not apply to in-school suspensions for attendance-related offenses.

(c) Suspension for more than 10 school days or expulsion. At the request of a principal, a county superintendent may suspend a student for more than 10 school days or expel the student.

(g) Students with disabilities.

(1) The discipline of a child with a disability, including the suspension, expulsion, or interim alternative placement of the child for disciplinary reasons, shall be conducted in conformance with the requirements of the Individuals with Disabilities Education Act of the United States Code.

(2) If a child with a disability is being considered for suspension or expulsion, the child or the child's parent or guardian shall be given a community resources list attached to the procedural safeguards notice required by regulation of the State Board.

Administrative procedures related to suspension and expulsion

STATUTES

7-305. Suspension and expulsion [Amendment subject to contingent abrogation].

(a) Suspension for not more than 10 school days.-

(2) The student or the student's parent or guardian promptly shall be given a conference with the principal and any other appropriate personnel during the suspension period.

(3) The student or the student's parent or guardian promptly shall be given a community resources list provided by the county board in accordance with § 7-310 of this subtitle.

(d) Procedure for more than 10-day suspension or expulsion.

(1) If a principal finds that a suspension of more than 10 school days or expulsion is warranted, the principal immediately shall report the matter in writing to the county superintendent.

(2) The county superintendent or the county superintendent's designated representative promptly shall make a thorough investigation of the matter.

(3) If after the investigation the county superintendent finds that a longer suspension or expulsion is warranted, the county superintendent or the county superintendent's designated representative promptly shall arrange a conference with the student and his parent or guardian.

(4) The student or the student's parent or guardian promptly shall be given a community resources list provided by the county board in accordance with § 7-310 of this subtitle.

(5) If after the conference the county superintendent or the county superintendent's designated representative finds that a suspension of more than 10 school days or expulsion is warranted, the student or the student's parent or guardian may:

(i) Appeal to the county board within 10 days after the determination;

(ii) Be heard before the county board, its designated committee, or a hearing examiner, in accordance with the procedures established under § 6-203 of this article; and

(iii) Bring counsel and witnesses to the hearing.

(6) Unless a public hearing is requested by the parent or guardian of the student, a hearing shall be held out of the presence of all individuals except those whose presence is considered necessary or desirable by the board.

(7) The appeal to the county board does not stay the decision of the county superintendent.

(8) The decision of the county board is final.

7-306. Corporal punishment; State code of discipline.

(c) Regulations.

(1) Subject to the provisions of subsections (a) and (b) of this section, each county board shall adopt regulations designed to create and maintain within the schools under its jurisdiction the atmosphere of order and discipline necessary for effective learning.

(2) The regulations adopted by a county board under this subsection:

(i) Shall provide for educational and behavioral interventions, counseling, and student and parent conferencing; and

(ii) Shall provide alternative programs, which may include in-school suspension, suspension, expulsion, or other disciplinary measures that are deemed appropriate.

In-school suspension

STATUTES

7-305. Suspension and expulsion [Amendment subject to contingent abrogation].

(b) Suspension and expulsion procedures for attendance-related offenses.-

(1) Except as provided in paragraph (2) of this subsection, a student may not be suspended or expelled from school solely for attendance-related offenses.

(2) Paragraph (1) of this subsection does not apply to in-school suspensions for attendance-related offenses.

7-306. Corporal punishment; State code of discipline.

(c) Regulations.-

(2) The regulations adopted by a county board under this subsection:

(i) Shall provide for educational and behavioral interventions, counseling, and student and parent conferencing; and

(ii) Shall provide alternative programs, which may include in-school suspension, suspension, expulsion, or other disciplinary measures that are deemed appropriate.

Return to school following removal

STATUTES

7-305. Suspension and expulsion [Amendment subject to contingent abrogation].

(e) Returning to school premises or classroom.

(1) Any student expelled or suspended from school:

(i) Shall remain away from the school premises during those hours each school day when the school the student attends is in session; and

(ii) May not participate in school sponsored activities.

(2) The expelled or suspended student may return to the school premises during the prohibited hours only for attendance at a previously scheduled appointment, and if the student is a minor then only if accompanied by his parent or guardian.

(3) Any person who violates paragraph (1) or (2) of this subsection is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $ 100 for each violation.

(4) (i) If a student has been suspended or expelled, the principal or a designee of the principal may not return the student to the classroom without conferring with the teacher who referred the student to the principal, if the student was referred by a teacher, other teachers as appropriate, other appropriate school personnel, the student, and the student's parent or guardian.

(ii) If the disruptive behavior results in action less than suspension, the principal or a designee of the principal shall confer with the teacher who referred the student to the principal prior to returning the student to that teacher's classroom.

(5) A county superintendent may deny attendance to any student who is currently expelled from another school system for a length of time equal to that expulsion.

(6) A school system shall forward information to another school system relating to the discipline of a student, including information on an expulsion of the student, on receipt of the request for information.

Use of restraint and seclusion

ADMINISTRATIVE CODE

13A.08.04.02.02. Definitions.

A. In this chapter, the following terms have the meanings indicated.

(4) "Exclusion" means the removal of a student to a supervised area for a limited period of time during which the student has an opportunity to regain self-control and is not receiving instruction including special education, related services, or support.

(8) Mechanical Restraint.

(a) "Mechanical restraint" means any device or material attached or adjacent to the student's body that restricts freedom of movement or normal access to any portion of the student's body and that the student cannot easily remove.

(b) "Mechanical restraint" does not include a protective or stabilizing device.

(11) Physical Restraint.

(a) "Physical restraint" means the use of physical force, without the use of any device or material, that restricts the free movement of all or a portion of a student's body.

(b) "Physical restraint" does not include:

(i) Briefly holding a student to calm or comfort the student;

(ii) Holding a student's hand or arm to escort the student safely from one area to another;

(iii) Moving a disruptive student who is unwilling to leave the area if other methods such as counseling have been unsuccessful; or

(iv) Intervening in a fight in accordance with Education Article §7-307, Annotated Code of Maryland.

(13) Protective or Stabilizing Device.

(a) "Protective or stabilizing device" means any device or material attached or adjacent to the student's body that restricts freedom of movement or normal access to any portion of the student's body for the purpose of enhancing functional skills, preventing self-injurious behavior, or ensuring safe positioning of a person.

(b) "Protective or stabilizing device" includes:

(i) Adaptive equipment prescribed by a health professional, if used for the purpose for which the device is intended by the manufacturer;

(ii) Seat belts; or

(iii) Other safety equipment to secure students during transportation in accordance with the public agency or nonpublic school transportation plan.

(15) "Restraint" means the use of a physical or mechanical restraint.

13A.08.04.03.03. Student Behavior Interventions.

A. General. School personnel are encouraged to use an array of positive behavior interventions, strategies, and supports to increase or decrease targeted student behaviors.

B. School personnel shall only use exclusion, restraint, or seclusion:

(1) After less restrictive or alternative approaches have been considered, and:

(a) Attempted; or

(b) Determined to be inappropriate;

(2) In a humane, safe, and effective manner;

(3) Without intent to harm or create undue discomfort; and

(4) Consistent with known medical or psychological limitations and the student's behavioral intervention plan.

C. This chapter does not prohibit:

(1) School personnel from initiating appropriate student disciplinary actions pursuant to Education Article §7-305, Annotated Code of Maryland, COMAR 13A.08.01.11, and COMAR 13A.08.03; or

(2) Law enforcement, judicial authorities, or school security personnel from exercising their responsibilities, including the physical detainment of a student or other person alleged to have committed a crime or posing a security risk in accordance with relevant law, regulation, policy, or procedures.

13A.08.04.05.05. General Requirements for the Use of Restraint or Seclusion.

A. Use of Restraint.

(1) Physical Restraint.

(a) The use of physical restraint is prohibited in public agencies and nonpublic schools, unless:

(i) There is an emergency situation and physical restraint is necessary to protect a student or other person from imminent, serious, physical harm after other less intrusive, nonphysical interventions have failed or been determined inappropriate;

(ii) The student's behavioral intervention plan or IEP describes the specific behaviors and circumstances in which physical restraint may be used; or

(iii) The parents of a nondisabled student have otherwise provided written consent to the use of physical restraints while a behavior intervention plan is being developed.

(b) Physical restraint shall be applied only by school personnel who are trained in the appropriate use of physical restraint consistent with Regulation .06C of this chapter.

(c) In applying physical restraint, school personnel shall only use reasonable force as is necessary to protect a student or other person from imminent, serious, physical harm.

(d) Physical restraint:

(i) Shall be removed as soon as the student is calm; and

(ii) May not exceed 30 minutes.

(e) In applying physical restraint, school personnel may not:

(i) Place a student in a face down position;

(ii) Place a student in any other position that will obstruct a student's airway or otherwise impair a student's ability to breathe, obstruct a staff member's view of a student's face, restrict a student's ability to communicate distress, or place pressure on a student's head, neck, or torso; or

(iii) Straddle a student's torso.

(2) Mechanical Restraint.

(a) The use of mechanical restraint is prohibited in public agencies and nonpublic schools unless a public agency or nonpublic school is certified by and meets the requirements of the Joint Commission for the Accreditation of Health Care Organizations.

(b) Regulation .04 of this chapter does not prohibit school personnel from using a protective or stabilizing device:

(i) As prescribed by a health professional; or

(ii) For a student with a disability, in accordance with the student's IEP or behavior intervention plan.

(3) Documentation of the Use of Restraint.

(a) Each time a student is in a restraint, school personnel shall document:

(i) Other less intrusive interventions that have failed or been determined inappropriate;

(ii) The precipitating event immediately preceding the behavior that prompted the use of restraint;

(iii) The behavior that prompted the use of a restraint;

(iv) The names of the school personnel who observed the behavior that prompted the use of restraint; and

(v) The names and signatures of the staff members implementing and monitoring the use of restraint.

(b) Documentation under §A(3) of this regulation shall include a description of the restraint event, including:

(i) The type of restraint;

(ii) The length of time in restraint;

(iii) The student's behavior and reaction during the restraint; and

(iv) The name and signature of the administrator informed of the use of restraint.

(4) The documentation described in §A(3) of this regulation shall be maintained in the student's educational record and available for inspection by the student's parent or legal guardian in accordance with COMAR 13A.08.02.

(5) Each time restraint is used, parents shall be provided oral or written notification within 24 hours, unless otherwise provided for in a student's behavior intervention plan or IEP.

B. Use of Seclusion.

(1) The use of seclusion is prohibited in public agencies and nonpublic schools unless:

(a) There is an emergency situation and seclusion is necessary to protect a student or another person after other less intrusive interventions have failed or been determined to be inappropriate;

(b) The student's IEP or behavioral intervention plan describes the specific behaviors and circumstances in which seclusion may be used; or

(c) The parents of a nondisabled student have otherwise provided written consent for the use of seclusion while a behavior intervention plan is being developed.

(2) Seclusion Room.

(a) At a minimum, a room used for seclusion shall:

(i) Be free of objects and fixtures with which a student could self-inflict bodily harm;

(ii) Provide school personnel an adequate view of the student from an adjacent area; and

(iii) Provide adequate lighting and ventilation.

(3) School personnel shall:

(a) View a student placed in seclusion at all times; and

(b) Provide a student placed in seclusion with:

(i) An explanation of the behavior that resulted in the removal; and

(ii) Instructions on the behavior required to return to the learning environment.

(4) Seclusion shall only be applied by school personnel trained in the appropriate use of seclusion consistent with Regulation .06C of this chapter.

(5) A seclusion event:

(a) Shall be appropriate to the student's developmental level and severity of the behavior;

(b) May not restrict the student's ability to communicate distress; and

(c) May not exceed 30 minutes.

(6) Documentation of Seclusion.

(a) Each time a student is placed in seclusion, school personnel shall document:

(i) Other less intrusive interventions that have failed or been determined inappropriate;

(ii) The precipitating event immediately preceding the behavior that prompted the use of seclusion;

(iii) The behavior that prompted the use of seclusion; and

(iv) The names and signatures of the staff members implementing and monitoring the seclusion.

(b) The documentation under §B(6) of this regulation shall include a description of the seclusion event, including:

(i) Justification for initiating the use of seclusion;

(ii) The length of time in seclusion;

(iii) The student's behavior and reaction during the seclusion; and

(iv) The name and signature of the administrator informed of the use of seclusion.

(7) The documentation described in §B(6) of this regulation shall be maintained in the student's educational record and available for inspection by the student's parent or legal guardian in accordance with COMAR 13A.08.02.

(8) Unless otherwise provided for in the student's behavior intervention plan or IEP, each time seclusion is used, school personnel shall provide the student's parent with verbal notification or send written notice within 24 hours.

C. Referral to a Pupil Services or IEP Team.

(1) If restraint or seclusion is used for a student who has not been identified as a student with a disability, the student shall immediately be referred to the school's pupil services team or an IEP team.

(2) If restraint or seclusion is used for a student with a disability, and the student's IEP or behavior intervention plan does not include the use of restraint or seclusion, the IEP team shall meet, in accordance with COMAR 13A.08.03, within 10 business days of the incident to consider:

(a) The need for a functional behavioral assessment;

(b) Developing appropriate behavioral interventions; and

(c) Implementing a behavioral intervention plan.

(3) If restraint or seclusion is used for a student with a disability, and the IEP or behavior intervention plan includes the use of restraint or seclusion, the student's IEP or behavior intervention plan shall specify how often the IEP team shall meet to review or revise, as appropriate, the student's IEP or behavior intervention plan, in accordance with COMAR 13A.05.01 and 13A.08.03.

(4) When an IEP team meets to review or revise a student's IEP or behavior intervention plan, as specified in §C(3) of this regulation, the IEP team shall consider:

(a) Existing health, physical, psychological, and psychosocial information;

(b) Information provided by the parent;

(c) Observations by teachers and related service providers; and

(d) The student's current placement.

(5) The local school system or nonpublic school shall provide the parent of the student with written notice in accordance with COMAR 13A.05.01.12A when an IEP team proposes or refuses to initiate or change the student's IEP or behavior intervention plan that includes the use of restraint or seclusion,

(6) A parent may request mediation in accordance with COMAR 13A.05.01.15B or a due process hearing in accordance with COMAR 13A.05.01.15C if the parent disagrees with the IEP team decision to propose or refuse to initiate or change:

(a) The student's IEP;

(b) The student's behavior intervention plan to use restraint or seclusion; or

(c) The student's placement.

13A.08.04.06.06. Administrative Procedures.

A. Each public agency and nonpublic school shall develop policies and procedures to address:

(1) A continuum of positive behavioral interventions, strategies, and supports for use by school personnel before exclusion, restraint, or seclusion;

(2) The prevention of self-injurious behaviors;

(3) Methods for identifying and defusing potentially dangerous behavior;

(4) The use and documentation of exclusion consistent with Regulation .04 of this chapter;

(5) The use of restraint consistent with Regulation .05A of this chapter; and

(6) The use of seclusion consistent with Regulation .05B of this chapter.

B. Each public agency and nonpublic school shall annually review policies and procedures and provide them to school personnel and parents as described in COMAR 13A.08.01.

C. Professional Development.

(1) Each public agency and nonpublic school shall provide professional development to designated school personnel on this chapter and the appropriate implementation of policies and procedures developed in accordance with §A of this regulation.

(2) At the beginning of each school year, each public agency and nonpublic school shall identify school personnel authorized to serve as a school-wide resource to assist in ensuring proper administration of exclusion, restraint, and seclusion.

(3) The school personnel described in §C(2) of this regulation shall receive training in current professionally accepted practices and standards regarding:

(a) Positive behavior interventions strategies and supports, including methods for identifying and defusing potentially dangerous behavior;

(b) Functional behavior assessment and behavior intervention planning;

(c) Exclusion;

(d) Restraint and alternatives to restraint;

(e) Seclusion; and

(f) Symptoms of physical distress and positional asphyxia.

(4) The professional development described in §C(3) of this regulation shall include a written examination and physical demonstration of proficiency in the described skills and competencies.

D. Monitoring and Compliance.

(1) Each public agency and nonpublic school shall develop policies and procedures on:

(a) Monitoring the use of exclusion, restraint, and seclusion; and

(b) Receiving and investigating complaints regarding exclusion, restraint, and seclusion practices.

(2) The Department may monitor and request any information regarding any matter related to exclusion, restraint, or seclusion implemented by a public agency or nonpublic school. The Department shall provide written notice of the requested information and specify the time and the manner in which the public agency or nonpublic school shall respond to the request.

Alternative placements

STATUTES

7-305. Suspension and expulsion [Amendment subject to contingent abrogation].

(f) Bringing a firearm onto school property.-

(3) The county superintendent may specify, on a case by case basis, a shorter period of expulsion or an alternative educational setting, if alternative educational settings have been approved by the county board, for a student who has brought a firearm onto school property.

Disciplinary Approaches Addressing Specific Infractions and Conditions

Firearms (as required by the Guns-Free Schools Act)

STATUTES

4-102. Deadly weapons on school property.

(a) Exceptions. This section does not apply to:

(1) a law enforcement officer in the regular course of the officer's duty;

(2) a person hired by a county board of education specifically for the purpose of guarding public school property;

(3) a person engaged in organized shooting activity for educational purposes; or

(4) a person who, with a written invitation from the school principal, displays or engages in a historical demonstration using a weapon or a replica of a weapon for educational purposes.

(b) Prohibited. A person may not carry or possess a firearm, knife, or deadly weapon of any kind on public school property.

(c) Penalty.

(1) Except as provided in paragraph (2) of this subsection, a person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding $ 1,000 or both.

(2) A person who is convicted of carrying or possessing a handgun in violation of this section shall be sentenced under Subtitle 2 of this title.

7-305. Suspension and expulsion [Amendment subject to contingent abrogation].

(f) Bringing a firearm onto school property.

(1) In this subsection, "firearm" means a firearm as defined in 18 U.S.C. § 921.

(2) Except as provided in paragraph (3) of this subsection, if the county superintendent or the superintendent's designated representative finds that a student has brought a firearm onto school property, the student shall be expelled for a minimum of 1 year.

Other weapons

STATUTES

4-102. Deadly weapons on school property.

(a) Exceptions. This section does not apply to:

(1) a law enforcement officer in the regular course of the officer's duty;

(2) a person hired by a county board of education specifically for the purpose of guarding public school property;

(3) a person engaged in organized shooting activity for educational purposes; or

(4) a person who, with a written invitation from the school principal, displays or engages in a historical demonstration using a weapon or a replica of a weapon for educational purposes.

(b) Prohibited. A person may not carry or possess a firearm, knife, or deadly weapon of any kind on public school property.

(c) Penalty.

(1) Except as provided in paragraph (2) of this subsection, a person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding $ 1,000 or both.

(2) A person who is convicted of carrying or possessing a handgun in violation of this section shall be sentenced under Subtitle 2 of this title.

Students with chronic disciplinary issues

STATUTES

7-302. Report of absences and maladjustment.

(b) Investigation; counseling; notice to Department of Juvenile Services. -- On receipt of a report from a principal or head teacher of a public school that a student has been habitually truant without lawful excuse, the appropriate representative of the school system:

(1) Shall initiate an investigation into the cause of the child's truancy;

(2) May provide counseling regarding the availability of social, health, and educational services; and

(3) Following the investigation or intervention:

(i) May notify the Department of Juvenile Services that the student has been habitually truant, without lawful excuse;

(ii) Shall notify the appropriate local department that the student has been habitually truant, without lawful excuse, if a court has given the notice authorized by § 3-819(b-1) of the Courts Article; and

(iii) Shall notify the Department of Juvenile Services that the student has been habitually truant, without lawful excuse, if a court has given the notice authorized by § 3-8A-19(d)(5) of the Courts Article.

Attendance and truancy

STATUTES

7-301. Compulsory attendance [Subject to amendment effective July 1, 2015; amended version follows this section.

(b) Excused absences. A county superintendent, school principal, or an individual authorized by the county superintendent or principal may excuse a student for a lawful absence.

(c) Duty of parent or guardian. Each person who has legal custody or care and control of a child who is 5 years old or older and under 16 shall see that the child attends school or receives instruction as required by this section.

(e) Penalties.

(1) Any person who induces or attempts to induce a child to absent himself unlawfully from school or employs or harbors any child who is absent unlawfully from school while school is in session is guilty of a misdemeanor and on conviction is subject to a fine not to exceed $ 500 or imprisonment not to exceed 30 days, or both.

(2) Any person who has legal custody or care and control of a child who is 5 years old or older and under 16 who fails to see that the child attends school or receives instruction under this section is guilty of a misdemeanor and:

(i) For a first conviction is subject to a fine not to exceed $ 50 per day of unlawful absence or imprisonment not to exceed 10 days, or both; and

(ii) For a second or subsequent conviction is subject to a fine not to exceed $ 100 per day of unlawful absence or imprisonment not to exceed 30 days, or both.

(3) As to any sentence imposed under this section, the court may suspend the fine or the prison sentence and establish terms and conditions which would promote the child's attendance. The suspension authority provided for in this subsection is in addition to and not in limitation of the suspension authority under § 6-221 of the Criminal Procedure Article.

(e-1) Applicability of subsection; charge filed in juvenile court.

(1) This subsection applies only:

(i) In a county in which the circuit administrative judge has established a Truancy Reduction Pilot Program under § 3-8C-02 of the Courts Article; and

(ii) To the extent that funds are provided in an annual State budget for a Truancy Reduction Pilot Program.

(2) A charge under this section may be filed in the juvenile court and assigned to a truancy docket for disposition under Title 3, Subtitle 8C of the Courts Article.

(3) (i) For a person with legal custody or care and control of a child at the time of an alleged violation of this section, it is an affirmative defense to a charge under this section that the person made reasonable and substantial efforts to see that the child attended school as required by law but was unable to cause the child to attend school.

(ii) If the court finds the affirmative defense is valid, the court shall dismiss the charge under this section against the defendant.

(4) The court may condition marking a charge under this section stet on participation of the defendant in the appropriate Truancy Reduction Pilot Program under Title 3, Subtitle 8C of the Courts Article.

7-302. Report of absences and maladjustment.

(b) Investigation; counseling; notice to Department of Juvenile Services. -- On receipt of a report from a principal or head teacher of a public school that a student has been habitually truant without lawful excuse, the appropriate representative of the school system:

(1) Shall initiate an investigation into the cause of the child's truancy;

(2) May provide counseling regarding the availability of social, health, and educational services; and

(3) Following the investigation or intervention:

(i) May notify the Department of Juvenile Services that the student has been habitually truant, without lawful excuse;

(ii) Shall notify the appropriate local department that the student has been habitually truant, without lawful excuse, if a court has given the notice authorized by § 3-819(b-1) of the Courts Article; and

(iii) Shall notify the Department of Juvenile Services that the student has been habitually truant, without lawful excuse, if a court has given the notice authorized by § 3-8A-19(d)(5) of the Courts Article.

7-304.1. Positive Behavioral Interventions and Support Program.

(c) Program established Truancy.

(1) Subject to paragraph (3) of this subsection, each county board shall require a school that has a truancy rate that exceeds the standard specified in paragraph (2) of this subsection to implement:

(i) A positive behavioral interventions and support program; or

(ii) An alternative, research-based, positive, and effective behavior modification program in collaboration with the Department.

(2) A school is subject to this subsection if it has a truancy rate that exceeds:

(i) 8 percent of its enrollment for the 2008-2009 school year;

(ii) 6 percent of its enrollment for the 2009-2010 school year;

(iii) 4 percent of its enrollment for the 2010-2011 school year;

(iv) 2 percent of its enrollment for the 2011-2012 school year; and

(v) 1 percent of its enrollment for the 2012-2013 school year and each school year thereafter.

(3) A school that has already implemented a positive behavioral interventions and support program or a behavior modification program shall expand its program if it has a truancy rate that exceeds the standard specified in paragraph (2) of this subsection.

Substance use

STATUTES

5-627. Controlled dangerous substance near school.

(a) Prohibited. A person may not manufacture, distribute, dispense, or possess with intent to distribute a controlled dangerous substance in violation of § 5-602 of this subtitle or conspire to commit any of these crimes:

(1) in a school vehicle, as defined under § 11-154 of the Transportation Article; or

(2) in, on, or within 1,000 feet of real property owned by or leased to an elementary school, secondary school, or county board and used for elementary or secondary education.

(b) Application of subsection (a). Subsection (a) of this section applies whether or not:

(1) school was in session at the time of the crime; or

(2) the real property was being used for purposes other than school purposes at the time of the crime.

(c) Penalty.

(1) A person who violates this section is guilty of a felony and on conviction is subject to:

(i) for a first violation, imprisonment not exceeding 20 years or a fine not exceeding $ 20,000 or both; or

(ii) for each subsequent violation, imprisonment not less than 5 years and not exceeding 40 years or a fine not exceeding $ 40,000 or both.

(2) (i) The court may not suspend the 5-year minimum sentence required by paragraph (1)(ii) of this subsection.

(ii) Except as otherwise provided in § 4-305 of the Correctional Services Article, a person sentenced under paragraph (1)(ii) of this subsection is not eligible for parole during this period of the 5-year minimum sentence.

(3) A sentence imposed under paragraph (1) of this subsection shall be consecutive to any other sentence imposed.

(d) Merger. Notwithstanding any other law, a conviction under this section may not merge with a conviction under § 5-602, § 5-603, § 5-604, § 5-605, § 5-606, § 5-607, § 5-608, § 5-609, § 5-612, § 5-613, or § 5-628 of this subtitle.

5-803. School employees.

(a) Making reports.

(1) Whether or not an individual receives compensation for the individual's services, an employee of a county health department or other local department or agency functioning as a school nurse or school health aide or a member of the administrative, educational, or support staff of, or an individual who serves under a contract for services to, any public, private, or parochial school is immune from liability for:

(i) Making a report required by law, if the individual acts on reasonable grounds;

(ii) Participating in a judicial proceeding that results from the individual's report; and

(iii) Making a report to the appropriate school official or to a parent if the individual has reasonable grounds to suspect that a student is:

1. Under the influence of alcoholic beverages or a controlled dangerous substance;
2. In possession of alcoholic beverages or a controlled dangerous substance; or
3. Involved in the illegal sale or distribution of alcoholic beverages or a controlled dangerous substance.

7-412. Preservation of rights of student seeking to overcome drug abuse.

(a) Inadmissibility of statement of student. If a student seeks information to overcome any form of drug abuse, as defined in § 8-101 of the Health - General Article, from a teacher, counselor, principal, or other professional educator employed by an educational institution that has received a certificate of approval under § 2-206 of this article, a statement, whether oral or written, made by the student or an observation or conclusion derived from the statement is not admissible against the student in any proceeding.

(b) Rules and regulations may not require disclosure. A rule, regulation, or order may not require disclosure of any report, statement, observation, conclusion, or other information that has been assembled or obtained by an educator through this contact.

26-103. Drinking or possessing intoxicating beverages on school premises.

(a) Prohibited conduct.

(1) Unless locally approved by the county board of education, a person may not drink or possess any alcoholic beverage on the premises of any public school.

(2) A person who drinks or possesses any alcoholic beverage and causes a public disturbance at any elementary or secondary school athletic contest may not refuse to comply with a request by a law enforcement officer to stop drinking and causing the public disturbance. If the person complies with the first request, he may not be charged under this paragraph.

(b) Penalty.

(1) Any person under 18 years of age who violates the provisions of this section shall be issued a citation and be subject to the dispositions for a violation under Title 3, Subtitle 8A of the Courts Article.

(2) Any person 18 years old or older violating the provisions of this section shall be issued a citation and be subject to § 10-119 of the Criminal Law Article.

Bullying, harassment, or hazing

STATUTES

3-805. Misuse of electronic communication.

(a) "Electronic communication" defined. In this section, "electronic communication" means the transmission of information, data, or a communication by the use of a computer or any other electronic means that is sent to a person and that is received by the person.

(b) Prohibited. A person may not maliciously engage in a course of conduct, through the use of electronic communication, that alarms or seriously annoys another:

(1) with the intent to harass, alarm, or annoy the other;

(2) after receiving a reasonable warning or request to stop by or on behalf of the other; and

(3) without a legal purpose.

(d) Exception. This section does not apply to a peaceable activity intended to express a political view or provide information to others.

(e) Penalty. A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 1 year or a fine not exceeding $ 500 or both.

7-424. Reporting incidents of harassment or intimidation against students.

(a) Definitions.

(1) In this section the following words have the meanings indicated.

(2) "Bullying, harassment, or intimidation" means intentional conduct, including verbal, physical, or written conduct, or an intentional electronic communication, that:

(i) Creates a hostile educational environment by substantially interfering with a student's educational benefits, opportunities, or performance, or with a student's physical or psychological well-being and is:

1. Motivated by an actual or a perceived personal characteristic including race, national origin, marital status, sex, sexual orientation, gender identity, religion, ancestry, physical attributes, socioeconomic status, familial status, or physical or mental ability or disability; or

2. Threatening or seriously intimidating; and

(ii) 1. Occurs on school property, at a school activity or event, or on a school bus; or

2. Substantially disrupts the orderly operation of a school.

(3) "Electronic communication" means a communication transmitted by means of an electronic device, including a telephone, cellular phone, computer, or pager.

(b) Report required.

(1) The Department shall require a county board to report incidents of bullying, harassment, or intimidation against students attending a public school under the jurisdiction of the county board.

(2) An incident of bullying, harassment, or intimidation may be reported by:

(i) A student;

(ii) The parent, guardian, or close adult relative of a student; or

(iii) A school staff member.

(c) Contents; distribution.

(1) The Department shall create a standard victim of bullying, harassment, or intimidation report form.

(2) Each victim of bullying, harassment, or intimidation report form shall:

(i) Identify the victim and the alleged perpetrator, if known;

(ii) Indicate the age of the victim and alleged perpetrator;

(iii) Describe the incident, including alleged statements made by the alleged perpetrator;

(iv) Indicate the location of the incident;

(v) Identify any physical injury suffered by the victim and describe the seriousness and any permanent effects of the injury;

(vi) Indicate the number of days a student is absent from school, if any, as a result of the incident;

(vii) Identify any request for psychological services initiated by the victim or the victim's family due to psychological injuries suffered; and

(viii) Include instructions on how to fill out the form and the mailing address to where the form shall be sent.

(3) A county board shall distribute copies of the victim of bullying, harassment, or intimidation report form to each public school under the county board's jurisdiction.

(d) County boards to provide annual summaries of reports to State Board; confidentiality. --

(1) Each county board shall submit summaries of report forms filed with the county board to the State Board on or before January 31 each year.

(2) A county board shall delete any information that identifies an individual.

(e) Confidentiality. The information contained in a victim of bullying, harassment, or intimidation report form in accordance with subsection (c) of this section:

(1) Is confidential and may not be redisclosed except as otherwise provided under the Family Education Rights and Privacy Act or this section; and

(2) May not be made a part of a student's permanent educational record.

(f) Departmental reporting to General Assembly.

(1) The Department shall submit a report on or before March 31 each year to the Senate Education, Health, and Environmental Affairs Committee and the House Ways and Means Committee, in accordance with § 2-1246 of the State Government Article, consisting of a summary of the information included in the victim of bullying, harassment, or intimidation report forms filed with the county boards the previous year.

(2) The report submitted by the Department shall include, to the extent feasible:

(i) A description of the act constituting the bullying, harassment, or intimidation;

(ii) The age of the victim and alleged perpetrator;

(iii) The allegation of the alleged perpetrator's motive;

(iv) A description of the investigation of the complaint and any corrective action taken by the appropriate school authorities;

(v) The number of days a student is absent from school, if any, as a result of the incident; and

(vi) The number of false allegations reported.

7-424.1. Model policy prohibiting bullying, harassment and intimidation.

(a) Definitions.

(1) In this section the following words have the meanings indicated.

(2) "Bullying, harassment, or intimidation" means intentional conduct, including verbal, physical, or written conduct, or an intentional electronic communication, that:

(i) Creates a hostile educational environment by substantially interfering with a student's educational benefits, opportunities, or performance, or with a student's physical or psychological well-being and is:

1. Motivated by an actual or a perceived personal characteristic including race, national origin, marital status, sex, sexual orientation, gender identity, religion, ancestry, physical attribute, socioeconomic status, familial status, or physical or mental ability or disability; or

2. Threatening or seriously intimidating; and

(ii) 1. Occurs on school property, at a school activity or event, or on a school bus; or

2. Substantially disrupts the orderly operation of a school.

(3) "Electronic communication" means a communication transmitted by means of an electronic device, including a telephone, cellular phone, computer, or pager.

(b) In general.

(1) By March 31, 2009, the State Board, after consultation with and input from local school systems, shall develop a model policy prohibiting bullying, harassment, or intimidation in schools.

(2) The model policy developed under paragraph (1) of this subsection shall include:

(i) A statement prohibiting bullying, harassment, and intimidation in schools;

(ii) A statement prohibiting reprisal or retaliation against individuals who report acts of bullying, harassment, or intimidation;

(iii) A definition of bullying, harassment, or intimidation that is either the same as set forth in subsection (a)(2) of this section or a definition that is not less inclusive than that definition;

(iv) Standard consequences and remedial actions for persons committing acts of bullying, harassment, or intimidation and for persons engaged in reprisal or retaliation;

(v) Standard consequences and remedial actions for persons found to have made false accusations;

(vi) Model procedures for reporting acts of bullying, harassment, and intimidation;

(vii) Model procedures for the prompt investigation of acts of bullying, harassment, and intimidation;

(viii) Information about the types of support services available to the student bully, victim, and any bystanders; and

(ix) Information regarding the availability and use of the bullying, harassment, or intimidation form under § 7-424 of this subtitle.

(c) Development of policy by county boards.

(1) Each county board shall establish a policy prohibiting bullying, harassment, or intimidation at school based on the model policy.

(2) The policy shall address the components of the model policy specified in subsection (b)(2) of this section.

(3) A county board shall develop the policy in consultation with representatives of the following groups:

(i) Parents or guardians of students;

(ii) School employees and administrators;

(iii) School volunteers;

(iv) Students; and

(v) Members of the community.

(d) Publication of policy. Each county board shall publicize its policy in student handbooks, school system websites, and any other location or venue the county board determines is necessary or appropriate.

(e) Reporting procedure. Each county board policy shall include information on the procedure for reporting incidents of bullying, harassment, or intimidation, including:

(1) A chain of command in the reporting process; and

(2) The name and contact information for an employee of the Department, designated by the Department, who is familiar with the reporting and investigation procedures in the applicable school system.

(f) Submission of policy. Each county board shall submit its policy to the State Superintendent by July 1, 2009.

(g) Educational programs. Each county board shall develop the following educational programs in its efforts to prevent bullying, harassment, and intimidation in schools:

(1) An educational bullying, harassment, and intimidation prevention program for students, staff, volunteers, and parents; and

(2) A teacher and administrator development program that trains teachers and administrators to implement the policy.

(h) Limitation of liability.

(1) A school employee who reports an act of bullying, harassment, or intimidation under this section in accordance with the county board's policy established under subsection (c) of this section is not civilly liable for any act or omission in reporting or failing to report an act of bullying, harassment, or intimidation under this section.

(2) The provisions of this section may not be construed to limit the legal rights of a victim of bullying, harassment, or intimidation.

7-424.3. Bullying, harassment and intimidation policy.

(a) Definitions.

(1) In this section the following words have the meanings indicated.

(2) "Bullying, harassment, and intimidation" means any intentional written, verbal, or physical act, including an electronic communication, that:

(i) 1. Physically harms an individual;

2. Damages an individual's property;

3. Substantially interferes with an individual's education or learning environment; or

4. Places an individual in reasonable fear of harm to the individual's person or property; and

(ii) 1. Occurs on school property, at a school activity or event, or on a school bus; or

2. Substantially disrupts the orderly operation of a school.

(3) "Electronic communication" means a communication transmitted by means of an electronic device, including a telephone, cellular phone, computer, or pager.

(4) "Nonpublic school" means a nonpublic school that participates in State-funded education programs.

(b) Adoption by nonpublic school. By March 31, 2012, each nonpublic school shall adopt a policy prohibiting bullying, harassment, and intimidation.

(c) Contents. The policy adopted under subsection (b) of this section shall include:

(1) A statement prohibiting bullying, harassment, and intimidation in the school;

(2) A statement prohibiting reprisal or retaliation against individuals who report acts of bullying, harassment, or intimidation;

(3) A definition of bullying, harassment, and intimidation that is either the same as set forth in subsection (a) of this section or a definition that is not less inclusive than that definition;

(4) Standard consequences and remedial actions for persons committing acts of bullying, harassment, or intimidation and for persons engaged in reprisal or retaliation, including:

(i) Specific penalties for persons who repeatedly commit acts of bullying, harassment, or intimidation; and

(ii) A requirement that persons who commit acts of bullying, harassment, or intimidation receive educational and therapeutic services concerning bullying prevention;

(5) Standard consequences and remedial actions for persons found to have made false accusations;

(6) Standard procedures for reporting acts of bullying, harassment, or intimidation, including a chain of command in the reporting process;

(7) Standard procedures for the prompt investigation of acts of bullying, harassment, or intimidation;

(8) Standard procedures for protecting victims of bullying, harassment, or intimidation from additional acts of bullying, harassment, or intimidation, and from retaliation; and

(9) Information about the types of support services available to a student bully or victim and any bystanders.

(d) Consultation with groups. A nonpublic school is encouraged to develop the policy adopted under subsection (b) of this section in consultation with the following groups:

(1) Parents or guardians of students;

(2) School employees and administrators;

(3) School volunteers; and

(4) Students.

(e) Publication. A nonpublic school is encouraged to publicize the policy adopted under subsection (b) of this section in student handbooks, on the school's website, and any other location or venue the school determines is necessary or appropriate.

(f) Educational programs. A nonpublic school is encouraged to develop the following educational programs in its efforts to prevent bullying, harassment, and intimidation:

(1) An educational bullying, harassment, and intimidation prevention program for students, staff, volunteers, and parents; and

(2) A teacher and administrator development program that trains teachers and administrators to implement the policy adopted under subsection (b) of this section.

(g) Civil liability. An employee of a nonpublic school who reports an act of bullying, harassment, or intimidation in accordance with the nonpublic school's policy adopted under subsection (b) of this section is not civilly liable for any act or omission in reporting or failing to report an act of bullying, harassment, or intimidation in accordance with the policy.

(h) Construction of provisions. The provisions of this section may not be construed to:

(1) Limit the legal rights of a victim of bullying, harassment, or intimidation; or

(2) Require a statewide policy in nonpublic schools relating to bullying, harassment, and intimidation.

3-607. Hazing.

(a) Prohibited. A person may not recklessly or intentionally do an act or create a situation that subjects a student to the risk of serious bodily injury for the purpose of an initiation into a student organization of a school, college, or university.

(b) Penalty. A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 6 months or a fine not exceeding $ 500 or both.

(c) Prohibited defense. The implied or express consent of a student to hazing is not a defense under this section.

ADMINISTRATIVE CODE

13A.01.04.03.03. School Safety.

All students in Maryland's public schools, without exception and regardless of race, ethnicity, region, religion, gender, sexual orientation, language, socioeconomic status, age, or disability, have the right to educational environments that are:

A. Safe;

B. Appropriate for academic achievement; and

C. Free from any form of harassment.

Other special infractions or conditions

STATUTES

7-303. Arrest for reportable offense.

(g) Prohibition of student to attend same school or ride the same bus as victim. --

(1) Except as otherwise provided in paragraph (2) of this subsection, the local superintendent and the school principal shall consider prohibiting a student who is arrested for a reportable offense involving rape or a sexual offense from attending the same school or riding on the same school bus as the alleged victim of the reportable offense if such action is necessary or appropriate to protect the physical or psychological well-being of the alleged victim.

(2) If a student is arrested for a reportable offense involving rape or a sexual offense and is convicted of or adjudicated delinquent for the rape or sexual offense, the student may not attend the same school or ride on the same school bus as the victim.

7-305. Suspension and expulsion [Amendment subject to contingent abrogation].

(h) Restitution for damage to school property.

(1) This subsection does not apply if the student is referred to the Department of Juvenile Services.

(2) If a student violates a State or local law or regulation and during or as a result of the commission of that violation damaged, destroyed, or substantially decreased the value of school property or property of another that was on school property at the time of the violation, as part of a conference on the matter with the student, the student's parent or guardian and any other appropriate person, the principal shall require the student or the student's parent to make restitution.

(3) The restitution may be in the form of monetary restitution not to exceed the lesser of the fair market value of the property or $ 2,500, or the student's assignment to a school work project, or both.

Prevention and Behavioral Interventions (Non-Punitive)

Prevention

STATUTES

7-304. Special programs for disruptive students.

(a) Purpose of section. The purpose of this section is to require each county board of education to provide a continuum model of prevention and intervention activities and programs that encourage and promote positive behavior and reduce disruption.

7-424.1. Model policy prohibiting bullying, harassment and intimidation.

(g) Educational programs. Each county board shall develop the following educational programs in its efforts to prevent bullying, harassment, and intimidation in schools:

(1) An educational bullying, harassment, and intimidation prevention program for students, staff, volunteers, and parents; and

(2) A teacher and administrator development program that trains teachers and administrators to implement the policy.

7-424.3. Bullying, harassment and intimidation policy.

(f) Educational programs. A nonpublic school is encouraged to develop the following educational programs in its efforts to prevent bullying, harassment, and intimidation:

(1) An educational bullying, harassment, and intimidation prevention program for students, staff, volunteers, and parents; and

(2) A teacher and administrator development program that trains teachers and administrators to implement the policy adopted under subsection (b) of this section.

7-1102. Appointment of task force.

(a) In general. The State Superintendent shall appoint a task force to propose regulations to the State Board regarding student behavior intervention practices. (c). Issues for consideration. The task force shall consider:

(7) Appropriate behavioral interventions, including but not limited to crisis intervention and prevention techniques;

(8) Definitions of "positive behavioral supports" and "behavior interventions and strategies plan"; etc.

Behavioral interventions and student support services

STATUTES

7-304. Special programs for disruptive students.

(a) Purpose of section. The purpose of this section is to require each county board of education to provide a continuum model of prevention and intervention activities and programs that encourage and promote positive behavior and reduce disruption.

7-304.1. Positive Behavioral Interventions and Support Program.

(a) "Positive Behavioral Interventions and Support Program" defined. In this section, "Positive Behavioral Interventions and Support Program" means the research-based, systems approach method adopted by the State Board to build capacity among school staff to adopt and sustain the use of positive, effective practices to create learning environments where teachers can teach and students can learn.

(b) Program established. Suspension.

(1) Subject to paragraph (3) of this subsection, each county board shall require an elementary school that has a suspension rate that exceeds the standard specified in paragraph (2) of this subsection to implement:

(i) A positive behavioral interventions and support program; or

(ii) An alternative behavior modification program in collaboration with the Department.

(2) An elementary school is subject to this subsection if it has a suspension rate that exceeds:

(i) 18 percent of its enrollment for the 2005-2006 school year;

(ii) 16 percent of its enrollment for the 2006-2007 school year;

(iii) 14 percent of its enrollment for the 2007-2008 school year;

(iv) 12 percent of its enrollment for the 2008-2009 school year; and

(v) 10 percent of its enrollment for the 2009-2010 school year and each school year thereafter.

(3) An elementary school that has already implemented a positive behavioral interventions and support program or a behavior modification program shall expand its existing program if it has a suspension rate that exceeds the standard specified in paragraph (2) of this subsection.

(c) Program established. Truancy.

(1) Subject to paragraph (3) of this subsection, each county board shall require a school that has a truancy rate that exceeds the standard specified in paragraph (2) of this subsection to implement:

(i) A positive behavioral interventions and support program; or

(ii) An alternative, research-based, positive, and effective behavior modification program in collaboration with the Department.

(2) A school is subject to this subsection if it has a truancy rate that exceeds:

(i) 8 percent of its enrollment for the 2008-2009 school year;

(ii) 6 percent of its enrollment for the 2009-2010 school year;

(iii) 4 percent of its enrollment for the 2010-2011 school year;

(iv) 2 percent of its enrollment for the 2011-2012 school year; and

(v) 1 percent of its enrollment for the 2012-2013 school year and each school year thereafter.

(3) A school that has already implemented a positive behavioral interventions and support program or a behavior modification program shall expand its program if it has a truancy rate that exceeds the standard specified in paragraph (2) of this subsection.

7-306. Corporal punishment; State code of discipline.

(c) Regulations.

(1) Subject to the provisions of subsections (a) and (b) of this section, each county board shall adopt regulations designed to create and maintain within the schools under its jurisdiction the atmosphere of order and discipline necessary for effective learning.

(2) The regulations adopted by a county board under this subsection:

(i) Shall provide for educational and behavioral interventions, counseling, and student and parent conferencing; and

(ii) Shall provide alternative programs, which may include in-school suspension, suspension, expulsion, or other disciplinary measures that are deemed appropriate.

7-310. Dissemination of community resources list.

(a) In general. Each county board shall develop and disseminate to each public school within the county board's jurisdiction a community resources list.

(b) Contents. The community resources list may include the name and contact information of local and statewide social services and nonprofit health care providers that provide nondiscriminatory services to children and families in need of assistance.

7-1102. Appointment of task force.

(a) In general. The State Superintendent shall appoint a task force to propose regulations to the State Board regarding student behavior intervention practices.

(c). Issues for consideration. The task force shall consider:

(7) Appropriate behavioral interventions, including but not limited to crisis intervention and prevention techniques;

(8) Definitions of "positive behavioral supports" and "behavior interventions and strategies plan"; etc.

ADMINISTRATIVE CODE

13A.08.04.03.03. Student Behavior Interventions.

A. General. School personnel are encouraged to use an array of positive behavior interventions, strategies, and supports to increase or decrease targeted student behaviors.

Professional development

STATUTES

7-1104. Consultation concerning training requirements.

The State Superintendent shall consult with representatives of institutions of higher education and the Professional Standards and Teacher Education Board under Title 6, Subtitle 7 of this article with respect to the training requirements for teachers to ensure that sufficient training is available regarding positive behavioral interventions and strategies consistent with professionally accepted practices and standards for persons entering the field of education.

Monitoring and Accountability

Formal incident reporting of conduct violations

STATUTES

5-803. School employees.

(a) Making reports.

(1) Whether or not an individual receives compensation for the individual's services, an employee of a county health department or other local department or agency functioning as a school nurse or school health aide or a member of the administrative, educational, or support staff of, or an individual who serves under a contract for services to, any public, private, or parochial school is immune from liability for:

(i) Making a report required by law, if the individual acts on reasonable grounds;

(ii) Participating in a judicial proceeding that results from the individual's report; and

(iii) Making a report to the appropriate school official or to a parent if the individual has reasonable grounds to suspect that a student is:

1. Under the influence of alcoholic beverages or a controlled dangerous substance;
2. In possession of alcoholic beverages or a controlled dangerous substance; or
3. Involved in the illegal sale or distribution of alcoholic beverages or a controlled dangerous substance.

7-302. Report of absences and maladjustment.

(b) Investigation; counseling; notice to Department of Juvenile Services. On receipt of a report from a principal or head teacher of a public school that a student has been habitually truant without lawful excuse, the appropriate representative of the school system:

(3) Following the investigation or intervention:

(i) May notify the Department of Juvenile Services that the student has been habitually truant, without lawful excuse;

(ii) Shall notify the appropriate local department that the student has been habitually truant, without lawful excuse, if a court has given the notice authorized by § 3-819(b-1) of the Courts Article; and

(iii) Shall notify the Department of Juvenile Services that the student has been habitually truant, without lawful excuse, if a court has given the notice authorized by § 3-8A-19(d)(5) of the Courts Article.

7-305. Suspension and expulsion [Amendment subject to contingent abrogation].

(d) Procedure for more than 10-day suspension or expulsion.-

(1) If a principal finds that a suspension of more than 10 school days or expulsion is warranted, the principal immediately shall report the matter in writing to the county superintendent.

(e) Returning to school premises or classroom.-

(6) A school system shall forward information to another school system relating to the discipline of a student, including information on an expulsion of the student, on receipt of the request for information.

7-424. Reporting incidents of harassment or intimidation against students.

(b) Report required.-

(1) The Department shall require a county board to report incidents of bullying, harassment, or intimidation against students attending a public school under the jurisdiction of the county board.

(2) An incident of bullying, harassment, or intimidation may be reported by:

(i) A student;

(ii) The parent, guardian, or close adult relative of a student; or

(iii) A school staff member.

(c) Contents; distribution.

(1) The Department shall create a standard victim of bullying, harassment, or intimidation report form.

(2) Each victim of bullying, harassment, or intimidation report form shall:

(i) Identify the victim and the alleged perpetrator, if known;

(ii) Indicate the age of the victim and alleged perpetrator;

(iii) Describe the incident, including alleged statements made by the alleged perpetrator;

(iv) Indicate the location of the incident;

(v) Identify any physical injury suffered by the victim and describe the seriousness and any permanent effects of the injury;

(vi) Indicate the number of days a student is absent from school, if any, as a result of the incident;

(vii) Identify any request for psychological services initiated by the victim or the victim's family due to psychological injuries suffered; and

(viii) Include instructions on how to fill out the form and the mailing address to where the form shall be sent.

(3) A county board shall distribute copies of the victim of bullying, harassment, or intimidation report form to each public school under the county board's jurisdiction.

7-424.1. Model policy prohibiting bullying, harassment and intimidation.

(e) Reporting procedure. Each county board policy shall include information on the procedure for reporting incidents of bullying, harassment, or intimidation, including:

(1) A chain of command in the reporting process; and

(2) The name and contact information for an employee of the Department, designated by the Department, who is familiar with the reporting and investigation procedures in the applicable school system.

ADMINISTRATIVE CODE

13A.08.04.05.05. General Requirements for the Use of Restraint or Seclusion.

(3) Documentation of the Use of Restraint.

(a) Each time a student is in a restraint, school personnel shall document:

(i) Other less intrusive interventions that have failed or been determined inappropriate;

(ii) The precipitating event immediately preceding the behavior that prompted the use of restraint;

(iii) The behavior that prompted the use of a restraint;

(iv) The names of the school personnel who observed the behavior that prompted the use of restraint; and

(v) The names and signatures of the staff members implementing and monitoring the use of restraint.

(b) Documentation under §A(3) of this regulation shall include a description of the restraint event, including:

(i) The type of restraint;

(ii) The length of time in restraint;

(iii) The student's behavior and reaction during the restraint; and

(iv) The name and signature of the administrator informed of the use of restraint.

(4) The documentation described in §A(3) of this regulation shall be maintained in the student's educational record and available for inspection by the student's parent or legal guardian in accordance with COMAR 13A.08.02.

(5) Each time restraint is used, parents shall be provided oral or written notification within 24 hours, unless otherwise provided for in a student's behavior intervention plan or IEP.

(6) Documentation of Seclusion.

(a) Each time a student is placed in seclusion, school personnel shall document:

(i) Other less intrusive interventions that have failed or been determined inappropriate;

(ii) The precipitating event immediately preceding the behavior that prompted the use of seclusion;

(iii) The behavior that prompted the use of seclusion; and

(iv) The names and signatures of the staff members implementing and monitoring the seclusion.

(b) The documentation under §B(6) of this regulation shall include a description of the seclusion event, including:

(i) Justification for initiating the use of seclusion;

(ii) The length of time in seclusion;

(iii) The student's behavior and reaction during the seclusion; and

(iv) The name and signature of the administrator informed of the use of seclusion.

(7) The documentation described in §B(6) of this regulation shall be maintained in the student's educational record and available for inspection by the student's parent or legal guardian in accordance with COMAR 13A.08.02.

(8) Unless otherwise provided for in the student's behavior intervention plan or IEP, each time seclusion is used, school personnel shall provide the student's parent with verbal notification or send written notice within 24 hours.

Parental notification

ADMINISTRATIVE CODE

13A.08.04.05.05. General Requirements for the Use of Restraint or Seclusion.

(3) Documentation of the Use of Restraint.

(a) Each time a student is in a restraint, school personnel shall document:

(i) Other less intrusive interventions that have failed or been determined inappropriate;

(ii) The precipitating event immediately preceding the behavior that prompted the use of restraint;

(iii) The behavior that prompted the use of a restraint;

(iv) The names of the school personnel who observed the behavior that prompted the use of restraint; and

(v) The names and signatures of the staff members implementing and monitoring the use of restraint.

(b) Documentation under §A(3) of this regulation shall include a description of the restraint event, including:

(i) The type of restraint;

(ii) The length of time in restraint;

(iii) The student's behavior and reaction during the restraint; and

(iv) The name and signature of the administrator informed of the use of restraint.

(4) The documentation described in §A(3) of this regulation shall be maintained in the student's educational record and available for inspection by the student's parent or legal guardian in accordance with COMAR 13A.08.02.

(5) Each time restraint is used, parents shall be provided oral or written notification within 24 hours, unless otherwise provided for in a student's behavior intervention plan or IEP.

(6) Documentation of Seclusion.

(a) Each time a student is placed in seclusion, school personnel shall document:

(i) Other less intrusive interventions that have failed or been determined inappropriate;

(ii) The precipitating event immediately preceding the behavior that prompted the use of seclusion;

(iii) The behavior that prompted the use of seclusion; and

(iv) The names and signatures of the staff members implementing and monitoring the seclusion.

(b) The documentation under §B(6) of this regulation shall include a description of the seclusion event, including:

(i) Justification for initiating the use of seclusion;

(ii) The length of time in seclusion;

(iii) The student's behavior and reaction during the seclusion; and

(iv) The name and signature of the administrator informed of the use of seclusion.

(7) The documentation described in §B(6) of this regulation shall be maintained in the student's educational record and available for inspection by the student's parent or legal guardian in accordance with COMAR 13A.08.02.

(8) Unless otherwise provided for in the student's behavior intervention plan or IEP, each time seclusion is used, school personnel shall provide the student's parent with verbal notification or send written notice within 24 hours.

Reporting and referrals between schools and law enforcement

STATUTES

7-303. Arrest for reportable offense.

(b) Notification of local superintendent or nonpublic school principal -- Arrest and charges. -- If a student is arrested for a reportable offense or an offense that is related to the student's membership in a criminal gang, the law enforcement agency making the arrest:

(1) Shall notify the following individuals of the arrest and the charges within 24 hours of the arrest or as soon as practicable:

(i) The local superintendent;

(ii) The school principal; and

(iii) For a school that has a school security officer, the school security officer; and

(2) May notify the State's Attorney of the arrest and charges.

(c) Notification of local superindendent or nonpublic school principal -- Disposition. -- The State's Attorney shall promptly notify either the local superintendent or the school principal of the disposition of the reportable offense required to be reported under subsection (b) of this section.

Disclosure of school records

STATUTES

7-303. Arrest for reportable offense.

(d) Information confidential. Except by order of a juvenile court or other court upon good cause shown, the information obtained by an individual pursuant to subsections (b) and (c) of this section:

(1) Is confidential and may not be redisclosed by subpoena or otherwise except as provided pursuant to subsections (e) and (f) of this section; and

(2) May not be made part of the student's permanent educational record.

(e) Information confidential. Exception.

(1) Notwithstanding the provisions of subsection (d) of this section, nothing shall prohibit a local superintendent or school principal from transmitting the information obtained pursuant to subsections (b) and (c) of this section as a confidential file to the local superintendent of another public school system in the State or another nonpublic school in the State in which the student has enrolled or been transferred in order to carry out the purposes of this section if the disposition of the reportable offense was a conviction or an adjudication of delinquency or the criminal charge or delinquency petition is still pending.

(2) A local superintendent or school principal who transmits information about a student under this subsection shall include in the transmittal information regarding any educational programming and related services provided to the student.

(f) Regulations in limiting use of information. -- The State Board shall adopt regulations to ensure that information obtained by a local superintendent, a school principal, or a school security officer under subsections (b), (c), and (e) of this section is:

(1) Used to provide appropriate educational programming and related services to the student and to maintain a safe and secure school environment for students and school personnel;

(2) Transmitted only to school personnel of the school in which the student is enrolled as necessary to carry out the purposes set forth in item (1) of this subsection; and

(3) Destroyed when the student graduates or otherwise permanently leaves school or turns 22 years old, whichever occurs first.

7-305. Suspension and expulsion [Amendment subject to contingent abrogation].

(e) Returning to school premises or classroom.-

(6) A school system shall forward information to another school system relating to the discipline of a student, including information on an expulsion of the student, on receipt of the request for information.

Data collection, review, and reporting of disciplinary policies and actions

STATUTES

7-302. Report of absences and maladjustment.

(a) Immediate report required. -- The principal or head teacher of each public or private school in this State shall report immediately to the county superintendent, the supervisor of pupil personnel, or any other official designated by the county superintendent the name of each child enrolled in his school who has been absent or irregular in attendance, without lawful excuse, or who shows evidence of maladjustment, so that the causes may be studied and solutions worked out.

(c) Student information. -- The county superintendent, the superintendent's designee, or the supervisor of pupil personnel shall provide to the local education agency information regarding the number of students identified as being habitually truant.

7-424. Reporting incidents of harassment or intimidation against students.

(b) Report required.-

(3) A county board shall distribute copies of the victim of bullying, harassment, or intimidation report form to each public school under the county board's jurisdiction.

(d) County boards to provide annual summaries of reports to State Board; confidentiality.

(1) Each county board shall submit summaries of report forms filed with the county board to the State Board on or before January 31 each year.

(2) A county board shall delete any information that identifies an individual.

(e) Confidentiality. The information contained in a victim of bullying, harassment, or intimidation report form in accordance with subsection (c) of this section:

(1) Is confidential and may not be redisclosed except as otherwise provided under the Family Education Rights and Privacy Act or this section; and

(2) May not be made a part of a student's permanent educational record.

(f) Departmental reporting to General Assembly.

(1) The Department shall submit a report on or before March 31 each year to the Senate Education, Health, and Environmental Affairs Committee and the House Ways and Means Committee, in accordance with § 2-1246 of the State Government Article, consisting of a summary of the information included in the victim of bullying, harassment, or intimidation report forms filed with the county boards the previous year.

(2) The report submitted by the Department shall include, to the extent feasible:

(i) A description of the act constituting the bullying, harassment, or intimidation;

(ii) The age of the victim and alleged perpetrator;

(iii) The allegation of the alleged perpetrator's motive;

(iv) A description of the investigation of the complaint and any corrective action taken by the appropriate school authorities;

(v) The number of days a student is absent from school, if any, as a result of the incident; and

(vi) The number of false allegations reported.

School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers

Authority and power to implement school arrest

STATUTES

4-318. Baltimore City School Police Force.

(a) "Baltimore City school police officer" defined. In this section, "Baltimore City school police officer" means any person who, when acting in an official capacity, is authorized by law to make arrests and who is a member of the Baltimore City School Police Force.

(b) Established. There is a Baltimore City School Police Force.

(c) Members. The members of the Baltimore City School Police Force shall be employees of and be appointed by the Baltimore City Board of School Commissioners.

(d) Powers; limitations; carrying a weapon.

(1) Except as provided in paragraph (3) of this subsection, a Baltimore City school police officer has all the powers of a law enforcement officer in the State.

(2) (i) A Baltimore City school police officer may act in an official capacity only on the premises of schools and any other property used for educational purposes owned, leased, or operated by, or under the control of the Baltimore City Board of School Commissioners.

(ii) A Baltimore City school police officer may not act in an official capacity on any other property unless:

1. Engaged in fresh pursuit of a suspected offender;
2. Requested or authorized to do so by the Police Commissioner of Baltimore City;
3. The exercise of power is necessary to facilitate the orderly flow of traffic to and from property owned, leased, operated by, or under the control of the Baltimore City School System; or
4. Ordered to do so by the Mayor of Baltimore City.

(3) (i) Notwithstanding any other provision of law, a Baltimore City school police officer whose permanent or temporary assignment is at a school or on school property may carry a firearm on the premises of the school to which the officer is assigned before or after regular school hours on school days and on days other than school days.§ 26-102. Trespass on the grounds of a public institution of elementary, secondary, or higher education.

7-303. Arrest for reportable offense.

(a) (8) (i) "School security officer" includes a school principal, another school administrator, a law enforcement officer, or other individual employed by a local school system or a local government who is designated by the county superintendent or a school principal to help maintain the security and safety of a school.

(ii) "School security officer" does not include a teacher.

(i) Designation of school security officer. Each public school that enrolls students in grades six through twelve in the State shall designate at least one school security officer.

7-307. Principals, teachers, and school security guards intervening in fights.

(a) Authority to intervene; degree of force.

(1) A principal, teacher, school security guard, or other school system personnel in any public school may take reasonable action necessary to prevent violence on school premises or on a school-sponsored trip, including intervening in a fight or physical struggle that takes place in his or her presence, whether the fight is among students or other individuals.

(2) The degree and force of the intervention may be as reasonably necessary to prevent violence, restore order and to protect the safety of the combatants and surrounding individuals.

26-102. Trespass on the grounds of a public institution of elementary, secondary, or higher education.

(a) "School resource officer" defined. In this section, "school resource officer" means a law enforcement officer as defined under § 3-101(e) of the Public Safety Article who has been assigned to a school in accordance with a memorandum of understanding between the chief of a law enforcement agency as defined under § 3-101(b) of the Public Safety Article and the local education agency.

(b) Denial of access to school grounds. The governing board, president, superintendent, principal, or school resource officer of any public institution of elementary, secondary, or higher education, or a person designated in writing by the board or any of these persons, may deny access to the buildings or grounds of the institution to any other person who:

(1) Is not a bona fide, currently registered student, or staff or faculty member at the institution, and who does not have lawful business to pursue at the institution;

(2) Is a bona fide, currently registered student at the institution and has been suspended or expelled from the institution, for the duration of the suspension or expulsion; or

(3) Acts in a manner that disrupts or disturbs the normal educational functions of the institution.

(c) Staff may demand identification. Administrative personnel, authorized employees of any public institution of elementary, secondary, or higher education, and persons designated in subsection (b) of this section may demand identification and evidence of qualification from any person who desires to use or enter the premises of the institution.

(d) Agreement with law enforcement agencies. The governing board of any public institution of elementary, secondary, or higher education may enter into an agreement with appropriate law enforcement agencies to carry out the responsibilities of this section when:

(1) The institution is closed; or

(2) None of the persons designated in subsection (b) of this section are present in the buildings or on the grounds of the institution.

(e) Penalty. A person is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $ 1,000, imprisonment not exceeding 6 months, or both if he:

(1) Trespasses on the grounds of any public institution of elementary, secondary, or higher education;

(2) Fails or refuses to leave the grounds of any of these institutions after being requested to do so by a person designated in subsection (b) of this section as being authorized to deny access to the buildings or grounds of the institution; or

(3) Willfully damages or defaces any building, furnishing, statue, monument, memorial, tree, shrub, grass, or flower on the grounds of any of these institutions.

Certification or training

STATUTES

4-318. Baltimore City School Police Force.

(d) Powers; limitations; carrying a weapon.-

(3) (ii) The Baltimore City Board of School Commissioners shall establish policies to implement the provisions of subparagraph (i) of this paragraph.

(e) Requirements; standards for performance.

(1) In consultation with the Maryland Police Training Commission, the Civil Service Commission of Baltimore City shall adopt:

(i) Requirements for education, training, human and public relations skills, and moral character that an applicant must meet to qualify for employment as a Baltimore City school police officer; and

(ii) Standards for the performance of duties.

(2) Any requirements adopted by the Civil Service Commission on or after July 1, 1991 may not affect the status of any individual who is a qualified Baltimore City school police officer on that date.

ADMINISTRATIVE CODE

13A.08.04.05.05. General Requirements for the Use of Restraint or Seclusion.

A. Use of Restraint.

(b) Physical restraint shall be applied only by school personnel who are trained in the appropriate use of physical restraint consistent with Regulation .06C of this chapter.

B. Use of Seclusion.

(4) Seclusion shall only be applied by school personnel trained in the appropriate use of seclusion consistent with Regulation .06C of this chapter.

MOUs, authorization, and/or funding

STATUTES

7-435. Evaluation of emergency management plans [Section subject to abrogation].

(a) In general. In order to ensure that students in the State have a safe and secure place to learn, on or before February 1, 2014, each county board shall evaluate the emergency management plan in each public school under the jurisdiction of the county board, including:

(1) Training activities;

(2) Emergency safety exercises;

(3) School security cameras;

(4) School visitor policies;

(5) School resource officer programs; and

(6) The coordination of emergency management activities, plans, and resources with local, State, and federal agencies.

26-102. Trespass on the grounds of a public institution of elementary, secondary, or higher education.

(a) "School resource officer" defined. In this section, "school resource officer" means a law enforcement officer as defined under § 3-101(e) of the Public Safety Article who has been assigned to a school in accordance with a memorandum of understanding between the chief of a law enforcement agency as defined under § 3-101(b) of the Public Safety Article and the local education agency.

State Education Agency Support

State model policies and implementation support

STATUTES

7-306. Corporal punishment; State code of discipline.

(b) Standards of conduct; implementation. The State Board of Education shall:

(1) Establish guidelines that define a State code of discipline for all public schools with standards of conduct and consequences for violations of the standards; and

(2) Assist each county board with the implementation of the guidelines.

Funding appropriations

No relevant statutes found.

Other/Uncategorized

Professional immunity or liability

STATUTES

5-803. School employees.

(a) Making reports.

(1) Whether or not an individual receives compensation for the individual's services, an employee of a county health department or other local department or agency functioning as a school nurse or school health aide or a member of the administrative, educational, or support staff of, or an individual who serves under a contract for services to, any public, private, or parochial school is immune from liability for:

(i) Making a report required by law, if the individual acts on reasonable grounds;

(ii) Participating in a judicial proceeding that results from the individual's report; and

(iii) Making a report to the appropriate school official or to a parent if the individual has reasonable grounds to suspect that a student is:

1. Under the influence of alcoholic beverages or a controlled dangerous substance;
2. In possession of alcoholic beverages or a controlled dangerous substance; or
3. Involved in the illegal sale or distribution of alcoholic beverages or a controlled dangerous substance.

7-307. Principals, teachers, and school security guards intervening in fights.

(a) Authority to intervene; degree of force.

(1) A principal, teacher, school security guard, or other school system personnel in any public school may take reasonable action necessary to prevent violence on school premises or on a school-sponsored trip, including intervening in a fight or physical struggle that takes place in his or her presence, whether the fight is among students or other individuals.

(2) The degree and force of the intervention may be as reasonably necessary to prevent violence, restore order and to protect the safety of the combatants and surrounding individuals.

(b) Compensation for injury and time lost from duties. A principal, teacher, school security guard, or other school system personnel who is hurt while taking preventive action or intervening in a fight under this section:

(1) Shall be compensated by the county board for any necessary medical expenses that result directly from the preventive action or intervention; and

(2) May not lose any compensation for time lost from school duties that results directly from the preventive action or intervention, but compensation may be reduced by any payments made under the Maryland Workers' Compensation Act.

(c) Legal counsel; indemnity. In any suit, claim, or criminal charge brought by a parent or other claimant of one of the combatants against the principal, teacher, school security guard, or other school system personnel because of the preventive action or intervention, the county board:

(1) Shall provide legal counsel for the principal, teacher, school security guard, or other school system personnel or may provide reimbursement for the reasonable expenses of the legal defense of any criminal charge if the county board considers it appropriate; and

(2) Shall save the principal, teacher, school security guard, or other school system personnel harmless from any award or decree against him.

7-424.1. Model policy prohibiting bullying, harassment and intimidation.

(h) Limitation of liability.-

(1) A school employee who reports an act of bullying, harassment, or intimidation under this section in accordance with the county board's policy established under subsection (c) of this section is not civilly liable for any act or omission in reporting or failing to report an act of bullying, harassment, or intimidation under this section.

(2) The provisions of this section may not be construed to limit the legal rights of a victim of bullying, harassment, or intimidation.

7-424.3. Bullying, harassment and intimidation policy.

(g) Civil liability. An employee of a nonpublic school who reports an act of bullying, harassment, or intimidation in accordance with the nonpublic school's policy adopted under subsection (b) of this section is not civilly liable for any act or omission in reporting or failing to report an act of bullying, harassment, or intimidation in accordance with the policy.

(h) Construction of provisions. The provisions of this section may not be construed to:

(1) Limit the legal rights of a victim of bullying, harassment, or intimidation.

Community input or involvement

STATUTES

7-305. Suspension and expulsion [Amendment subject to contingent abrogation].

(d) Procedure for more than 10-day suspension or expulsion.-

(1) If a principal finds that a suspension of more than 10 school days or expulsion is warranted, the principal immediately shall report the matter in writing to the county superintendent.

(2) If a child with a disability is being considered for suspension or expulsion, the child or the child's parent or guardian shall be given a community resources list attached to the procedural safeguards notice required by regulation of the State Board.

7-310. Dissemination of community resources list.

(a) In general. Each county board shall develop and disseminate to each public school within the county board's jurisdiction a community resources list.

(b) Contents. The community resources list may include the name and contact information of local and statewide social services and nonprofit health care providers that provide nondiscriminatory services to children and families in need of assistance.

Other/Uncategorized

No relevant statutes found.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by Maryland provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
Website		
No relevant resources found		
Documents		
No relevant resources found		
Other Resources		
No relevant resources found		

Massachusetts Compilation of School Discipline Laws and Regulations

Prepared: August 12, 2013

Introduction

This compilation presents school discipline-related state statutes, school discipline-related regulations, and, where available, links to state-sponsored websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSLE). For example, one major category encompasses all state laws or regulations mandating specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of state legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in each state.

Discipline categories were not mutually exclusive. Statutes and regulations often appeared across multiple categories. For states with more extensive statutes covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. State laws, ordered by chapter and section number, appear first within each category followed by state regulations. All statutes and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists statutes by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to state-sponsored websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of May 2013, with the exception of the state laws related to seclusion and restraint, which are complete and current as of December 2012. Readers should also note that the information in this document was compiled from individual state sources that are created by each state and which are maintained and updated with varying frequencies. Readers should consult the source information provided for each state directly in order to check for updates to this state's laws and regulations or conduct further research.

For further information, including definitions of the different policy categories, please refer to the Discipline Laws and Regulations Compendium posted on the Center's website.

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Table of Contents

Massachusetts State Codes Cited **1**

General Provisions **3**

Authority to develop and establish rules of conduct 3
Scope 5
Communication of policy 5

In-School Discipline **7**

Use of multi-tiered discipline approaches 7
Teacher authority to remove students from classrooms 7
Alternatives to suspension 7
Use of corporal punishment 7
Use of student and locker searches 7
Other in-school disciplinary approaches 8

Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements **9**

Grounds for possible suspension or expulsion 9
Grounds for mandatory suspension or expulsion 9
Limitations, conditions or exclusions for use of suspension and expulsion 9
Administrative procedures related to suspension and expulsion 10
In-school suspension 13
Return to school following removal 13
Use of restraint and seclusion 13
Alternative placements 18

Disciplinary Approaches Addressing Specific Infractions and Conditions **20**

Firearms (as required by the Guns-Free Schools Act) 20
Other weapons 20
Students with chronic disciplinary issues 20
Attendance and truancy 21
Substance use 23
Bullying, harassment, or hazing 23
Other special infractions or conditions 25

Prevention and Behavioral Interventions (Non-Punitive) **26**

Prevention 26
Behavioral interventions and student support services 26
Professional development 26

Monitoring and Accountability **29**

Formal incident reporting of conduct violations 29
Parental notification 31
Reporting and referrals between schools and law enforcement 33
Disclosure of school records 34
Data collection, review, and reporting of disciplinary policies and actions 34

School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers 36
Authority and power to implement school arrest 36
Certification or training 36
MOUs, authorization, and/or funding 36
State Education Agency Support 37
State model policies and implementation support 37
Funding appropriations 37
Other/Uncategorized 38
Professional immunity or liability 38
Community input or involvement 38
Other/Uncategorized 38
State-Sponsored, Publicly Available Websites or Other Resources on School Discipline 39

Massachusetts State Codes Cited

Massachusetts Revised Statutes

General Laws

Title XII. Education

Chapter 69. Powers and Duties of the Department of Elementary and Secondary Education

Section 1D.	Statewide educational goals; academic standards; vocational training; grant program

Chapter 71. Public Schools

Section 2C.	Implementation of policy and discipline code addressing teen dating violence in public schools
Section 37G.	Corporal punishment of pupils prohibited; use of physical restraint; regulations
Section 37H.	Policies relative to conduct of teachers or students; student handbooks
Section 37H.5.	Felony complaint or conviction of student; suspension; expulsion; right to appeal
Section 37H.75.	Suspension or expulsion on grounds other than those set forth in Sections 37H or 37H.5
Section 37L.	Notification to school personnel of reporting requirements for child abuse and neglect and fires; reports of students possessing or using dangerous weapons on school premises; transferred students' school records
Section 37O.	School bullying prohibited; bullying prevention plans
Section 84.	Discipline of students on matters unrelated to school-sponsored activities prohibited

Chapter 76. School Attendance

Section 2.	Duties of parents; penalty
Section 17.	Hearing prerequisite to exclusion
Section 21.	Opportunity for academic progress for suspended students; education service plans; alternative educational services

Administrative Regulations

603 CMR 46.00.	Physical restraint
603 CMR 49.00.	Notification of bullying or retaliation regulations

Session Laws*

Massachusetts Acts of 2012

Chapter 222.	An act relative to student access to educational services and exclusion from school

This act was passed by the Massachusetts Legislature and signed into law by Governor Deval Patrick on August 6, 2012 as Chapter 222 of the Acts of 2012. This law amends and adds sections to G.L. c. 71. **Sections of the law affecting districts and charter schools do not take effect until July 1, 2014**.

Summary: The new law adds procedural and reporting requirements for student suspensions and expulsions. It also makes substantive changes, most notably, to require school districts and charter schools to ensure that students who have been excluded from school for disciplinary reasons have the opportunity to make academic progress during the period of their exclusion. For many years, the federal special education law, the Individuals with Disabilities Education

Act, has required that schools continue to provide educational services to special education students who are lawfully removed from their current educational placement for disciplinary reasons. See, 20 USC § 1415(k).

Sections from this Session Law included in this compilation are *italicized*.

* "Each bill that becomes law is given a chapter number based on the chronological order in which it was adopted. These chapters are called **Session Laws** and are compiled on an annual basis. […] The vast majority of Session Laws are Acts. Acts include everything from our annual state budget (the General Appropriation Act) and major legislative initiatives to reorganization of government agencies. Session Laws that are not codified into the General Laws are called Special Acts and include matters affecting an individual or a particular city or town." Retrieved from https://malegislature.gov/Laws/SessionLaws/Search.

General Provisions

Authority to develop and establish rules of conduct

STATUTES

Part I. Title 12. Chapter 69. Section 1D. Statewide educational goals; academic standards; vocational training; grant program

The board shall establish a set of statewide educational goals for all public elementary and secondary schools in the commonwealth.

The standards may provide for instruction in the issues of physical education, human immunodeficiency virus and acquired immune deficiency syndrome education, violence prevention, including teen dating violence, bullying prevention, conflict resolution and drug, alcohol and tobacco abuse prevention.

Part I. Title 12. Chapter 71. Section 37H. Policies relative to conduct of teachers or students; student handbooks

The superintendent of every school district shall publish the district's policies pertaining to the conduct of teachers and students. […] The policies shall also prohibit bullying as defined in section 37O and shall include the student-related sections of the bullying prevention and intervention plan required by said section 37O. Copies of these policies shall be provided to any person upon request and without cost by the principal of every school within the district.

Each school district's policies pertaining to the conduct of students shall include the following: disciplinary proceedings, including procedures assuring due process; standards and procedures for suspension and expulsion of students; procedures pertaining to discipline of students with special needs; standards and procedures to assure school building security and safety of students and school personnel; and the disciplinary measures to be taken in cases involving the possession or use of illegal substances or weapons, the use of force, vandalism, or violation of a student's civil rights. Codes of discipline, as well as procedures used to develop such codes shall be filed with the department of education for informational purposes only.

Part I. Title 12. Chapter 71. Section 37O. School bullying prohibited; bullying prevention plans

(d) Each school district, charter school, non-public school, approved private day or residential school and collaborative school shall develop, adhere to and update a plan to address bullying prevention and intervention in consultation with teachers, school staff, professional support personnel, school volunteers, administrators, community representatives, local law enforcement agencies, students, parents and guardians. The consultation shall include, but not be limited to, notice and a public comment period; provided, however, that a non-public school shall only be required to give notice to and provide a comment period for families that have a child attending the school. The plan shall be updated at least biennially.

Each plan shall include, but not be limited to:

(i) descriptions of and statements prohibiting bullying, cyber-bullying and retaliation;

(ii) clear procedures for students, staff, parents, guardians and others to report bullying or retaliation;

(iii) a provision that reports of bullying or retaliation may be made anonymously; provided, however, that no disciplinary action shall be taken against a student solely on the basis of an anonymous report;

(iv) clear procedures for promptly responding to and investigating reports of bullying or retaliation;

(v) the range of disciplinary actions that may be taken against a perpetrator for bullying or retaliation; provided, however, that the disciplinary actions shall balance the need for accountability with the need to teach appropriate behavior;

(vi) clear procedures for restoring a sense of safety for a victim and assessing that victim's needs for protection;

(vii) strategies for protecting from bullying or retaliation a person who reports bullying, provides information during an investigation of bullying or witnesses or has reliable information about an act of bullying;

(viii) procedures consistent with state and federal law for promptly notifying the parents or guardians of a victim and a perpetrator; provided, further, that the parents or guardians of a victim shall also be notified of the action taken to prevent any further acts of bullying or retaliation; and provided, further, that the procedures shall provide for immediate notification pursuant to regulations promulgated under this subsection by the principal or person who holds a comparable role to the local law enforcement agency when criminal charges may be pursued against the perpetrator;

(ix) a provision that a student who knowingly makes a false accusation of bullying or retaliation shall be subject to disciplinary action; and

(x) a strategy for providing counseling or referral to appropriate services for perpetrators and victims and for appropriate family members of said students.

The plan shall afford all students the same protection regardless of their status under the law.

(f) Each school principal or the person who holds a comparable position shall be responsible for the implementation and oversight of the plan at his school.

Part I. Title 12. Chapter 76. Section 1A. Pupil Absence Notification Programs.

Upon the acceptance of this section by the local legislative body of a city or town, or by a majority vote of two-thirds of the member communities of a regional school district, the school committee of a city, town or regional school district shall establish a pupil absence notification program in all schools under its control. Said program may be developed with the assistance of the department of education. […]

Section 1B.

The school committee of each city, town or regional school district shall have a pupil absence notification program in each of its schools. The program shall be designed to ensure that each school notifies a parent or guardian of the child's absence if the school has not received notification of the absence from the parent or guardian within 3 days of the absence. […]

ADMINISTRATIVE CODE

603 CMR 49.00. Notification of Bullying or Retaliation Regulations;

49.01: Authority.

603 CMR 49.00 is promulgated by the Board of Elementary and Secondary Education pursuant to M.G.L. c. 71, §37O, as added by St. 2010, c. 92.

49.02: Scope and Purpose

603 CMR 49.00 governs the requirements related to the duty of the principal or leader of a public school, approved private day or residential school, collaborative school, or charter school to notify the parents or guardians of a target and an aggressor when there is an incident of bullying or retaliation, and to notify the local law enforcement agency when criminal charges may be pursued against the aggressor. 603 CMR 49.00 also address confidentiality of student record information related to notification of bullying and retaliation.

Scope

STATUTES

Part I. Title 12. Chapter 71. Section 37O. School bullying prohibited; bullying prevention plans

(b) Bullying shall be prohibited:

(i) on school grounds, property immediately adjacent to school grounds, at a school-sponsored or school-related activity, function or program whether on or off school grounds, at a school bus stop, on a school bus or other vehicle owned, leased or used by a school district or school, or through the use of technology or an electronic device owned, leased or used by a school district or school and

(ii) at a location, activity, function or program that is not school-related, or through the use of technology or an electronic device that is not owned, leased or used by a school district or school, if the bullying creates a hostile environment at school for the victim, infringes on the rights of the victim at school or materially and substantially disrupts the education process or the orderly operation of a school. Nothing contained herein shall require schools to staff any non-school related activities, functions, or programs.

ADMINISTRATIVE CODE

603 CMR 49.00. Notification of Bullying or Retaliation Regulations;

49.04: Bullying and Retaliation Prohibited

(2) Bullying shall be prohibited on school grounds, property immediately adjacent to school grounds, at a school-sponsored or school-related activity, function or program whether on or off school grounds, at a school bus stop, on a school bus or other vehicle owned, leased or used by a school district or school, or through the use of technology or an electronic device owned, leased or used by a school district or school. Bullying at a location, activity, function or program that is not school-related, or through the use of technology or an electronic device that is not owned, leased or used by a school district or school, shall be prohibited if the bullying:

(a) creates a hostile environment at school for the target;

(b) infringes on the rights of the target at school; or

(c) materially and substantially disrupts the education process or the orderly operation of a school.

Communication of policy

STATUTES

Part I. Title 12. Chapter 71. Section 37H. Policies relative to conduct of teachers or students; student handbooks

The superintendent of every school district shall publish the district's policies pertaining to the conduct of teachers and students. […] Copies of these policies shall be provided to any person upon request and without cost by the principal of every school within the district. […]

In each school building containing the grades nine to twelve, inclusive, the principal, in consultation with the school council, shall prepare and distribute to each student a student handbook setting forth the rules pertaining to the conduct of students. The student handbook shall include an age-appropriate summary of the student-related sections of the bullying prevention and intervention plan required by section 37O.

Part I. Title 12. Chapter 71. Section 37O. School bullying prohibited; bullying prevention plans

(e)(1) Each school district, charter school, non-public school, approved private day or residential school and collaborative school shall provide to students and parents or guardians, in age-appropriate terms and in the languages which are most prevalent among the students, parents or guardians, annual written notice of the relevant student-related sections of the plan.

(2) Each school district, charter school, non-public school, approved private day or residential school and collaborative school shall provide to all school staff annual written notice of the plan. The faculty and staff at each school shall be trained annually on the plan applicable to the school. Relevant sections of the plan relating to the duties of faculty and staff shall be included in a school district or school employee handbook.

(3) The plan shall be posted on the website of each school district, charter school, non-public school, approved private day or residential school and collaborative school.

In-School Discipline

Use of multi-tiered discipline approaches

No relevant statutes found.

Teacher authority to remove students from classrooms

No relevant statutes found.

Alternatives to suspension

STATUTES

[Text of section added by 2012, 222, Sec. 3 effective July 1, 2014. See 2012, 222, Sec. 12.]

Part I. Title 12. Chapter 71. Section 37H.75. Suspension or expulsion on grounds other than those set forth in Secs. 37H or 37H.5

(b) Any principal, headmaster, superintendent or other person acting as a decision-maker at a student meeting or hearing, when deciding the consequences for the student, shall exercise discretion; consider ways to re-engage the student in the learning process; and avoid using expulsion as a consequence until other remedies and consequences have been employed.

Use of corporal punishment

STATUTES

Part I. Title 12. Chapter 76. Section 37G. Corporal punishment of pupils prohibited; use of physical restraint; regulations

(a) The power of the school committee or of any teacher or any other employee or agent of the school committee to maintain discipline upon school property shall not include the right to inflict corporal punishment upon any pupil.

(b) The provisions of this section shall not preclude any member of the school committee or any teacher or any employee or agent of the school committee from using such reasonable force as is necessary to protect pupils, other persons, and themselves from an assault by a pupil. When such an assault has occurred, the principal shall file a detailed report of such with the school committee.

(c) The board of education shall promulgate regulations regarding the use of physical restraint for students. Such regulations shall not preclude any teacher or employee or agent of the school from using reasonable force to protect pupils, other persons and themselves from an assault by a pupil as set forth above in section (b). Such regulations shall require training of all personnel authorized to administer any forms of restraint. Such regulations shall provide for procedures for notification to the department and to the parents.

Use of student and locker searches

No relevant statutes found.

Other in-school disciplinary approaches

No relevant statutes found.

Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements

Grounds for possible suspension or expulsion

STATUTES

Part I. Title 12. Chapter 71. Section 37H. Policies relative to conduct of teachers or students; student handbooks

Notwithstanding any general or special law to the contrary, all student handbooks shall contain the following provisions:

(a) Any student who is found on school premises or at school-sponsored or school-related events, including athletic games, in possession of a dangerous weapon, including, but not limited to, a gun or a knife; or a controlled substance as defined in chapter ninety-four C, including, but not limited to, marijuana, cocaine, and heroin, may be subject to expulsion from the school or school district by the principal.

(b) Any student who assaults a principal, assistant principal, teacher, teacher's aide or other educational staff on school premises or at school-sponsored or school-related events, including athletic games, may be subject to expulsion from the school or school district by the principal.

Part I. Title 12. Chapter 71. Section 37H.5. Felony complaint or conviction of student; suspension; expulsion; right to appeal

Notwithstanding the provisions of section eighty-four and sections sixteen and seventeen of chapter seventy-six:

(1) Upon the issuance of a criminal complaint charging a student with a felony or upon the issuance of a felony delinquency complaint against a student, the principal or headmaster of a school in which the student is enrolled may suspend such student for a period of time determined appropriate by said principal or headmaster if said principal or headmaster determines that the student's continued presence in school would have a substantial detrimental effect on the general welfare of the school. […]

(2) Upon a student being convicted of a felony or upon an adjudication or admission in court of guilt with respect to such a felony or felony delinquency, the principal or headmaster of a school in which the student is enrolled may expel said student if such principal or headmaster determines that the student's continued presence in school would have a substantial detrimental effect on the general welfare of the school. […]

Grounds for mandatory suspension or expulsion

No relevant statutes found.

Limitations, conditions or exclusions for use of suspension and expulsion

STATUTES

Part I. Title 12. Chapter 76. Section 17. Hearing prerequisite to exclusion

A school committee shall not permanently exclude a pupil from the public schools for alleged misconduct without first giving him and his parent or guardian an opportunity to be heard.

Administrative procedures related to suspension and expulsion

STATUTES

Part I. Title 12. Chapter 71. Section 37H. Policies relative to conduct of teachers or students; student handbooks

Notwithstanding any general or special law to the contrary, all student handbooks shall contain the following provisions: […]

(c) Any student who is charged with a violation of either paragraph (a) or (b) shall be notified in writing of an opportunity for a hearing; provided, however, that the student may have representation, along with the opportunity to present evidence and witnesses at said hearing before the principal. After said hearing, a principal may, in his discretion, decide to suspend rather than expel a student who has been determined by the principal to have violated either paragraph (a) or (b).

(d) Any student who has been expelled from a school district pursuant to these provisions shall have the right to appeal to the superintendent. The expelled student shall have ten days from the date of the expulsion in which to notify the superintendent of his appeal. The student has the right to counsel at a hearing before the superintendent. The subject matter of the appeal shall not be limited solely to a factual determination of whether the student has violated any provisions of this section.

[Paragraph (e) of the fourth paragraph effective until July 1, 2014. For text effective July 1, 2014, see below.]

(e) When a student is expelled under the provisions of this section, no school or school district within the commonwealth shall be required to admit such student or to provide educational services to said student. If said student does apply for admission to another school or school district, the superintendent of the school district to which the application is made may request and shall receive from the superintendent of the school expelling said student a written statement of the reasons for said expulsion.

[Paragraph (e) of the fourth paragraph as amended by 2012, 222, Sec. 1 effective July 1, 2014. See 2012, 222, Sec. 12. For text effective until July 1, 2014, see above.]

(e) Any school district that suspends or expels a student under this section shall continue to provide educational services to the student during the period of suspension or expulsion, under section 21 of chapter 76. If the student moves to another district during the period of suspension or expulsion, the new district of residence shall either admit the student to its schools or provide educational services to the student in an education service plan, under section 21 of chapter 76.

[Paragraphs (f) and (g) of the fourth paragraph added by 2012, 222, Sec. 1 effective July 1, 2014. See 2012, 222, Sec. 12.]

(f) Districts shall report to the department of elementary and secondary education the specific reasons for all suspensions and expulsions, regardless of duration or type, in a manner and form established by the commissioner. The department of elementary and secondary education shall use its existing data collection tools to obtain this information from districts and shall modify those tools, as necessary, to obtain the information. On an annual basis, the department of elementary and secondary education shall make district level de-identified data and analysis, including the total number of days each student is excluded during the school year, available to the public online in a machine readable format. This report shall include district level data disaggregated by student status and categories established by the commissioner.

(g) Under the regulations promulgated by the department, for each school that suspends or expels a significant number of students for more than 10 cumulative days in a school year, the commissioner shall investigate and, as appropriate, shall recommend models that incorporate intermediary steps prior

to the use of suspension or expulsion. The results of the analysis shall be publicly reported at the school district level.

Part I. Title 12. Chapter 71. Section 37H.5. Felony complaint or conviction of student; suspension; expulsion; right to appeal

(1) […] The student shall receive written notification of the charges and the reasons for such suspension prior to such suspension taking effect. The student shall also receive written notification of his right to appeal and the process for appealing such suspension; provided, however, that such suspension shall remain in effect prior to any appeal hearing conducted by the superintendent.

The student shall have the right to appeal the suspension to the superintendent. The student shall notify the superintendent in writing of his request for an appeal no later than five calendar days following the effective date of the suspension. The superintendent shall hold a hearing with the student and the student's parent or guardian within three calendar days of the student's request for an appeal. At the hearing, the student shall have the right to present oral and written testimony on his behalf, and shall have the right to counsel. The superintendent shall have the authority to overturn or alter the decision of the principal or headmaster, including recommending an alternate educational program for the student. The superintendent shall render a decision on the appeal within five calendar days of the hearing. Such decision shall be the final decision of the city, town or regional school district with regard to the suspension.

(2) […] The student shall receive written notification of the charges and reasons for such expulsion prior to such expulsion taking effect. The student shall also receive written notification of his right to appeal and the process for appealing such expulsion; provided, however, that the expulsion shall remain in effect prior to any appeal hearing conducted by the superintendent.

The student shall have the right to appeal the expulsion to the superintendent. The student shall notify the superintendent, in writing, of his request for an appeal no later than five calendar days following the effective date of the expulsion. The superintendent shall hold a hearing with the student and the student's parent or guardian within three calendar days of the expulsion. At the hearing, the student shall have the right to present oral and written testimony on his behalf, and shall have the right to counsel. The superintendent shall have the authority to overturn or alter the decision of the principal or headmaster, including recommending an alternate educational program for the student. The superintendent shall render a decision on the appeal within five calendar days of the hearing. Such decision shall be the final decision of the city, town or regional school district with regard to the expulsion.

[Second paragraph effective until July 1, 2014. For text effective July 1, 2014, see below.]

Upon expulsion of such student, no school or school district shall be required to provide educational services to such student.

[Second paragraph as amended by 2012, 222, Sec. 2 effective July 1, 2014. See 2012, 222, Sec. 12. For text effective until July 1, 2014, see above.]

Any school district that suspends or expels a student under this section shall continue to provide educational services to the student during the period of suspension or expulsion, under section 21 of chapter 76. If the student moves to another district during the period of suspension or expulsion, the new district of residence shall either admit the student to its schools or provide educational services to the student under an education service plan, under section 21 of chapter 76.

[Text of section added by 2012, 222, Sec. 3 effective July 1, 2014. See 2012, 222, Sec. 12.]

Part I. Title 12. Chapter 71. Section 37H.75. Suspension or expulsion on grounds other than those set forth in Secs. 37H or 37H.5

(a) This section shall govern the suspension and expulsion of students enrolled in a public school in the commonwealth who are not charged with a violation of subsections (a) or (b) of section 37H or with a felony under section 37H1/2.

(b) Any principal, headmaster, superintendent or other person acting as a decision-maker at a student meeting or hearing, when deciding the consequences for the student, shall exercise discretion; consider ways to re-engage the student in the learning process; and avoid using expulsion as a consequence until other remedies and consequences have been employed.

(c) For any suspension or expulsion under this section, the principal or headmaster of a school in which the student is enrolled, or a designee, shall provide, to the student and to the parent or guardian of the student, notice of the charges and the reason for the suspension or expulsion in English and in the primary language spoken in the home of the student. The student shall receive the written notification and shall have the opportunity to meet with the principal or headmaster, or a designee, to discuss the charges and reasons for the suspension or expulsion prior to the suspension or expulsion taking effect. The principal or headmaster, or a designee, shall ensure that the parent or guardian of the student is included in the meeting, provided that such meeting may take place without the parent or guardian only if the principal or headmaster, or a designee, can document reasonable efforts to include the parent or guardian in that meeting. The department shall promulgate rules and regulations that address a principal's duties under this subsection and procedures for including parents in student exclusion meetings, hearings or interviews under this subsection.

(d) If a decision is made to suspend or expel the student after the meeting, the principal or headmaster, or a designee, shall update the notification for the suspension or expulsion to reflect the meeting with the student. If a student has been suspended or expelled for more than 10 school days for a single infraction or for more than 10 school days cumulatively for multiple infractions in any school year, the student and the parent or guardian of the student shall also receive, at the time of the suspension or expulsion decision, written notification of a right to appeal and the process for appealing the suspension or expulsion in English and in the primary language spoken in the home of the student; provided, however, that the suspension or expulsion shall remain in effect prior to any appeal hearing. The principal or headmaster or a designee shall notify the superintendent in writing, including, but not limited to, by electronic means, of any out-of-school suspension imposed on a student enrolled in kindergarten through grade 3 prior to such suspension taking effect. That notification shall describe the student's alleged misconduct and the reasons for suspending the student out-of-school. For the purposes of this section, the term "out-of-school suspension" shall mean a disciplinary action imposed by school officials to remove a student from participation in school activities for 1 day or more.

(e) A student who has been suspended or expelled from school for more than 10 school days for a single infraction or for more than 10 school days cumulatively for multiple infractions in any school year shall have the right to appeal the suspension or expulsion to the superintendent. The student or a parent or guardian of the student shall notify the superintendent in writing of a request for an appeal not later than 5 calendar days following the effective date of the suspension or expulsion; provided, that a student and a parent or guardian of the student may request, and if so requested, shall be granted an extension of up to 7 calendar days. The superintendent or a designee shall hold a hearing with the student and the parent or guardian of the student within 3 school days of the student's request for an appeal; provided that a student or a parent or guardian of the student may request and, if so requested, shall be granted an extension of up to 7 calendar days; provided further, that the superintendent, or a designee, may proceed with a hearing without a parent or guardian of the student if the superintendent, or a designee, makes a good faith effort to include the parent or guardian. At the hearing, the student shall have the right to

present oral and written testimony, cross-examine witnesses and shall have the right to counsel. The superintendent shall render a decision on the appeal in writing within 5 calendar days of the hearing. That decision shall be the final decision of the school district with regard to the suspension or expulsion.

(f) No student shall be suspended or expelled from a school or school district for a time period that exceeds 90 school days, beginning the first day the student is removed from an assigned school building.

Part I. Title 12. Chapter 76. Section 17. Hearing prerequisite to exclusion

A school committee shall not permanently exclude a pupil from the public schools for alleged misconduct without first giving him and his parent or guardian an opportunity to be heard.

In-school suspension

No relevant statutes found.

Return to school following removal

No relevant statutes found.

Use of restraint and seclusion

STATUTES

Part I. Title 12. Chapter 76. Section 37G. Corporal punishment of pupils prohibited; use of physical restraint; regulations

(c) The board of education shall promulgate regulations regarding the use of physical restraint for students. Such regulations shall not preclude any teacher or employee or agent of the school from using reasonable force to protect pupils, other persons and themselves from an assault by a pupil as set forth above in section (b). Such regulations shall require training of all personnel authorized to administer any forms of restraint. Such regulations shall provide for procedures for notification to the department and to the parents.

ADMINISTRATIVE CODE

603 CMR 46.00: Physical Restraint.

46.01: Authority, Scope, Purpose and Construction

(1) Authority. 603 CMR 46.00 is promulgated by the Board of Education pursuant to M.G.L. c. 69, § 1B, and c. 71, § 37G.

(2) Scope. 603 CMR 46.00 governs the use of physical restraint on students in publicly funded elementary and secondary education programs, including all Massachusetts public school districts, charter schools, collaborative education programs and special education schools approved under 603 CMR 28.09, except as provided in 603 CMR 18.05(5)(h). Educational programs in facilities operated by the Department of Youth Services shall comply with the restraint requirements of 102 CMR 3.00.

(3) Purpose. The purpose of 603 CMR 46.00 is to ensure that every student participating in a Massachusetts public education program is free from the unreasonable use of physical restraint. Physical restraint shall be used only in emergency situations, after other less intrusive alternatives have failed or been deemed inappropriate, and with extreme caution. School personnel shall use physical restraint with two goals in mind:

(a) To administer a physical restraint only when needed to protect a student and/or a member of the school community from imminent, serious, physical harm; and

(b) To prevent or minimize any harm to the student as a result of the use of physical restraint.

(4) Construction. Nothing in 603 CMR 46.00 shall be construed to limit the protection afforded publicly funded students under other state or federal laws, including those laws that provide for the rights of students who have been found eligible to receive special education services. Nothing in 603 CMR 46.00 precludes any teacher, employee or agent of a public education program from using reasonable force to protect students, other persons or themselves from assault or imminent, serious, physical harm.

46.02: Definitions

As used in 603 CMR 46.00, the following terms shall have the following meanings:

(1) Extended restraint: A physical restraint the duration of which is more than twenty (20) minutes. Extended restraints increase the risk of injury and, therefore, require additional written documentation as described in 603 CMR 46.06.

(2) Physical escort: Touching or holding a student without the use of force for the purpose of directing the student.

(3) Physical restraint: The use of bodily force to limit a student's freedom of movement.

(4) Public education programs: Public schools, including charter schools, collaborative education programs, special education schools approved under 603 CMR 28.09, except as provided in 603 CMR 18.05(5)(h), and school events and activities sponsored by such programs.

(5) Restraint - Other: Limiting the physical freedom of an individual student by mechanical means or seclusion in a limited space or location, or temporarily controlling the behavior of a student by chemical means. The use of chemical or mechanical restraint is prohibited unless explicitly authorized by a physician and approved in writing by the parent or guardian. The use of seclusion restraint is prohibited in public education programs.

(a) Mechanical Restraint: The use of a physical device to restrict the movement of a student or the movement or normal function of a portion of his or her body. A protective or stabilizing device ordered by a physician shall not be considered mechanical restraint.

(b) Seclusion Restraint: Physically confining a student alone in a room or limited space without access to school staff. The use of "time out" procedures during which a staff member remains accessible to the student shall not be considered "seclusion restraint."

(c) Chemical restraint: The administration of medication for the purpose of restraint.

(6) School Working Day: Any day or partial day that students are in attendance at the public education program for instructional purposes.

46.03: Procedures and Training

(1) Procedures. Public education programs shall develop written procedures regarding appropriate responses to student behavior that may require immediate intervention. Such procedures shall be annually reviewed and provided to school staff and made available to parents of enrolled students. Such procedures shall include, but not be limited to:

(a) Methods for preventing student violence, self-injurious behavior, and suicide, including de-escalation of potentially dangerous behavior occurring among groups of students or with an individual student;

(b) A school policy regarding restraint that provides a description and explanation of the school's or program's method of physical restraint, a description of the school's or program's training requirements, reporting requirements and follow-up procedures, and a procedure for receiving and investigating complaints regarding restraint practices.

(2) Required training for all staff. Each principal or director shall determine a time and method to provide all program staff with training regarding the school's restraint policy. Such training shall occur within the first month of each school year and, for employees hired after the school year begins, within a month of their employment. Training shall include information on the following:

(a) The program's restraint policy;

(b) Interventions that may preclude the need for restraint, including de-escalation of problematic behaviors;

(c) Types of restraints and related safety considerations, including information regarding the increased risk of injury to a student when an extended restraint is used;

(d) Administering physical restraint in accordance with known medical or psychological limitations and/or behavioral intervention plans applicable to an individual student; and

(e) Identification of program staff who have received in-depth training pursuant to 603 CMR 46.03(3) in the use of physical restraint.

(3) In-depth staff training in the use of physical restraint. At the beginning of each school year, the principal or director of each public education program or his or her designee shall identify program staff that are authorized to serve as a school-wide resource to assist in ensuring proper administration of physical restraint. Such staff shall participate in in-depth training in the use of physical restraint. The Department of Elementary and Secondary Education recommends that such training be at least sixteen (16) hours in length.

(4) Content of in-depth training. In-depth training in the proper administration of physical restraint shall include, but not be limited to:

(a) Appropriate procedures for preventing the need for physical restraint, including the de-escalation of problematic behavior, relationship building and the use of alternatives to restraint;

(b) A description and identification of dangerous behaviors on the part of students that may indicate the need for physical restraint and methods for evaluating the risk of harm in individual situations in order to determine whether the use of restraint is warranted;

(c) The simulated experience of administering and receiving physical restraint, instruction regarding the effect(s) on the person restrained, including instruction on monitoring physical signs of distress and obtaining medical assistance;

(d) Instruction regarding documentation and reporting requirements and investigation of injuries and complaints; and

(e) Demonstration by participants of proficiency in administering physical restraint.

46.04: Determining When Physical Restraint May Be Used

(1) Use of restraint. Physical restraint may be used only in the following circumstances:

(a) Non-physical interventions would not be effective; and

(b) The student's behavior poses a threat of imminent, serious, physical harm to self and/or others.

(2) Limitations on use of restraint. Physical restraint in a public education program shall be limited to the use of such reasonable force as is necessary to protect a student or another member of the school community from assault or imminent, serious, physical harm.

(3) Prohibitions. Physical restraint is prohibited in the following circumstances:

(a) As a means of punishment; or

(b) As a response to property destruction, disruption of school order, a student's refusal to comply with a school rule or staff directive, or verbal threats that do not constitute a threat of imminent, serious, physical harm.

(4) Referral to law enforcement or other state agencies. Nothing in these regulations prohibits:

(a) The right of any individual to report to appropriate authorities a crime committed by a student or other individual;

(b) Law enforcement, judicial authorities or school security personnel from exercising their responsibilities, including the physical detainment of a student or other person alleged to have committed a crime or posing a security risk; or

(c) The exercise of an individual's responsibilities as a mandated reporter pursuant to MGL c. 119, § 51A. These regulations shall not be used to deter any individual from reporting neglect or abuse to the appropriate state agency.

46.05: Proper Administration of Physical Restraint

(1) Trained personnel. Only school personnel who have received training pursuant to 603 CMR 46.03(2) or 603 CMR 46.03(3) shall administer physical restraint on students. Whenever possible, the administration of a restraint shall be witnessed by at least one adult who does not participate in the restraint. The training requirements contained in 603 CMR 46.00 shall not preclude a teacher, employee or agent of a public education program from using reasonable force to protect students, other persons or themselves from assault or imminent, serious, physical harm.

(2) Use of force. A person administering a physical restraint shall use only the amount of force necessary to protect the student or others from physical injury or harm.

(3) Safest method. A person administering physical restraint shall use the safest method available and appropriate to the situation subject to the safety requirements set forth in 603 CMR 46.05(5). Floor or prone restraints shall be prohibited unless the staff member administering the restraint has received in-depth training according to the requirements of 603 CMR 46.03(3) and, in the judgment of the trained staff member, such method is required to provide safety for the student or others present.

(4) Duration of restraint. A person administering physical restraint shall discontinue such restraint as soon as possible. If, due to unusual circumstances, a restraint continues for more than twenty (20) minutes, it shall be considered an "extended restraint" for purposes of the reporting requirements in 603 CMR 46.06.

(5) Safety requirements. Additional requirements for the use of physical restraint:

(a) No restraint shall be administered in such a way that the student is prevented from breathing or speaking. During the administration of a restraint, a staff member shall continuously monitor the physical status of the student, including skin color and respiration. A restraint shall be released immediately upon a determination by the staff member administering the restraint that the student is no longer at risk of causing imminent physical harm to him or herself or others.

(b) Restraint shall be administered in such a way so as to prevent or minimize physical harm. If, at any time during a physical restraint, the student demonstrates significant physical distress, the student shall be released from the restraint immediately, and school staff shall take steps to seek medical assistance.

(c) Program staff shall review and consider any known medical or psychological limitations and/or behavioral intervention plans regarding the use of physical restraint on an individual student.

(d) Following the release of a student from a restraint, the program shall implement follow-up procedures. These procedures shall include reviewing the incident with the student to address the behavior that precipitated the restraint, reviewing the incident with the staff person(s) who administered the restraint to discuss whether proper restraint procedures were followed, and consideration of whether any follow-up is appropriate for students who witnessed the incident.

46.06: Reporting Requirements

(1) Circumstances under which a physical restraint must be reported. Program staff shall report the use of physical restraint as specified in 603 CMR 46.06(2) after administration of a physical restraint that results in any injury to a student or staff member, or any physical restraint of a duration longer than five minutes

(2) Informing school administration. The program staff member who administered the restraint shall verbally inform the program administration of the restraint as soon as possible, and by written report no later than the next school working day. The written report shall be provided to the principal or director of the program or his/her designee, except that the principal or director shall prepare the report if the principal or director has administered the restraint. The principal or director or his/her designee shall maintain an on-going record of all reported instances of physical restraint, which shall be made available for review by the Department of Elementary and Secondary Education, upon request.

(3) Informing parents. The principal or director of the program or his/her designee shall verbally inform the student's parents or guardians of the restraint as soon as possible, and by written report postmarked no later than three school working days following the use of restraint. If the school or program customarily provides a parent or guardian of a student with report cards and other necessary school-related information in a language other than English, the written restraint report shall be provided to the parent or guardian in that language.

(4) Contents of report. The written report required by 603 CMR 46.06(2) and (3) shall include:

(a) The names and job titles of the staff who administered the restraint, and observers, if any; the date of the restraint; the time the restraint began and ended; and the name of the administrator who was verbally informed following the restraint.

(b) A description of the activity in which the restrained student and other students and staff in the same room or vicinity were engaged immediately preceding the use of physical restraint; the behavior that prompted the restraint; the efforts made to de-escalate the situation; alternatives to restraint that were attempted; and the justification for initiating physical restraint.

(c) A description of the administration of the restraint including the holds used and reasons such holds were necessary; the student's behavior and reactions during the restraint; how the restraint ended; and documentation of injury to the student and/or staff, if any, during the restraint and any medical care provided.

(d) For extended restraints, the written report shall describe the alternatives to extended restraint that were attempted, the outcome of those efforts and the justification for administering the extended restraint.

(e) Information regarding any further action(s) that the school has taken or may take, including any disciplinary sanctions that may be imposed on the student.

(f) Information regarding opportunities for the student's parents or guardians to discuss with school officials the administration of the restraint, any disciplinary sanctions that may be imposed on the student and/or any other related matter.

(5) Report to the Department of Elementary and Secondary Education. When a restraint has resulted in a serious injury to a student or program staff member or when an extended restraint has been administered, the program shall provide a copy of the written report required by 603 CMR 46.06(4) to the Department of Elementary and Secondary Education within five school working days of the administration of the restraint. The program shall also provide the Department with a copy of the record of physical restraints maintained by the program administrator pursuant to 603 CMR 46.06(2) for the thirty day period prior to the date of the reported restraint. The Department shall determine if additional action on the part of the public education program is warranted and, if so, shall notify the public education program of any required actions within thirty calendar days of receipt of the required written report(s).

46.07: Special Circumstances

(1) Special Circumstances - Students with Disabilities. Restraint administered to a student with a disability pursuant to an Individualized Education Plan ("IEP") or other written plan developed in accordance with state and federal law to which the public education program and the student's parent or guardian have agreed shall be deemed to meet the requirements of 603 CMR 46.00, except that the limitations on chemical, mechanical, and seclusion restraint set forth in 603 CMR 46.02(5), the training requirements set forth in 603 CMR 46.03, and the reporting requirements set forth in 603 CMR 46.06 shall apply.

(2) Special Circumstances - Individual Waiver of Reporting Requirements. Public education programs may seek a parent's or guardian's consent to waive the reporting requirements of 603 CMR 46.06 for restraints administered to an individual student that do not result in serious injury to the student or a program staff member and do not constitute extended restraint. Extended restraints and restraints that result in serious injury to a student or program staff member must be reported in accordance with the requirements of 603 CMR 46.06, regardless of any individual waiver to which the parent or guardian may have consented. Individual waivers should be sought only for students who present a high risk of frequent, dangerous behavior that may require the frequent use of restraint.

(3) Limitations on individual waivers.

(a) A public education program may not require a parent's consent to such a waiver as a condition of admission or provision of services.

(b) A parent may withdraw consent to such waiver at any time without penalty.

(4) Individual Waiver - documentation required. The program shall maintain the following documentation on site in the student's file and shall make such documentation available for inspection by the Department of Elementary and Secondary Education at its request at any time:

(a) The informed written consent of the parent or guardian to the waiver, which shall specify those reporting requirements(s) in 603 CMR 46.06(1)-(4) that the parent or guardian agrees to waive; and

(b) Specific information regarding when and how the parent or guardian will be informed regarding the administration of all restraints to the individual student.

(5) Prohibition on Program or Classroom Waivers: Nothing herein shall be construed to allow a program or classroom to receive an exemption or waiver from any of the requirements of 603 CMR 46.00 on behalf of all of the students enrolled in a particular program or classroom.

Alternative placements

STATUTES

[Text of section added by 2012, 222, Sec. 9 effective July 1, 2014. See 2012, 222, Sec. 12.]

Part I. Title 12. Chapter 76. Section 21. Opportunity for academic progress for suspended students; education service plans; alternative educational services

Principals and headmasters shall ensure that students who are suspended from school for 10 or fewer consecutive days, whether in or out of school, shall have an opportunity to make academic progress during the period of suspension, to make up assignments and earn credits missed including, but not limited to, homework, quizzes, exams, papers and projects missed. Principals shall develop a school-wide education service plan for all students who are expelled or suspended from school for more than 10 consecutive school days, whether in or out of school. Principals shall ensure these students have an opportunity to make academic progress during the period of suspension or expulsion, to make up assignments and earn credits missed, including, but not limited to, homework, quizzes, exams, papers and projects missed. Education service plans may include, but are not limited to, tutoring, alternative

placement, Saturday school, and online or distance learning. In developing the education service plan, principals may seek the cooperation or input of relevant health and human service, housing and nonprofit agencies education collaboratives, and other service providers. Any school or school district that expels a student or suspends a student for more than 10 consecutive school days shall provide the student and the parent or guardian of the student with a list of alternative educational services. Upon selection of an alternative educational service by the student and the student's parent or guardian, the school or school district shall facilitate and verify enrollment in the service. Students exempt from attending school under section 1 of chapter 76 shall not be subject to this section.

Instructional costs associated with providing alternative educational services under this section shall be eligible for reimbursement under section 5A of chapter 71B, subject to appropriation. The reimbursements shall be in addition to amounts distributed under chapter 70 and shall not be included in the calculation of base aid, as defined in section 2 of said chapter 70, for any subsequent fiscal year. Instructional costs eligible for reimbursement shall include only those costs directly attributable to providing alternative educational services under this section, such as salary of educational personnel, salary of related services personnel, costs for specialized books, materials or equipment, tuition costs, if the student is receiving services from other than the local public school, consultant costs if directly attributable to the student's instructional program and instructional costs of extended day or year services if such services are a part of the education service plan. Such costs shall be prorated as appropriate to reflect group activities or costs for part-time services. Instructional costs shall not include transportation costs, administrative or overhead costs, the costs of adapting classrooms or materials that are used by more than 1 student, the costs of fringe benefits of personnel employed by the school district, nor the costs associated with the development of the education service plan or service coordination for the student. Instructional costs associated with an education service plan shall be reported to and approved by the department and shall be reimbursed according to the formula and procedures in said section 5A of said chapter 71B.

Disciplinary Approaches Addressing Specific Infractions and Conditions

STATUTES

Firearms (as required by the Guns-Free Schools Act)

Part I. Title 12. Chapter 71. Section 37H. Policies relative to conduct of teachers or students; student handbooks

Notwithstanding any general or special law to the contrary, all student handbooks shall contain the following provisions:

(a) Any student who is found on school premises or at school-sponsored or school-related events, including athletic games, in possession of a dangerous weapon, including, but not limited to, a gun or a knife; or a controlled substance as defined in chapter ninety-four C, including, but not limited to, marijuana, cocaine, and heroin, may be subject to expulsion from the school or school district by the principal.

Other weapons

STATUTES

Part I. Title 12. Chapter 71. Section 37L. Notification to school personnel of reporting requirements for child abuse and neglect and fires; reports of students possessing or using dangerous weapons on school premises; transferred students' school records

[…] any school department personnel shall report in writing to their immediate supervisor an incident involving a student's possession or use of a dangerous weapon on school premises at any time.

Supervisors who receive such a weapon report shall file it with the superintendent of said school, who shall file copies of said weapon report with the local chief of police, the department of children and families, the office of student services or its equivalent in any school district, and the local school committee. Said superintendent, police chief, and representative from the department of children and families, together with a representative from the office of student services or its equivalent, shall arrange an assessment of the student involved in said weapon report. Said student shall be referred to a counseling program; provided, however, that said counseling shall be in accordance with acceptable standards as set forth by the board of education. Upon completion of a counseling session, a follow-up assessment shall be made of said student by those involved in the initial assessment.

A student transferring into a local system must provide the new school system with a complete school record of the entering student. Said record shall include, but not be limited to, any incidents involving suspension or violation of criminal acts or any incident reports in which such student was charged with any suspended act.

Students with chronic disciplinary issues

No relevant statutes found.

Attendance and truancy

STATUTES

Part I. Title 12. Chapter 76. Section 1. Requirements and Exceptions

[First paragraph effective until July 1, 2014. For text effective July 1, 2014, see below.]

Section 1. Every child between the minimum and maximum ages established for school attendance by the board of education, except a child between fourteen and sixteen who meets the requirements for the completion of the sixth grade of the public school as established by said board and who holds a permit for employment in private domestic service or service on a farm, under section eighty-six of chapter one hundred and forty-nine, and is regularly employed thereunder for at least six hours per day, or a child between fourteen and sixteen who meets said requirements and has the written permission of the superintendent of schools of the town where he resides to engage in non-wage-earning employment at home, or a child over fourteen who holds a permit for employment in a cooperating employment, as provided in said section eighty-six, shall, subject to section fifteen, attend a public day school in said town, or some other day school approved by the school committee, during the number of days required by the board of education in each school year, unless the child attends school in another town, for said number of days, under sections six to twelve, inclusive, or attends an experimental school project established under an experimental school plan, as provided in section one G of chapter fifteen, but such attendance shall not be required of a child whose physical or mental condition is such as to render attendance inexpedient or impracticable subject to the provisions of section three of chapter seventy-one B or of a child granted an employment permit by the superintendent of schools when such superintendent determines that the welfare of such child will be better served through the granting of such permit, or of a child who is being otherwise instructed in a manner approved in advance by the superintendent or the school committee. The superintendent of schools may transfer to any specialized type of school on a full-time basis any child who possesses the educational qualifications enumerated in this section and in the opinion of the superintendent would be benefited by such transfer. The superintendent, or teachers in so far as authorized by him or by the school committee, may excuse cases of necessary absence for other causes not exceeding seven day sessions or fourteen half day sessions in any period of six months.

Absences may also be permitted for religious education at such times as the school committee may establish; provided, that no public funds shall be appropriated or expended for such education or for transportation incidental thereto; and provided, further, that such time shall be no more than one hour each week. For the purposes of this section, school committees shall approve a private school when satisfied that the instruction in all the studies required by law equals in thoroughness and efficiency, and in the progress made therein, that in the public schools in the same town; but shall not withhold such approval on account of religious teaching, and, in order to protect children from the hazards of traffic and promote their safety, cities and towns may appropriate money for conveying pupils to and from any schools approved under this section.

[First paragraph as amended by 2012, 222, Secs. 4 and 5 effective July 1, 2014. See 2012, 222, Sec. 12. For text effective until July 1, 2014, see above.]

Every child between the minimum and maximum ages established for school attendance by the board of education shall, subject to section fifteen, attend a public day school in the town the student resides, or some other day school approved by the school committee, during the number of days required by the board of education in each school year, unless the child attends school in another town, for said number of days, under sections six to twelve, inclusive, or attends an experimental school project established under an experimental school plan, as provided in section one G of chapter fifteen, but such attendance shall not be required of a child whose physical or mental condition is such as to render attendance inexpedient or impracticable subject to the provisions of section three of chapter seventy-one B or of a

child granted an employment permit by the superintendent of schools when such superintendent determines that the welfare of such child will be better served through the granting of such permit, or of a child who is being otherwise instructed in a manner approved in advance by the superintendent or the school committee. The superintendent of schools may transfer to any specialized type of school on a full-time basis any child who possesses the educational qualifications enumerated in this section and in the opinion of the superintendent would be benefited by such transfer. The superintendent, or teachers in so far as authorized by him or by the school committee, may excuse cases of necessary absence for other causes not exceeding seven day sessions or fourteen half day sessions in any period of six months. Absences may also be permitted for religious education at such times as the school committee may establish; provided, that no public funds shall be appropriated or expended for such education or for transportation incidental thereto; and provided, further, that such time shall be no more than one hour each week. For the purposes of this section, school committees shall approve a private school when satisfied that the instruction in all the studies required by law equals in thoroughness and efficiency, and in the progress made therein, that in the public schools in the same town; but shall not withhold such approval on account of religious teaching, and, in order to protect children from the hazards of traffic and promote their safety, cities and towns may appropriate money for conveying pupils to and from any schools approved under this section.

Except as herein provided, pupils who attend approved private schools of elementary and high school grades shall be entitled to the same rights and privileges as to transportation to and from school as are provided by law for pupils of public schools and shall not be denied such transportation because their attendance is in a school which is conducted under religious auspices or includes religious instruction in its curriculum. Each school committee shall provide transportation for any pupil attending such an approved private school within the boundaries of the school district, provided, however, that the distance between said pupil's residence and the private school said pupil attends exceeds two miles or such other minimum distance as may be established by the school committee for transportation of public school students. Any school committee which is required by law to transport any pupil attending an approved private school beyond the boundaries of the school district shall not be required to do so further than the distance from the residence of such pupil to the public school he is entitled to attend.

The school committee of each town shall provide for and enforce the school attendance of all children actually residing therein in accordance herewith.

[Fourth paragraph effective until July 1, 2014. Deleted by 2012, 222, Sec. 6. See 2012, 222, Sec. 12.]

The terms "permit for employment" and "employment permit", as used in this chapter, shall mean an employment permit referred to in section eighty-six of chapter one hundred and forty-nine.

Part I. Title 12. Chapter 76. Section 1A. Pupil Absence Notification Programs.

Upon the acceptance of this section by the local legislative body of a city or town, or by a majority vote of two-thirds of the member communities of a regional school district, the school committee of a city, town or regional school district shall establish a pupil absence notification program in all schools under its control. Said program may be developed with the assistance of the department of education. The parents or guardians of each pupil shall, annually, at the commencement of each school year, be sent a notice instructing them to call a designated telephone number at a designated time to inform the school of the absence of a pupil and the reason therefor. Said notice shall also require such parent or guardian to furnish the school with a home, work or other emergency telephone number where they can be contacted during the school day. If a pupil is absent and the school has not been notified by the designated time, the school shall call the telephone number or numbers furnished to inquire about said absence.

[Text of section added by 2012, 222, Sec. 7 effective July 1, 2014. See 2012, 222, Sec. 12.]

Section 1B.

The school committee of each city, town or regional school district shall have a pupil absence notification program in each of its schools. The program shall be designed to ensure that each school notifies a parent or guardian of the child's absence if the school has not received notification of the absence from the parent or guardian within 3 days of the absence.

Each school committee shall have a policy of notifying the parent or guardian of a student who has at least 5 days in which the student has missed 2 or more periods unexcused in a school year or who has missed 5 or more school days unexcused in a school year. The notification policy shall require that the school principal or headmaster, or a designee, make a reasonable effort to meet with the parent or guardian of a student who has 5 or more unexcused absences to develop action steps for student attendance. The action steps shall be developed jointly and agreed upon by the school principal or headmaster, or a designee, the student and the student's parent or guardian and with input from other relevant school personnel and officials from relevant public safety, health and human service, housing and nonprofit agencies.

Part I. Title 12. Chapter 76. Section 2. Duties of parents; penalty

Every person in control of a child described in section one shall cause him to attend school as therein required, and, if he fails so to do for seven day sessions or fourteen half day sessions within any period of six months, he shall, on complaint by a supervisor of attendance, be punished by a fine of not more than twenty dollars. […]

Substance use

STATUTES

Part I. Title 12. Chapter 71. Section 37H. Policies relative to conduct of teachers or students; student handbooks

The superintendent of every school district shall publish the district's policies pertaining to the conduct of teachers and students. Said policies shall prohibit the use of any tobacco products within the school buildings, the school facilities or on the school grounds or on school buses by any individual, including school personnel.

Notwithstanding any general or special law to the contrary, all student handbooks shall contain the following provisions:

(a) Any student who is found on school premises or at school-sponsored or school-related events, including athletic games, in possession of […] a controlled substance as defined in chapter ninety-four C, including, but not limited to, marijuana, cocaine, and heroin, may be subject to expulsion from the school or school district by the principal.

Bullying, harassment, or hazing

STATUTES

Part I. Title 12. Chapter 71. Section 37H. Policies relative to conduct of teachers or students; student handbooks

The superintendent of every school district shall publish the district's policies pertaining to the conduct of teachers and students. […] The policies shall also prohibit bullying as defined in section 37O and shall include the student-related sections of the bullying prevention and intervention plan required by said section 37O. […]

Part I. Title 12. Chapter 71. Section 37O. School bullying prohibited; bullying prevention plans

(b) Bullying shall be prohibited:

(i) on school grounds, property immediately adjacent to school grounds, at a school-sponsored or school-related activity, function or program whether on or off school grounds, at a school bus stop, on a school bus or other vehicle owned, leased or used by a school district or school, or through the use of technology or an electronic device owned, leased or used by a school district or school and

(ii) at a location, activity, function or program that is not school-related, or through the use of technology or an electronic device that is not owned, leased or used by a school district or school, if the bullying creates a hostile environment at school for the victim, infringes on the rights of the victim at school or materially and substantially disrupts the education process or the orderly operation of a school. Nothing contained herein shall require schools to staff any non-school related activities, functions, or programs.

(j) The department, after consultation with the department of public health, the department of mental health, the attorney general, the Massachusetts District Attorneys Association and experts on bullying shall:

(i) publish a model plan for school districts and schools to consider when creating their plans; and

(ii) compile a list of bullying prevention and intervention resources, evidence-based curricula, best practices and academic-based research that shall be made available to schools. The model plan shall be consistent with the behavioral health and public schools framework developed by the department in accordance with section 19 of chapter 321 of the acts of 2008. The resources may include, but shall not be limited to, print, audio, video or digital media; subscription based online services; and on-site or technology-enabled professional development and training sessions. The department shall biennially update the model plan and the list of the resources, curricula, best practices and research and shall post them on its website.

See http://www.doe.mass.edu/bullying/ModelPlan.pdf for Massachusetts Model Policy.

ADMINISTRATIVE CODE

603 CMR 49.00. Notification of Bullying or Retaliation Regulations;

49.03: Definitions and Terms (Selected)

Aggressor means perpetrator of bullying or retaliation as defined in M.G.L. c. 71, §37O.

Bullying, pursuant to M.G.L. c. 71, §37O, means the repeated use by one or more students of a written, verbal or electronic expression or a physical act or gesture or any combination thereof, directed at a target that:

(a) causes physical or emotional harm to the target or damage to the target's property;

(b) places the target in reasonable fear of harm to himself or herself or damage to his or her property;

(c) creates a hostile environment at school for the target;

(d) infringes on the rights of the target at school; or

(e) materially and substantially disrupts the education process or the orderly operation of a school. Bullying shall include cyberbullying.

Cyberbullying, pursuant to M.G.L. c. 71, §37O, means bullying through the use of technology or any electronic communication, which shall include, but not be limited to, any transfer of signs, signals, writing, images, sounds, data or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photo electronic or photo optical system, including, but not limited to, electronic mail, internet communications, instant messages or facsimile communications. Cyberbullying shall also include:

(a) the creation of a web page or blog in which the creator assumes the identity of another person, or

(b) the knowing impersonation of another person as the author of posted content or messages, if the creation or impersonation creates any of the conditions in 603 CMR 49.03: Bullying(a) through (e).

Cyberbullying shall also include the distribution by electronic means of a communication to more than one person or the posting of material on an electronic medium that may be accessed by one or more persons, if the distribution or posting creates any of the conditions in 603 CMR 49.03: Bullying(a) through (e).

Hostile environment, pursuant to M.G.L. c. 71, §37O, means a situation in which bullying causes the school environment to be permeated with intimidation, ridicule or insult that is sufficiently severe or pervasive to alter the conditions of the student's education.

Local law enforcement agency means a local police department.

Local plan means the bullying prevention and intervention plan required to be developed under M.G.L. c. 71, §37O.

Parent means a student's father or mother, or guardian.

Principal means the administrative leader of a public school, charter school, collaborative school, or approved private day or residential school, or his or her designee for the purposes of implementing the school's bullying prevention and intervention plan.

Retaliation means any form of intimidation, reprisal or harassment directed against a person who reports bullying, provides information during an investigation about bullying, or witnesses or has reliable information about bullying.

School means an approved private day or residential school, collaborative school, or charter school.

School district, pursuant to M.G.L. c. 71, §37O, means the school department of a city or town, a regional school district or a county agricultural school.

Student record has the meaning set forth in the Massachusetts Student Records Regulations, 603 CMR 23.02.

Target means a student victim of bullying or retaliation as defined in M.G.L. c. 71, §37O.

49.04: Bullying and Retaliation Prohibited

(1) Bullying of a student is prohibited as provided in M.G.L. c. 71, §37O. Retaliation is also prohibited.

(2) Bullying shall be prohibited on school grounds, property immediately adjacent to school grounds, at a school-sponsored or school-related activity, function or program whether on or off school grounds, at a school bus stop, on a school bus or other vehicle owned, leased or used by a school district or school, or through the use of technology or an electronic device owned, leased or used by a school district or school. Bullying at a location, activity, function or program that is not school-related, or through the use of technology or an electronic device that is not owned, leased or used by a school district or school, shall be prohibited if the bullying:

(a) creates a hostile environment at school for the target;

(b) infringes on the rights of the target at school; or

(c) materially and substantially disrupts the education process or the orderly operation of a school.

(3) Each school district and school shall have procedures for receiving reports of bullying or retaliation; promptly responding to and investigating such reports, and determining whether bullying or retaliation has occurred; responding to incidents of bullying or retaliation; and reporting to parents and law enforcement as set forth in 603 CMR 49.05 and 49.06

Other special infractions or conditions

No relevant statutes found.

Prevention and Behavioral Interventions (Non-Punitive)

Prevention

STATUTES

Part I. Title 12. Chapter 69. Section 1D. Statewide educational goals; academic standards; vocational training; grant program

The board shall establish a set of statewide educational goals for all public elementary and secondary schools in the commonwealth.

The standards may provide for instruction in the issues of physical education, human immunodeficiency virus and acquired immune deficiency syndrome education, violence prevention, including teen dating violence, bullying prevention, conflict resolution and drug, alcohol and tobacco abuse prevention.

Part I. Title 12. Chapter 71. Section 37O. School bullying prohibited; bullying prevention plans

(c) Each school district, charter school, approved private day or residential school and collaborative school shall provide age-appropriate instruction on bullying prevention in each grade that is incorporated into the curriculum of the school district or school. The curriculum shall be evidence-based.

(d) […] The plan shall include provisions for informing parents and guardians about the bullying prevention curriculum of the school district or school and shall include, but not be limited to: (i) how parents and guardians can reinforce the curriculum at home and support the school district or school plan; (ii) the dynamics of bullying; and (iii) online safety and cyber-bullying.

Behavioral interventions and student support services

STATUTES

Part I. Title 12. Chapter 71. Section 37L. Notification to school personnel of reporting requirements for child abuse and neglect and fires; reports of students possessing or using dangerous weapons on school premises; transferred students' school records

[…] Said superintendent, police chief, and representative from the department of children and families, together with a representative from the office of student services or its equivalent, shall arrange an assessment of the student involved in said weapon report. Said student shall be referred to a counseling program; provided, however, that said counseling shall be in accordance with acceptable standards as set forth by the board of education. Upon completion of a counseling session, a follow-up assessment shall be made of said student by those involved in the initial assessment.

Professional development

STATUTES

Part I. Title 12. Chapter 71. Section 37O. School bullying prohibited; bullying prevention plans

(d) […] The plan for a school district, charter school, approved private day or residential school and collaborative school shall include a provision for ongoing professional development to build the skills of all staff members, including, but not limited to, educators, administrators, school nurses, cafeteria workers, custodians, bus drivers, athletic coaches, advisors to extracurricular activities and paraprofessionals, to

prevent, identify and respond to bullying. The content of such professional development shall include, but not be limited to:

(i) developmentally appropriate strategies to prevent bullying incidents;

(ii) developmentally appropriate strategies for immediate, effective interventions to stop bullying incidents;

(iii) information regarding the complex interaction and power differential that can take place between and among a perpetrator, victim and witnesses to the bullying;

(iv) research findings on bullying, including information about specific categories of students who have been shown to be particularly at risk for bullying in the school environment;

(v) information on the incidence and nature of cyber-bullying; and

(vi) internet safety issues as they relate to cyber-bullying. The department shall identify and offer information on alternative methods for fulfilling the professional development requirements of this section, at least 1 of which shall be available at no cost to school districts, charter schools, approved private day or residential schools and collaborative schools.

ADMINISTRATIVE CODE

603 CMR 46.00: Physical Restraint.

46.03: Procedures and Training

(1) Procedures. Public education programs shall develop written procedures regarding appropriate responses to student behavior that may require immediate intervention. Such procedures shall be annually reviewed and provided to school staff and made available to parents of enrolled students. Such procedures shall include, but not be limited to:

(a) Methods for preventing student violence, self-injurious behavior, and suicide, including de-escalation of potentially dangerous behavior occurring among groups of students or with an individual student;

(b) A school policy regarding restraint that provides a description and explanation of the school's or program's method of physical restraint, a description of the school's or program's training requirements, reporting requirements and follow-up procedures, and a procedure for receiving and investigating complaints regarding restraint practices.

(2) Required training for all staff. Each principal or director shall determine a time and method to provide all program staff with training regarding the school's restraint policy. Such training shall occur within the first month of each school year and, for employees hired after the school year begins, within a month of their employment. Training shall include information on the following:

(a) The program's restraint policy;

(b) Interventions that may preclude the need for restraint, including de-escalation of problematic behaviors;

(c) Types of restraints and related safety considerations, including information regarding the increased risk of injury to a student when an extended restraint is used;

(d) Administering physical restraint in accordance with known medical or psychological limitations and/or behavioral intervention plans applicable to an individual student; and

(e) Identification of program staff who have received in-depth training pursuant to 603 CMR 46.03(3) in the use of physical restraint.

(3) In-depth staff training in the use of physical restraint. At the beginning of each school year, the principal or director of each public education program or his or her designee shall identify program staff that are authorized to serve as a school-wide resource to assist in ensuring proper administration of

physical restraint. Such staff shall participate in in-depth training in the use of physical restraint. The Department of Elementary and Secondary Education recommends that such training be at least sixteen (16) hours in length.

(4) Content of in-depth training. In-depth training in the proper administration of physical restraint shall include, but not be limited to:

(a) Appropriate procedures for preventing the need for physical restraint, including the de-escalation of problematic behavior, relationship building and the use of alternatives to restraint;

(b) A description and identification of dangerous behaviors on the part of students that may indicate the need for physical restraint and methods for evaluating the risk of harm in individual situations in order to determine whether the use of restraint is warranted;

(c) The simulated experience of administering and receiving physical restraint, instruction regarding the effect(s) on the person restrained, including instruction on monitoring physical signs of distress and obtaining medical assistance;

(d) Instruction regarding documentation and reporting requirements and investigation of injuries and complaints; and

(e) Demonstration by participants of proficiency in administering physical restraint.

Monitoring and Accountability

Formal incident reporting of conduct violations

STATUTES

[Text of section added by 2012, 222, Sec. 3 effective July 1, 2014. See 2012, 222, Sec. 12.]

Part I. Title 12. Chapter 71. Section 37H.75. Suspension or expulsion on grounds other than those set forth in Secs. 37H or 37H.5

(d) […] The principal or headmaster or a designee shall notify the superintendent in writing, including, but not limited to, by electronic means, of any out-of-school suspension imposed on a student enrolled in kindergarten through grade 3 prior to such suspension taking effect. That notification shall describe the student's alleged misconduct and the reasons for suspending the student out-of-school. For the purposes of this section, the term "out-of-school suspension" shall mean a disciplinary action imposed by school officials to remove a student from participation in school activities for 1 day or more.

Part I. Title 12. Chapter 71. Section 37O. School bullying prohibited; bullying prevention plans

(g) A member of a school staff, including, but not limited to, an educator, administrator, school nurse, cafeteria worker, custodian, bus driver, athletic coach, advisor to an extracurricular activity or paraprofessional, shall immediately report any instance of bullying or retaliation the staff member has witnessed or become aware of to the principal or to the school official identified in the plan as responsible for receiving such reports or both. Upon receipt of such a report, the school principal or a designee shall promptly conduct an investigation. If the school principal or a designee determines that bullying or retaliation has occurred, the school principal or designee shall

(i) notify the local law enforcement agency if the school principal or designee believes that criminal charges may be pursued against a perpetrator;

(ii) take appropriate disciplinary action;

(iii) notify the parents or guardians of a perpetrator; and

(iv) notify the parents or guardians of the victim, and to the extent consistent with state and federal law, notify them of the action taken to prevent any further acts of bullying or retaliation.

(h) If an incident of bullying or retaliation involves students from more than one school district, charter school, non-public school, approved private day or residential school or collaborative school, the school district or school first informed of the bullying or retaliation shall, consistent with state and federal law, promptly notify the appropriate administrator of the other school district or school so that both may take appropriate action. If an incident of bullying or retaliation occurs on school grounds and involves a former student under the age of 21 who is no longer enrolled in a local school district, charter school, non-public school, approved private day or residential school or collaborative school, the school district or school informed of the bullying or retaliation shall contact law enforcement consistent with the provisions of clause (viii) of the second paragraph of subsection (d).

(i) Nothing in this section shall supersede or replace existing rights or remedies under any other general or special law, nor shall this section create a private right of action.

ADMINISTRATIVE CODE

603 CMR 46.00: Physical Restraint.

46.06: Reporting Requirements

(1) Circumstances under which a physical restraint must be reported. Program staff shall report the use of physical restraint as specified in 603 CMR 46.06(2) after administration of a physical restraint that results in any injury to a student or staff member, or any physical restraint of a duration longer than five minutes

(2) Informing school administration. The program staff member who administered the restraint shall verbally inform the program administration of the restraint as soon as possible, and by written report no later than the next school working day. The written report shall be provided to the principal or director of the program or his/her designee, except that the principal or director shall prepare the report if the principal or director has administered the restraint. The principal or director or his/her designee shall maintain an on-going record of all reported instances of physical restraint, which shall be made available for review by the Department of Elementary and Secondary Education, upon request.

(3) Informing parents. The principal or director of the program or his/her designee shall verbally inform the student's parents or guardians of the restraint as soon as possible, and by written report postmarked no later than three school working days following the use of restraint. If the school or program customarily provides a parent or guardian of a student with report cards and other necessary school-related information in a language other than English, the written restraint report shall be provided to the parent or guardian in that language.

(4) Contents of report. The written report required by 603 CMR 46.06(2) and (3) shall include:

(a) The names and job titles of the staff who administered the restraint, and observers, if any; the date of the restraint; the time the restraint began and ended; and the name of the administrator who was verbally informed following the restraint.

(b) A description of the activity in which the restrained student and other students and staff in the same room or vicinity were engaged immediately preceding the use of physical restraint; the behavior that prompted the restraint; the efforts made to de-escalate the situation; alternatives to restraint that were attempted; and the justification for initiating physical restraint.

(c) A description of the administration of the restraint including the holds used and reasons such holds were necessary; the student's behavior and reactions during the restraint; how the restraint ended; and documentation of injury to the student and/or staff, if any, during the restraint and any medical care provided.

(d) For extended restraints, the written report shall describe the alternatives to extended restraint that were attempted, the outcome of those efforts and the justification for administering the extended restraint.

(e) Information regarding any further action(s) that the school has taken or may take, including any disciplinary sanctions that may be imposed on the student.

(f) Information regarding opportunities for the student's parents or guardians to discuss with school officials the administration of the restraint, any disciplinary sanctions that may be imposed on the student and/or any other related matter.

(5) Report to the Department of Elementary and Secondary Education. When a restraint has resulted in a serious injury to a student or program staff member or when an extended restraint has been administered, the program shall provide a copy of the written report required by 603 CMR 46.06(4) to the Department of Elementary and Secondary Education within five school working days of the administration of the restraint. The program shall also provide the Department with a copy of the record of physical restraints maintained by the program administrator pursuant to 603 CMR 46.06(2) for the thirty day period

prior to the date of the reported restraint. The Department shall determine if additional action on the part of the public education program is warranted and, if so, shall notify the public education program of any required actions within thirty calendar days of receipt of the required written report(s).

603 CMR 49.00. Notification of Bullying or Retaliation Regulations

49.04: Bullying and Retaliation Prohibited

(3) Each school district and school shall have procedures for receiving reports of bullying or retaliation; promptly responding to and investigating such reports, and determining whether bullying or retaliation has occurred; responding to incidents of bullying or retaliation; and reporting to parents and law enforcement as set forth in 603 CMR 49.05 and 49.06.

Parental notification

STATUTES

Part I. Title 12. Chapter 71. Section 37O. School bullying prohibited; bullying prevention plans

(g) A member of a school staff, including, but not limited to, an educator, administrator, school nurse, cafeteria worker, custodian, bus driver, athletic coach, advisor to an extracurricular activity or paraprofessional, shall immediately report any instance of bullying or retaliation the staff member has witnessed or become aware of to the principal or to the school official identified in the plan as responsible for receiving such reports or both. Upon receipt of such a report, the school principal or a designee shall promptly conduct an investigation. If the school principal or a designee determines that bullying or retaliation has occurred, the school principal or designee shall

(iii) notify the parents or guardians of a perpetrator; and

(iv) notify the parents or guardians of the victim, and to the extent consistent with state and federal law, notify them of the action taken to prevent any further acts of bullying or retaliation.

Part I. Title 12. Chapter 76. Section 1A. Pupil Absence Notification Programs.

Upon the acceptance of this section by the local legislative body of a city or town, or by a majority vote of two-thirds of the member communities of a regional school district, the school committee of a city, town or regional school district shall establish a pupil absence notification program in all schools under its control. Said program may be developed with the assistance of the department of education. The parents or guardians of each pupil shall, annually, at the commencement of each school year, be sent a notice instructing them to call a designated telephone number at a designated time to inform the school of the absence of a pupil and the reason therefor. Said notice shall also require such parent or guardian to furnish the school with a home, work or other emergency telephone number where they can be contacted during the school day. If a pupil is absent and the school has not been notified by the designated time, the school shall call the telephone number or numbers furnished to inquire about said absence.

[Text of section added by 2012, 222, Sec. 7 effective July 1, 2014. See 2012, 222, Sec. 12.]

Section 1B.

The school committee of each city, town or regional school district shall have a pupil absence notification program in each of its schools. The program shall be designed to ensure that each school notifies a parent or guardian of the child's absence if the school has not received notification of the absence from the parent or guardian within 3 days of the absence.

Each school committee shall have a policy of notifying the parent or guardian of a student who has at least 5 days in which the student has missed 2 or more periods unexcused in a school year or who has

missed 5 or more school days unexcused in a school year. The notification policy shall require that the school principal or headmaster, or a designee, make a reasonable effort to meet with the parent or guardian of a student who has 5 or more unexcused absences to develop action steps for student attendance. The action steps shall be developed jointly and agreed upon by the school principal or headmaster, or a designee, the student and the student's parent or guardian and with input from other relevant school personnel and officials from relevant public safety, health and human service, housing and nonprofit agencies.

[Text of section added by 2012, 222, Sec. 3 effective July 1, 2014. See 2012, 222, Sec. 12.]

Part I. Title 12. Chapter 71. Section 37H.75. Suspension or expulsion on grounds other than those set forth in Secs. 37H or 37H.5

(c) For any suspension or expulsion under this section, the principal or headmaster of a school in which the student is enrolled, or a designee, shall provide, to the student and to the parent or guardian of the student, notice of the charges and the reason for the suspension or expulsion in English and in the primary language spoken in the home of the student. The student shall receive the written notification and shall have the opportunity to meet with the principal or headmaster, or a designee, to discuss the charges and reasons for the suspension or expulsion prior to the suspension or expulsion taking effect. The principal or headmaster, or a designee, shall ensure that the parent or guardian of the student is included in the meeting, provided that such meeting may take place without the parent or guardian only if the principal or headmaster, or a designee, can document reasonable efforts to include the parent or guardian in that meeting. The department shall promulgate rules and regulations that address a principal's duties under this subsection and procedures for including parents in student exclusion meetings, hearings or interviews under this subsection.

ADMINISTRATIVE CODE

603 CMR 49.00. Notification of Bullying or Retaliation Regulations

49.02: Scope and Purpose

603 CMR 49.00 governs the requirements related to the duty of the principal or leader of a public school, approved private day or residential school, collaborative school, or charter school to notify the parents or guardians of a target and an aggressor when there is an incident of bullying or retaliation, and to notify the local law enforcement agency when criminal charges may be pursued against the aggressor. 603 CMR 49.00 also address confidentiality of student record information related to notification of bullying and retaliation.

603 CMR 49.00. Notification of Bullying or Retaliation Regulations

49.05: Notice to Parents

(1) Upon investigation and determination that bullying or retaliation has occurred, the principal shall promptly notify the parents of the target and the aggressor of the determination and the school district or school's procedures for responding to the bullying or retaliation. The principal shall inform the target's parent of actions that school officials will take to prevent further acts of bullying or retaliation. Nothing in 603 CMR 49.05 prohibits the principal from contacting a parent of a target or aggressor about a report of bullying or retaliation prior to a determination that bullying or retaliation has occurred.

(2) Notice required by 603 CMR 49.05 shall be provided in the primary language of the home.

(3) Each school district and school shall include the requirements and procedures for communicating with the parents of the aggressor and target of bullying or retaliation in the local plan.

(4) A principal's notification to a parent about an incident or a report of bullying or retaliation must comply with confidentiality requirements of the Massachusetts Student Records Regulations, 603 CMR 23.00, and the Federal Family Educational Rights and Privacy Act Regulations, 34 CFR Part 99, as set forth in 603 CMR 49.07.

Reporting and referrals between schools and law enforcement

STATUTES

Part I. Title 12. Chapter 71. Section 37O. School bullying prohibited; bullying prevention plans

(g) A member of a school staff, including, but not limited to, an educator, administrator, school nurse, cafeteria worker, custodian, bus driver, athletic coach, advisor to an extracurricular activity or paraprofessional, shall immediately report any instance of bullying or retaliation the staff member has witnessed or become aware of to the principal or to the school official identified in the plan as responsible for receiving such reports or both. Upon receipt of such a report, the school principal or a designee shall promptly conduct an investigation. If the school principal or a designee determines that bullying or retaliation has occurred, the school principal or designee shall

(i) notify the local law enforcement agency if the school principal or designee believes that criminal charges may be pursued against a perpetrator;

(h) […] If an incident of bullying or retaliation occurs on school grounds and involves a former student under the age of 21 who is no longer enrolled in a local school district, charter school, non-public school, approved private day or residential school or collaborative school, the school district or school informed of the bullying or retaliation shall contact law enforcement consistent with the provisions of clause (viii) of the second paragraph of subsection (d).

ADMINISTRATIVE CODE

603 CMR 49.00. Notification of Bullying or Retaliation Regulations

49.06: Notice to Law Enforcement Agency

(1) Before the first day of each school year, the superintendent or designee of a school district and the school leader or designee of an approved private day or residential school, collaborative school, or charter school shall communicate with the chief of police or designee of the local police department about the implementation of 603 CMR 49.06. Such communication may include agreeing on a method for notification, a process for informal communication, updates of prior written agreements, or any other subject appropriate to the implementation of 603 CMR 49.06.

(2) At any point after receipt of a report of bullying or retaliation, including after an investigation, the principal shall notify the local law enforcement agency if the principal has a reasonable basis to believe that criminal charges may be pursued against the aggressor. Notice shall be consistent with the requirements of 603 CMR 49.00 and established agreements with the local law enforcement agency. The principal shall document the reasons for his or her decision to notify law enforcement. Nothing in 603 CMR 49.06 shall be interpreted to require reporting to a law enforcement agency in situations in which bullying and retaliation can be handled appropriately within the school district or school.

(a) In making the determination whether notification to law enforcement is appropriate, the principal may consult with the school resource officer and any other individuals the principal deems appropriate.

(b) Nothing in 603 CMR 49.06 shall prevent the principal from taking appropriate disciplinary or other action pursuant to school district or school policy and state law, provided that disciplinary actions balance the need for accountability with the need to teach appropriate behavior.

(c) The principal shall respond to the incident as set forth in relevant provisions of the local plan consistent with 603 CMR 49.06.

(3) If an incident of bullying or retaliation occurs on school grounds and involves a former student under the age of 21 who is no longer enrolled in the school district or school, the principal of the school informed of the bullying or retaliation shall notify the local law enforcement agency if the principal has a reasonable basis to believe that criminal charges may be pursued against the aggressor.

(4) Each school district and school shall include the requirements and procedures for communicating with the local law enforcement agency in the local plan.

Disclosure of school records

ADMINISTRATIVE CODE

603 CMR 49.00. Notification of Bullying or Retaliation Regulations

49.07: Confidentiality of Records

(1) A principal may not disclose information from a student record of a target or aggressor to a parent unless the information is about the parent's own child.

(2) A principal may disclose a determination of bullying or retaliation to a local law enforcement agency under 603 CMR 49.06 without the consent of a student or his or her parent. The principal shall communicate with law enforcement officials in a manner that protects the privacy of targets, student witnesses, and aggressors to the extent practicable under the circumstances.

(3) A principal may disclose student record information about a target or aggressor to appropriate parties in addition to law enforcement in connection with a health or safety emergency if knowledge of the information is necessary to protect the health or safety of the student or other individuals as provided in 603 CMR 23.07(4)(e) and 34 CFR 99.31(a)(10) and 99.36. 603 CMR 49.07(3) is limited to instances in which the principal has determined there is an immediate and significant threat to the health or safety of the student or other individuals. It is limited to the period of emergency and does not allow for blanket disclosure of student record information. The principal must document the disclosures and the reasons that the principal determined that a health or safety emergency exists.

Data collection, review, and reporting of disciplinary policies and actions

STATUTES

Part I. Title 12. Chapter 71. Section 37H. Policies relative to conduct of teachers or students; student handbooks

The school council shall review the student handbook each spring to consider changes in disciplinary policy to take effect in September of the following school year, but may consider policy changes at any time. The annual review shall cover all areas of student conduct, including but not limited to those outlined in this section.

Part I. Title 12. Chapter 71. Section 37H. Policies relative to conduct of teachers or students; student handbooks

[Paragraphs (f) and (g) of the fourth paragraph added by 2012, 222, Sec. 1 effective July 1, 2014. See 2012, 222, Sec. 12.]

(f) Districts shall report to the department of elementary and secondary education the specific reasons for all suspensions and expulsions, regardless of duration or type, in a manner and form established by the

commissioner. The department of elementary and secondary education shall use its existing data collection tools to obtain this information from districts and shall modify those tools, as necessary, to obtain the information. On an annual basis, the department of elementary and secondary education shall make district level de-identified data and analysis, including the total number of days each student is excluded during the school year, available to the public online in a machine readable format. This report shall include district level data disaggregated by student status and categories established by the commissioner.

(g) Under the regulations promulgated by the department, for each school that suspends or expels a significant number of students for more than 10 cumulative days in a school year, the commissioner shall investigate and, as appropriate, shall recommend models that incorporate intermediary steps prior to the use of suspension or expulsion. The results of the analysis shall be publicly reported at the school district level.

ADMINISTRATIVE CODE

603 CMR 46.00: Physical Restraint.

46.03: Procedures and Training

(1) Procedures. Public education programs shall develop written procedures regarding appropriate responses to student behavior that may require immediate intervention. Such procedures shall be annually reviewed and provided to school staff and made available to parents of enrolled students.

School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers

Authority and power to implement school arrest

No relevant statutes found.

Certification or training

No relevant statutes found.

MOUs, authorization, and/or funding

No relevant statutes found.

State Education Agency Support

State model policies and implementation support

STATUTES

Part I. Title 12. Chapter 71. Section 37O. School bullying prohibited; bullying prevention plans

(j) The department, after consultation with the department of public health, the department of mental health, the attorney general, the Massachusetts District Attorneys Association and experts on bullying shall:

(i) publish a model plan for school districts and schools to consider when creating their plans; and

(ii) compile a list of bullying prevention and intervention resources, evidence-based curricula, best practices and academic-based research that shall be made available to schools. The model plan shall be consistent with the behavioral health and public schools framework developed by the department in accordance with section 19 of chapter 321 of the acts of 2008. The resources may include, but shall not be limited to, print, audio, video or digital media; subscription based online services; and on-site or technology-enabled professional development and training sessions. The department shall biennially update the model plan and the list of the resources, curricula, best practices and research and shall post them on its website.

See http://www.doe.mass.edu/bullying/ModelPlan.pdf for Massachusetts Model Policy.

Funding appropriations

No relevant statutes found.

Other/Uncategorized

Professional immunity or liability

STATUTES

No relevant statutes found.

Community input or involvement

STATUTES

Part I. Title 12. Chapter 71. Section 37O. School bullying prohibited; bullying prevention plans

(d) Each school district, charter school, non-public school, approved private day or residential school and collaborative school shall develop, adhere to and update a plan to address bullying prevention and intervention in consultation with teachers, school staff, professional support personnel, school volunteers, administrators, community representatives, local law enforcement agencies, students, parents and guardians. The consultation shall include, but not be limited to, notice and a public comment period; provided, however, that a non-public school shall only be required to give notice to and provide a comment period for families that have a child attending the school. The plan shall be updated at least biennially.

Other/Uncategorized

STATUTES

Part I. Title 12. Chapter 71. Section 2C. Implementation of policy and discipline code addressing teen dating violence in public schools

Each school district in the commonwealth, subject to appropriation, shall implement a specific policy and discipline code to address teen dating violence in public schools. The policy shall clearly state that dating violence will not be tolerated and shall include guidelines for addressing alleged incidents of dating violence. The policy may include a teen dating violence prevention task force comprised of staff, students and parents to provide awareness training and education for the school community. Topics to be covered in the policy include, without limitation, defining the issue of teen dating violence, recognizing warning signs, identifying issues of confidentiality, safety and appropriate legal school-based interventions.

Part I. Title 12. Chapter 71. Section 84. Discipline of students on matters unrelated to school-sponsored activities prohibited

No student shall be suspended, expelled, or otherwise disciplined on account of marriage, pregnancy, parenthood or for conduct which is not connected with any school-sponsored activities; provided, however, that in the case of a pregnant student, the school committee may require that the student be under the supervision of a physician.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by Massachusetts provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
Website		
No relevant resources found		
Documents		
Massachusetts Model Bullying Policy	Model Bullying Prevention and Intervention Plan required under M.G.L. c. 71, § 37O	http://www.doe.mass.edu/bullying/ModelPlan.pdf
Other Resources		
State Bullying Prevention and Intervention Resources	1. Model Bullying Prevention and Intervention Plan 2. General Department Updates and Information 3. Laws and Regulations 4. Evidence Based Programs, Curricula, and Practices 5. Parent Information 6. Resources from State Agencies 7. Additional Resources 8. Definition of Bullying 9. Social Emotional Learning 10. For more information	http://www.doe.mass.edu/bullying

Michigan Compilation of School Discipline Laws and Regulations

Prepared: August 12, 2013

Introduction

This compilation presents school discipline-related state statutes, school discipline-related regulations, and, where available, links to state-sponsored websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSLE). For example, one major category encompasses all state laws or regulations mandating specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of state legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in each state.

Discipline categories were not mutually exclusive. Statutes and regulations often appeared across multiple categories. For states with more extensive statutes covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. State laws, ordered by chapter and section number, appear first within each category followed by state regulations. All statutes and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists statutes by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to state-sponsored websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of May 2013, with the exception of the state laws related to seclusion and restraint, which are complete and current as of December 2012. Readers should also note that the information in this document was compiled from individual state sources that are created by each state and which are maintained and updated with varying frequencies. Readers should consult the source information provided for each state directly in order to check for updates to this state's laws and regulations or conduct further research.

For further information, including definitions of the different policy categories, please refer to the Discipline Laws and Regulations Compendium posted on the Center's website.

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Safe Supportive Learning
Engagement | Safety | Environment

Table of Contents

Michigan State Codes Cited **1**

General Provisions **3**

Authority to develop and establish rules of conduct 3
Scope 4
Communication of policy 4

In-School Discipline **6**

Use of multi-tiered discipline approaches 6
Teacher authority to remove students from classrooms 6
Alternatives to suspension 6
Use of corporal punishment 6
Use of student and locker searches 8
Other in-school disciplinary approaches 8

Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements **10**

Grounds for possible suspension or expulsion 10
Grounds for mandatory suspension or expulsion 10
Limitations, conditions or exclusions for use of suspension and expulsion 11
Administrative procedures related to suspension and expulsion 11
In-school suspension 12
Return to school following removal 12
Use of restraint and seclusion 16
Alternative placements 16

Disciplinary Approaches Addressing Specific Infractions and Conditions **19**

Firearms (as required by the Guns-Free Schools Act) 19
Other weapons 20
Students with chronic disciplinary issues 22
Attendance and truancy 23
Substance use 24
Bullying, harassment, or hazing 25
Other special infractions or conditions 28

Prevention and Behavioral Interventions (Non-Punitive) **29**

Prevention 29
Behavioral interventions and student support services 30
Professional development 31

Monitoring and Accountability **33**

Formal incident reporting of conduct violations 33
Parental notification 33
Reporting and referrals between schools and law enforcement 35
Disclosure of school records 37
Data collection, review, and reporting of disciplinary policies and actions 37

School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers 39
Authority and power to implement school arrest 39
Certification or training 39
MOUs, authorization, and/or funding 40
State Education Agency Support 41
State model policies and implementation support 41
Funding appropriations 41
Other/Uncategorized 42
Professional immunity or liability 42
Community input or involvement 43
Other/Uncategorized 44
State-Sponsored, Publicly Available Websites or Other Resources on School Discipline 45

Michigan State Codes Cited

Michigan Revised Statutes

Michigan Compiled Laws

Chapter 380. School Code of 1976

Article 2

Part 15. School Districts; Powers and Duties Generally

380.1170.	Physiology and hygiene; instruction; development of comprehensive health education programs; conflict with religious beliefs.

Part 16. Boards of Education; Powers and Duties Generally

380.1301	Pregnant persons; expulsion or exclusion from public school prohibited; withdrawal; alternative educational program or program of special services; rules
380.1306.	School lockers; no presumption of privacy; search policy; assistance of law enforcement agency; model policy; admissibility of evidence.
380.1308	Statewide school safety information policy
380.1309	Conduct constituting suspension; action by teacher; report; supervision; conference; return by student; adoption of local policy by school board; definitions
380.1310	Physical assault at school against another pupil; expulsion required; alternative education; definitions
380.1310a	Report
380.1310b	Policy prohibiting bullying; adoption and implementation by board of school district or intermediate school district or board of directors of public school academy; public hearing; submission of policy to department; report; contents of policy; reporting act of bullying; definitions; section to be known as "Matt's Safe School Law"
380.1311	Suspension or expulsion of pupils
380.1311a	Assault by pupil against employee, volunteer, or contractor; expulsion required; alternative services; referral; reinstatement; immunity from liability; petition for reinstatement form; rights of pupils eligible for special education programs and services; eligibility of school for prorated share of foundation allowance; report of assaults; responsibility for enrollment in educational program; definitions
380.1311g.	Strict discipline academy; location; tuition; admission policies or practices; enrollment; types of pupils; special education pupils; individuals committed to high-security or medium-security juvenile facility; residence requirements; grades.
380.1312	“Corporal punishment” defined; infliction of corporal punishment by employee, volunteer, or contractor; exercise of necessary reasonable physical force; liability; violation; deference given to reasonable good-faith judgments; development, implementation, and enforcement of code of student conduct; model list of alternatives to use of corporal punishment; authority permitting corporal punishment void
380.1313.	Dangerous weapon found in possession of pupil; report; confiscation by school official; determination of legal owner; “dangerous weapon” defined.
380.1318.	Use of performance-enhancing substances in interscholastic athletics; eligibility policy; list of drugs to be provided by department of community health.

Part 24. Compulsory School Attendance

380.1571. Attendance officers; acceptance and oath of office; surety bond; powers and duties; list of teachers and superintendent.

380.1586. Nonattendance at school; notice; investigation; discussion of irregular attendance, failing work, or behavior problems with parent.

Chapter 750. Michigan Penal Code

Chapter LX. Miscellaneous

750.411t. Hazing prohibited; violation; penalty; exceptions; certain defenses barred; definitions; section title.

Michigan Administrative Code

No relevant regulations found.

General Provisions

Authority to develop and establish rules of conduct

STATUTES

380.1308. Statewide school safety information policy.

(1) Not later than 90 days after the effective date of this section, the superintendent of public instruction, attorney general, and director of the department of state police shall adopt, publish, and distribute to school boards, county prosecutors, and local law enforcement agencies the statewide school safety information policy described in subsection (2). Not later than 180 days after the effective date of this section, each school board, county prosecutor, and local law enforcement agency shall do both of the following:

(a) Meet and confer as appropriate on the implementation of the statewide school safety information policy for each school district and on any related issues that are unique to the affected locality. The appropriate local law enforcement agency or agencies to be involved shall be determined locally, consistent with the statewide school safety information policy.

(b) Begin compliance with the statewide school safety information policy.

380.1309. Conduct constituting suspension; action by teacher; report; supervision; conference; return by student; adoption of local policy by school board; definitions.

(2) A school board shall adopt a local policy specifying the types of conduct for which a pupil may be suspended from a class, subject, or activity by a teacher under this section. This policy shall be included in the school board's code of student conduct.

380.1310b. Policy prohibiting bullying; adoption and implementation by board of school district or intermediate school district or board of directors of public school academy; public hearing; submission of policy to department; report; contents of policy; reporting act of bullying; definitions; section to be known as "Matt's Safe School Law."

(1) Subject to subsection (3), not later than 6 months after the effective date of this section, the board of a school district or intermediate school district or board of directors of a public school academy shall adopt and implement a policy prohibiting bullying at school, as defined in this section.

(6) The legislature encourages a board or board of directors to include all of the following in the policy required under this section:

(a) Provisions to form bullying prevention task forces, programs, teen courts, and other initiatives involving school staff, pupils, school clubs or other student groups, administrators, volunteers, parents, law enforcement, community members, and other stakeholders.

(b) A requirement for annual training for administrators, school employees, and volunteers who have significant contact with pupils on preventing, identifying, responding to, and reporting incidents of bullying.

(c) A requirement for educational programs for pupils and parents on preventing, identifying, responding to, and reporting incidents of bullying and cyberbullying.

380.1312. “Corporal punishment” defined; infliction of corporal punishment by employee, volunteer, or contractor; exercise of necessary reasonable physical force; liability; violation; deference given to reasonable good-faith judgments; development, implementation, and

enforcement of code of student conduct; model list of alternatives to use of corporal punishment; authority permitting corporal punishment void.

(8) A local or intermediate school district or a public school academy shall develop and implement a code of student conduct and shall enforce its provisions with regard to pupil misconduct in a classroom, elsewhere on school premises, on a school bus or other school-related vehicle, or at a school sponsored activity or event whether or not it is held on school premises.

Scope

STATUTES

380.1308. Statewide school safety information policy.

(11) As used in this section:

(a) “At school” means in a classroom, elsewhere on school premises, on a school bus or other school-related vehicle, or at a school-sponsored activity or event whether or not it is held on school premises.

380.1310. Physical assault at school against another pupil; expulsion required; alternative education; definitions.

(3) As used in this section:

(a) “At school” means in a classroom, elsewhere on school premises, on a school bus or other school-related vehicle, or at a school-sponsored activity or event whether or not it is held on school premises.

380.1310b. Policy prohibiting bullying; adoption and implementation by board of school district or intermediate school district or board of directors of public school academy; public hearing; submission of policy to department; report; contents of policy; reporting act of bullying; definitions; section to be known as "Matt's Safe School Law."

(1) Subject to subsection (3), not later than 6 months after the effective date of this section, the board of a school district or intermediate school district or board of directors of a public school academy shall adopt and implement a policy prohibiting bullying at school, as defined in this section.

(8) As used in this section:

(a) "At school" means in a classroom, elsewhere on school premises, on a school bus or other school-related vehicle, or at a school-sponsored activity or event whether or not it is held on school premises. "At school" includes conduct using a telecommunications access device or telecommunications service provider that occurs off school premises if the telecommunications access device or the telecommunications service provider is owned by or under the control of the school district or public school academy.

Communication of policy

STATUTES

380.1301. Pregnant persons; expulsion or exclusion from public school prohibited; withdrawal; alternative educational program or program of special services; rules.

(1) A person who has not completed high school may not be expelled or excluded from a public school because of being pregnant.

(2) A pregnant person who is under the compulsory school age may withdraw from a regular public school program in accordance with rules promulgated by the state board.

(3) The board of a local or intermediate school district may provide an accredited alternative educational program for school age expectant parents and school age parents and their children, or provide a program of special services within the conventional school setting, or contract with another school district offering the educational program.

(4) The state board shall promulgate rules to implement this section.

380.1306. School lockers; no presumption of privacy; search policy; assistance of law enforcement agency; model policy; admissibility of evidence

(2) If the board of a school district, local act school district, or intermediate school district or board of directors of a public school academy operates a school that has pupil lockers, then not later than 180 days after the effective date of this section the board or board of directors shall adopt a policy on searches of pupils' lockers and locker contents. This policy shall provide that, in the course of a search conducted pursuant to the policy, the privacy rights of the pupil shall be respected regarding any items that are not illegal or against school policy. The board or board of directors shall provide a copy of this policy to each pupil at a school that has lockers and to the parent or legal guardian of each of those pupils. The board or board of directors shall also provide a copy of the policy to the department upon request by the department.

380.1310b. Policy prohibiting bullying; adoption and implementation by board of school district or intermediate school district or board of directors of public school academy; public hearing; submission of policy to department; report; contents of policy; reporting act of bullying; definitions; section to be known as "Matt's Safe School Law."

(1) Subject to subsection (3), not later than 6 months after the effective date of this section, the board of a school district or intermediate school district or board of directors of a public school academy shall adopt and implement a policy prohibiting bullying at school, as defined in this section.

(5) A policy adopted pursuant to subsection (1) shall include at least all of the following:

(e) A statement describing how the policy is to be publicized.

380.1311. Suspension or expulsion of pupils.

(10) If an individual is expelled pursuant to subsection (2), it is the responsibility of that individual and of his or her parent or legal guardian to locate a suitable alternative educational program and to enroll the individual in such a program during the expulsion. The office of safe schools in the department shall compile information on and catalog existing alternative education programs or schools and nonpublic schools that may be open to enrollment of individuals expelled pursuant to subsection (2) and pursuant to section 1311a, and shall periodically distribute this information to school districts for distribution to expelled individuals. A school board that establishes an alternative education program or school described in this subsection shall notify the office of safe schools about the program or school and the types of pupils it serves. The office of safe schools also shall work with and provide technical assistance to school districts, authorizing bodies for public school academies, and other interested parties in developing these types of alternative education programs or schools in geographic areas that are not being served.

In-School Discipline

Use of multi-tiered discipline approaches

No relevant statutes found.

Teacher authority to remove students from classrooms

STATUTES

380.1309. Conduct constituting suspension; action by teacher; report; supervision; conference; return by student; adoption of local policy by school board; definitions.

(1) If a teacher in a public school has good reason to believe that a pupil's conduct in a class, subject, or activity constitutes conduct for which the pupil may be suspended from a class, subject, or activity according to the local policy required under subsection (2), the teacher may cause the pupil to be suspended from the class, subject, or activity for up to 1 full school day. The teacher shall immediately report the suspension and the reason for the suspension to the school principal and send the pupil to the school principal or the school principal's designee for appropriate action. If that action requires the continued presence of the pupil at school, the pupil shall be under appropriate supervision. As soon as possible after a suspension under this section, the teacher shall ask the parent or guardian of the pupil to attend a parent-teacher conference regarding the suspension. Whenever practicable, a school counselor, school psychologist, or school social worker shall attend the conference. A school administrator shall attend the conference if the teacher or the parent or guardian so requests. During a suspension under this section, the pupil shall not be returned that school day to the class, subject, or activity from which he or she was suspended without the concurrence of the teacher of the class, subject, or activity and the school principal.

(2) A school board shall adopt a local policy specifying the types of conduct for which a pupil may be suspended from a class, subject, or activity by a teacher under this section. This policy shall be included in the school board's code of student conduct.

Alternatives to suspension

No relevant statutes found.

Use of corporal punishment

STATUTES

380.1312. "Corporal punishment" defined; infliction of corporal punishment by employee, volunteer, or contractor; exercise of necessary reasonable physical force; liability; violation; deference given to reasonable good-faith judgments; development, implementation, and enforcement of code of student conduct; model list of alternatives to use of corporal punishment; authority permitting corporal punishment void.

(1) As used in this section, "corporal punishment" means the deliberate infliction of physical pain by hitting, paddling, spanking, slapping, or any other physical force used as a means of discipline.

(2) Corporal punishment does not include physical pain caused by reasonable physical activities associated with athletic training.

(3) A person employed by or engaged as a volunteer or contractor by a local or intermediate school board or public school academy shall not inflict or cause to be inflicted corporal punishment upon any pupil under any circumstances.

(4) A person employed by or engaged as a volunteer or contractor by a local or intermediate school board or public school academy may use reasonable physical force upon a pupil as necessary to maintain order and control in a school or school-related setting for the purpose of providing an environment conducive to safety and learning. In maintaining that order and control, the person may use physical force upon a pupil as may be necessary for 1 or more of the following:

(a) To restrain or remove a pupil whose behavior is interfering with the orderly exercise and performance of school district or public school academy functions within a school or at a school-related activity, if that pupil has refused to comply with a request to refrain from further disruptive acts.

(b) For self-defense or the defense of another.

(c) To prevent a pupil from inflicting harm on himself or herself.

(d) To quell a disturbance that threatens physical injury to any person.

(e) To obtain possession of a weapon or other dangerous object upon or within the control of a pupil.

(f) To protect property.

(5) A person employed by or engaged as a volunteer or contractor by a local or intermediate school board or public school academy who exercises necessary reasonable physical force upon a pupil, or upon another person of school age in a school-related setting, as described in subsection (4) is not liable in a civil action for damages arising from the use of that physical force and is presumed not to have violated subsection (3) by the use of that physical force. This subsection does not alter or limit a person's immunity from liability provided under 1964 PA 170, MCL 691.1401 to 691.1415.

(6) A person who willfully or through gross negligence violates subsection (3) or who willfully or through gross negligence violates subsection (4) may be appropriately disciplined by his or her school board or public school academy. This subsection does not limit a school board's or public school academy's authority to discipline an employee for a violation of its own policies.

(7) In determining whether an employee, volunteer, or contractor has acted in accordance with subsection (4), deference shall be given to reasonable good-faith judgments made by that person.

(9) The department shall develop a model list of alternatives to the use of corporal punishment. This model list shall be developed in consultation with organizations that represent the interests of teachers, school employees, school boards, school administrators, pupils, parents, and child advocates, plus any other organization that the state board of education may wish to consult. The department shall send this model list to each school district, public school academy, and intermediate school district in the state and to each nonpublic school in the state that requests it. A local or intermediate school board or public school academy shall approve and cause to be distributed to each employee, volunteer, and contractor a list of alternatives to the use of corporal punishment. Upon request, the department of education shall provide assistance to schools in the development of programs and materials to implement this section.

(10) Any resolution, bylaw, rule, policy, ordinance, or other authority permitting corporal punishment is void.

Use of student and locker searches

STATUTES

380.1306. School lockers; no presumption of privacy; search policy; assistance of law enforcement agency; model policy; admissibility of evidence.

(1) A pupil who uses a locker that is the property of a school district, local act school district, intermediate school district, or public school academy is presumed to have no expectation of privacy in that locker or that locker's contents.

(2) If the board of a school district, local act school district, or intermediate school district or board of directors of a public school academy operates a school that has pupil lockers, then not later than 180 days after the effective date of this section the board or board of directors shall adopt a policy on searches of pupils' lockers and locker contents. This policy shall provide that, in the course of a search conducted pursuant to the policy, the privacy rights of the pupil shall be respected regarding any items that are not illegal or against school policy. The board or board of directors shall provide a copy of this policy to each pupil at a school that has lockers and to the parent or legal guardian of each of those pupils. The board or board of directors shall also provide a copy of the policy to the department upon request by the department.

(3) A public school principal or his or her designee may search a pupil's locker and the locker's contents at any time in accordance with the policy under subsection (2).

(4) A law enforcement agency having jurisdiction over the school may assist school personnel in conducting a search of a pupil's locker and the locker's contents if that assistance is at the request of the school principal or his or her designee and the search is conducted in accordance with the policy under subsection (2).

(5) Not later than 90 days after the effective date of this section, the superintendent of public instruction shall develop and make available a model policy on searches of pupils' lockers and locker contents that may be adopted for the purposes of this section.

(6) Any evidence obtained as a result of a search of a pupil's locker or locker's contents shall not be inadmissible in any court or administrative proceedings because the search violated this section, violated the policy under subsection (2), or because no policy was adopted.

Other in-school disciplinary approaches

STATUTES

380.1312. "Corporal punishment" defined; infliction of corporal punishment by employee, volunteer, or contractor; exercise of necessary reasonable physical force; liability; violation; deference given to reasonable good-faith judgments; development, implementation, and enforcement of code of student conduct; model list of alternatives to use of corporal punishment; authority permitting corporal punishment void.

(9) The department shall develop a model list of alternatives to the use of corporal punishment. This model list shall be developed in consultation with organizations that represent the interests of teachers, school employees, school boards, school administrators, pupils, parents, and child advocates, plus any other organization that the state board of education may wish to consult. The department shall send this model list to each school district, public school academy, and intermediate school district in the state and to each nonpublic school in the state that requests it. A local or intermediate school board or public school academy shall approve and cause to be distributed to each employee, volunteer, and contractor a list of

alternatives to the use of corporal punishment. Upon request, the department of education shall provide assistance to schools in the development of programs and materials to implement this section.

Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements

Grounds for possible suspension or expulsion

STATUTES

380.1311. Suspension or expulsion of pupils.

(1) Subject to subsection (2), the school board, or the school district superintendent, a school building principal, or another school district official if designated by the school board, may authorize or order the suspension or expulsion from school of a pupil guilty of gross misdemeanor or persistent disobedience if, in the judgment of the school board or its designee, as applicable, the interest of the school is served by the authorization or order. If there is reasonable cause to believe that the pupil is a student with a disability, and the school district has not evaluated the pupil in accordance with rules of the superintendent of public instruction to determine if the pupil is a student with a disability, the pupil shall be evaluated immediately by the intermediate school district of which the school district is constituent in accordance with section 1711.

Grounds for mandatory suspension or expulsion

STATUTES

380.1310. Physical assault at school against another pupil; expulsion required; alternative education; definitions.

(1) If a pupil enrolled in grade 6 or above commits a physical assault at school against another pupil and the physical assault is reported to the school board, school district superintendent, or building principal, then the school board or the designee of the school board as described in section 1311(1) on behalf of the school board shall suspend or expel the pupil from the school district for up to 180 school days. A district superintendent or building principal who receives a report described in this subsection shall forward the report to the school board. Notwithstanding section 1147, a school district is not required to allow an individual expelled from another school district under this section to attend school in the school district during the expulsion.

380.1311. Suspension or expulsion of pupils.

(2) If a pupil possesses in a weapon free school zone a weapon that constitutes a dangerous weapon, commits arson in a school building or on school grounds, or commits criminal sexual conduct in a school building or on school grounds, the school board, or the designee of the school board as described in subsection (1) on behalf of the school board, shall expel the pupil from the school district permanently, subject to possible reinstatement under subsection (5).

380.1311a. Assault by pupil against employee, volunteer, or contractor; expulsion required; alternative services; referral; reinstatement; immunity from liability; petition for reinstatement form; rights of pupils eligible for special education programs and services; eligibility of school for prorated share of foundation allowance; report of assaults; responsibility for enrollment in educational program; definitions.

(1) If a pupil enrolled in grade 6 or above commits a physical assault at school against a person employed by or engaged as a volunteer or contractor by the school board and the physical assault is reported to the

school board, school district superintendent, or building principal by the victim or, if the victim is unable to report the assault, by another person on the victim's behalf, then the school board, or the designee of the school board as described in section 1311(1) on behalf of the school board, shall expel the pupil from the school district permanently, subject to possible reinstatement under subsection (5). A district superintendent or building principal who receives a report described in this subsection shall forward the report to the school board.

(2) If a pupil enrolled in grade 6 or above commits a verbal assault, as defined by school board policy, at school against a person employed by or engaged as a volunteer or contractor by the school board and the verbal assault is reported to the school board, school district superintendent, or building principal by the victim or, if the victim is unable to report the verbal assault, by another person on the victim's behalf, or if a pupil enrolled in grade 6 or above makes a bomb threat or similar threat directed at a school building, other school property, or a school-related event, then the school board, or the designee of the school board as described in section 1311(1) on behalf of the school board, shall suspend or expel the pupil from the school district for a period of time as determined in the discretion of the school board or its designee. A district superintendent or building principal who receives a report described in this subsection shall forward the report to the school board. Notwithstanding section 1147, a school district is not required to allow an individual expelled from another school district under this subsection to attend school in the school district during the expulsion.

Limitations, conditions or exclusions for use of suspension and expulsion

STATUTES

380.1301. Pregnant persons; expulsion or exclusion from public school prohibited; withdrawal; alternative educational program or program of special services; rules.

(1) A person who has not completed high school may not be expelled or excluded from a public school because of being pregnant.

Administrative procedures related to suspension and expulsion

STATUTES

380.1309. Conduct constituting suspension; action by teacher; report; supervision; conference; return by student; adoption of local policy by school board; definitions.

(1) As soon as possible after a suspension under this section, the teacher shall ask the parent or guardian of the pupil to attend a parent-teacher conference regarding the suspension. Whenever practicable, a school counselor, school psychologist, or school social worker shall attend the conference. A school administrator shall attend the conference if the teacher or the parent or guardian so requests. During a suspension under this section, the pupil shall not be returned that school day to the class, subject, or activity from which he or she was suspended without the concurrence of the teacher of the class, subject, or activity and the school principal.

380.1310. Physical assault at school against another pupil; expulsion required; alternative education; definitions.

(1) If a pupil enrolled in grade 6 or above commits a physical assault at school against another pupil and the physical assault is reported to the school board, school district superintendent, or building principal, then the school board or the designee of the school board as described in section 1311(1) on behalf of the school board shall suspend or expel the pupil from the school district for up to 180 school days. A

district superintendent or building principal who receives a report described in this subsection shall forward the report to the school board. Notwithstanding section 1147, a school district is not required to allow an individual expelled from another school district under this section to attend school in the school district during the expulsion.

380.1310a. Report.

(1) At least annually, each school board shall prepare and submit to the superintendent of public instruction, in the form and manner prescribed by the superintendent of public instruction, a report stating the number of pupils expelled from the school district during the immediately preceding school year, with a brief description of the incident that caused each expulsion.

380.1311. Suspension or expulsion of pupils.

(1) Subject to subsection (2), the school board, or the school district superintendent, a school building principal, or another school district official if designated by the school board, may authorize or order the suspension or expulsion from school of a pupil guilty of gross misdemeanor or persistent disobedience if, in the judgment of the school board or its designee, as applicable, the interest of the school is served by the authorization or order. If there is reasonable cause to believe that the pupil is a student with a disability, and the school district has not evaluated the pupil in accordance with rules of the superintendent of public instruction to determine if the pupil is a student with a disability, the pupil shall be evaluated immediately by the intermediate school district of which the school district is constituent in accordance with section 1711.

In-school suspension

No relevant statutes found.

Return to school following removal

STATUTES

380.1311. Suspension or expulsion of pupils.

(5) The parent or legal guardian of an individual expelled pursuant to subsection (2) or, if the individual is at least age 18 or is an emancipated minor, the individual may petition the expelling school board for reinstatement of the individual to public education in the school district. If the expelling school board denies a petition for reinstatement, the parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, the individual may petition another school board for reinstatement of the individual in that other school district. All of the following apply to reinstatement under this subsection:

(a) For an individual who was enrolled in grade 5 or below at the time of the expulsion and who has been expelled for possessing a firearm or threatening another person with a dangerous weapon, the parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, the individual may initiate a petition for reinstatement at any time after the expiration of 60 school days after the date of expulsion. For an individual who was enrolled in grade 5 or below at the time of the expulsion and who has been expelled pursuant to subsection (2) for a reason other than possessing a firearm or threatening another person with a dangerous weapon, the parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, the individual may initiate a petition for reinstatement at any time. For an individual who was in grade 6 or above at the time of expulsion, the parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, the individual may initiate a petition for reinstatement at any time after the expiration of 150 school days after the date of expulsion.

(b) An individual who was in grade 5 or below at the time of the expulsion and who has been expelled for possessing a firearm or threatening another person with a dangerous weapon shall not be reinstated before the expiration of 90 school days after the date of expulsion. An individual who was in grade 5 or below at the time of the expulsion and who has been expelled pursuant to subsection (2) for a reason other than possessing a firearm or threatening another person with a dangerous weapon shall not be reinstated before the expiration of 10 school days after the date of the expulsion. An individual who was in grade 6 or above at the time of the expulsion shall not be reinstated before the expiration of 180 school days after the date of expulsion.

(c) It is the responsibility of the parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, of the individual to prepare and submit the petition. A school board is not required to provide any assistance in preparing the petition. Upon request by a parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, by the individual, a school board shall make available a form for a petition.

(d) Not later than 10 school days after receiving a petition for reinstatement under this subsection, a school board shall appoint a committee to review the petition and any supporting information submitted by the parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, by the individual. The committee shall consist of 2 school board members, 1 school administrator, 1 teacher, and 1 parent of a pupil in the school district. During this time the superintendent of the school district may prepare and submit for consideration by the committee information concerning the circumstances of the expulsion and any factors mitigating for or against reinstatement.

(e) Not later than 10 school days after all members are appointed, the committee described in subdivision (d) shall review the petition and any supporting information and information provided by the school district and shall submit a recommendation to the school board on the issue of reinstatement. The recommendation shall be for unconditional reinstatement, for conditional reinstatement, or against reinstatement, and shall be accompanied by an explanation of the reasons for the recommendation and of any recommended conditions for reinstatement. The recommendation shall be based on consideration of all of the following factors:

(i) The extent to which reinstatement of the individual would create a risk of harm to pupils or school personnel.

(ii) The extent to which reinstatement of the individual would create a risk of school district liability or individual liability for the school board or school district personnel.

(iii) The age and maturity of the individual.

(iv) The individual's school record before the incident that caused the expulsion.

(v) The individual's attitude concerning the incident that caused the expulsion.

(vi) The individual's behavior since the expulsion and the prospects for remediation of the individual.

(vii) If the petition was filed by a parent or legal guardian, the degree of cooperation and support that has been provided by the parent or legal guardian and that can be expected if the individual is reinstated, including, but not limited to, receptiveness toward possible conditions placed on the reinstatement.

(f) Not later than the next regularly scheduled board meeting after receiving the recommendation of the committee under subdivision (e), a school board shall make a decision to unconditionally reinstate the individual, conditionally reinstate the individual, or deny reinstatement of the individual. The decision of the school board is final.

(g) A school board may require an individual and, if the petition was filed by a parent or legal guardian, his or her parent or legal guardian to agree in writing to specific conditions before reinstating the individual in a conditional reinstatement. The conditions may include, but are not limited to, agreement

to a behavior contract, which may involve the individual, parent or legal guardian, and an outside agency; participation in or completion of an anger management program or other appropriate counseling; periodic progress reviews; and specified immediate consequences for failure to abide by a condition. A parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, the individual may include proposed conditions in a petition for reinstatement submitted under this subsection.

(6) A school board or school administrator that complies with subsection (2) is not liable for damages for expelling a pupil pursuant to subsection (2), and the authorizing body of a public school academy is not liable for damages for expulsion of a pupil by the public school academy pursuant to subsection (2).

(7) The department shall develop and distribute to all school districts a form for a petition for reinstatement to be used under subsection (5).

(8) This section does not diminish any rights under federal law of a pupil who has been determined to be eligible for special education programs and services.

380.1311a. Assault by pupil against employee, volunteer, or contractor; expulsion required; alternative services; referral; reinstatement; immunity from liability; petition for reinstatement form; rights of pupils eligible for special education programs and services; eligibility of school for prorated share of foundation allowance; report of assaults; responsibility for enrollment in educational program; definitions.

(5) The parent or legal guardian of an individual permanently expelled pursuant to this section or, if the individual is at least age 18 or is an emancipated minor, the individual may petition the expelling school board for reinstatement of the individual to public education in the school district. If the expelling school board denies a petition for reinstatement, the parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, the individual may petition another school board for reinstatement of the individual in that other school district. All of the following apply to reinstatement under this subsection:

(a) The individual's parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, the individual may initiate a petition for reinstatement at any time after the expiration of 150 school days after the date of expulsion.

(b) The individual shall not be reinstated before the expiration of 180 school days after the date of expulsion.

(c) It is the responsibility of the parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, of the individual to prepare and submit the petition. A school board is not required to provide any assistance in preparing the petition. Upon request by a parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, by the individual, a school board shall make available a form for a petition.

(d) Not later than 10 school days after receiving a petition for reinstatement under this subsection, a school board shall appoint a committee to review the petition and any supporting information submitted by the parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, by the individual. The committee shall consist of 2 school board members, 1 school administrator, 1 teacher, and 1 parent of a pupil in the school district. During this time the superintendent of the school district may prepare and submit for consideration by the committee information concerning the circumstances of the expulsion and any factors mitigating for or against reinstatement.

(e) Not later than 10 school days after all members are appointed, the committee described in subdivision (d) shall review the petition and any supporting information and information provided by the school district and shall submit a recommendation to the school board on the issue of reinstatement. The recommendation shall be for unconditional reinstatement, for conditional reinstatement, or against reinstatement, and shall be accompanied by an explanation of the reasons for the recommendation and

of any recommended conditions for reinstatement. The recommendation shall be based on consideration of all of the following factors:

(i) The extent to which reinstatement of the individual would create a risk of harm to pupils or school personnel.

(ii) The extent to which reinstatement of the individual would create a risk of school district or individual liability for the school board or school district personnel.

(iii) The age and maturity of the individual.

(iv) The individual's school record before the incident that caused the expulsion.

(v) The individual's attitude concerning the incident that caused the expulsion.

(vi) The individual's behavior since the expulsion and the prospects for remediation of the individual.

(vii) If the petition was filed by a parent or legal guardian, the degree of cooperation and support that has been provided by the parent or legal guardian and that can be expected if the individual is reinstated, including, but not limited to, receptiveness toward possible conditions placed on the reinstatement.

(f) Not later than the next regularly scheduled board meeting after receiving the recommendation of the committee under subdivision (e), a school board shall make a decision to unconditionally reinstate the individual, conditionally reinstate the individual, or deny reinstatement of the individual. The decision of the school board is final.

(g) A school board may require an individual and, if the petition was filed by a parent or legal guardian, his or her parent or legal guardian to agree in writing to specific conditions before reinstating the individual in a conditional reinstatement. The conditions may include, but are not limited to, agreement to a behavior contract, which may involve the individual, parent or legal guardian, and an outside agency; participation in or completion of an anger management program or other appropriate counseling; periodic progress reviews; and specified immediate consequences for failure to abide by a condition. A parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, the individual may include proposed conditions in a petition for reinstatement submitted under this subsection.

(6) A school board or school administrator that complies with this section is not liable for damages for suspending or expelling a pupil pursuant to this section, and the authorizing body of a public school academy is not liable for damages for suspension or expulsion of a pupil by the public school academy pursuant to this section.

(7) The department shall develop and distribute to all school districts a form for a petition for reinstatement to be used under subsection (5). The department may designate the form used for a petition for reinstatement under section 1311 as a form that may be used under this section.

(8) This section does not diminish any rights under federal law of a pupil who has been determined to be eligible for special education programs and services.

(9) If a pupil expelled from a school district pursuant to this section is enrolled by a public school district sponsored alternative education program or a public school academy during the period of expulsion, the public school academy or the alternative education program is immediately eligible for the prorated share of either the public school academy's or operating school district's foundation allowance or the expelling school district's foundation allowance, whichever is higher.

Use of restraint and seclusion

STATUTES

380.1312. "Corporal punishment" defined; infliction of corporal punishment by employee, volunteer, or contractor; exercise of necessary reasonable physical force; liability; violation; deference given to reasonable good-faith judgments; development, implementation, and enforcement of code of student conduct; model list of alternatives to use of corporal punishment; authority permitting corporal punishment void.

(4) A person employed by or engaged as a volunteer or contractor by a local or intermediate school board or public school academy may use reasonable physical force upon a pupil as necessary to maintain order and control in a school or school-related setting for the purpose of providing an environment conducive to safety and learning. In maintaining that order and control, the person may use physical force upon a pupil as may be necessary for 1 or more of the following:

(a) To restrain or remove a pupil whose behavior is interfering with the orderly exercise and performance of school district or public school academy functions within a school or at a school-related activity, if that pupil has refused to comply with a request to refrain from further disruptive acts.

(b) For self-defense or the defense of another.

(c) To prevent a pupil from inflicting harm on himself or herself.

(d) To quell a disturbance that threatens physical injury to any person.

(e) To obtain possession of a weapon or other dangerous object upon or within the control of a pupil.

(f) To protect property.

Alternative placements

STATUTES

380.1310. Physical assault at school against another pupil; expulsion required; alternative education; definitions.

(2) If an individual is expelled pursuant to this section, it is the responsibility of that individual and of his or her parent or legal guardian to locate a suitable educational program and to enroll the individual in such a program during the expulsion. The office for safe schools in the department shall compile information on and catalog existing alternative education programs or schools and nonpublic schools that may be open to enrollment of individuals expelled under this section and pursuant to section 1311(2) or 1311a, and shall periodically distribute this information to school districts for distribution to expelled individuals. A school board that establishes an alternative education program or school described in this subsection shall notify the office for safe schools about the program or school and the types of pupils it serves. The office for safe schools also shall work with and provide technical assistance to school districts, authorizing bodies for public school academies, and other interested parties in developing these types of alternative education programs or schools in geographic areas that are not being served.

380.1311. Suspension or expulsion of pupils.

(3) If an individual is expelled pursuant to subsection (2), the expelling school district shall enter on the individual's permanent record that he or she has been expelled pursuant to subsection (2). Except if a school district operates or participates cooperatively in an alternative education program appropriate for individuals expelled pursuant to subsection (2) and in its discretion admits the individual to that program, and except for a strict discipline academy established under sections 1311b to 1311l, an individual

expelled pursuant to subsection (2) is expelled from all public schools in this state and the officials of a school district shall not allow the individual to enroll in the school district unless the individual has been reinstated under subsection (5). Except as otherwise provided by law, a program operated for individuals expelled pursuant to subsection (2) shall ensure that those individuals are physically separated at all times during the school day from the general pupil population. If an individual expelled from a school district pursuant to subsection (2) is not placed in an alternative education program or strict discipline academy, the school district may provide, or may arrange for the intermediate school district to provide, appropriate instructional services to the individual at home. The type of services provided shall meet the requirements of section 6(4)(u) of the state school aid act of 1979, MCL 388.1606, and the services may be contracted for in the same manner as services for homebound pupils under section 109 of the state school aid act of 1979, MCL 388.1709. This subsection does not require a school district to expend more money for providing services for a pupil expelled pursuant to subsection (2) than the amount of the foundation allowance the school district receives for the pupil as calculated under section 20 of the state school aid act of 1979, MCL 388.1620.

(9) If a pupil expelled from a public school district pursuant to subsection (2) is enrolled by a public school district sponsored alternative education program or a public school academy during the period of expulsion, the public school academy or alternative education program shall immediately become eligible for the prorated share of either the public school academy or operating school district's foundation allowance or the expelling school district's foundation allowance, whichever is higher.

(10) If an individual is expelled pursuant to subsection (2), it is the responsibility of that individual and of his or her parent or legal guardian to locate a suitable alternative educational program and to enroll the individual in such a program during the expulsion. The office of safe schools in the department shall compile information on and catalog existing alternative education programs or schools and nonpublic schools that may be open to enrollment of individuals expelled pursuant to subsection (2) and pursuant to section 1311a, and shall periodically distribute this information to school districts for distribution to expelled individuals. A school board that establishes an alternative education program or school described in this subsection shall notify the office of safe schools about the program or school and the types of pupils it serves. The office of safe schools also shall work with and provide technical assistance to school districts, authorizing bodies for public school academies, and other interested parties in developing these types of alternative education programs or schools in geographic areas that are not being served.

380.1311a. Assault by pupil against employee, volunteer, or contractor; expulsion required; alternative services; referral; reinstatement; immunity from liability; petition for reinstatement form; rights of pupils eligible for special education programs and services; eligibility of school for prorated share of foundation allowance; report of assaults; responsibility for enrollment in educational program; definitions.

(3) If an individual is permanently expelled pursuant to this section, the expelling school district shall enter on the individual's permanent record that he or she has been permanently expelled pursuant to this section. Except if a school district operates or participates cooperatively in an alternative education program appropriate for individuals expelled pursuant to this section and section 1311(2) and in its discretion admits the individual to that program, and except for a strict discipline academy established under sections 1311b to 1311l, an individual permanently expelled pursuant to this section is expelled from all public schools in this state and the officials of a school district shall not allow the individual to enroll in the school district unless the individual has been reinstated under subsection (5). Except as otherwise provided by law, a program operated for individuals expelled pursuant to this section and section 1311(2) shall ensure that those individuals are physically separated at all times during the school day from the general pupil population. If an individual permanently expelled from a school district

pursuant to this section is not placed in an alternative education program or strict discipline academy, the school district may provide, or may arrange for the intermediate school district to provide, appropriate instructional services to the individual at home. The type of services provided shall meet the requirements of section 6(4)(u) of the state school aid act of 1979, MCL 388.1606, and the services may be contracted for in the same manner as services for homebound pupils under section 109 of the state school aid act of 1979, MCL 388.1709. This subsection does not require a school district to expend more money for providing services for a pupil permanently expelled pursuant to this section than the amount of the foundation allowance the school district receives for the pupil under section 20 of the state school aid act of 1979, MCL 388.1620.

380.1311g. Strict discipline academy; location; tuition; admission policies or practices; enrollment; types of pupils; special education pupils; individuals committed to high-security or medium-security juvenile facility; residence requirements; grades.

(3) A strict discipline academy shall be established under sections 1311b to 1311l specifically for enrolling 1 or more of the following types of pupils:

(b) Pupils who have been expelled under section 1311(2).

(c) Pupils who have been expelled under section 1311a or another provision of this act.

(d) Other pupils who have been expelled from school, or pupils who have been suspended from school for a suspension that is for a period in excess of 10 school days, and who are referred to the strict discipline academy by that pupil's school and placed in the strict discipline academy by the pupil's parent or legal guardian. However, a suspended pupil shall be allowed to attend the strict discipline academy only for the duration of the suspension.

Disciplinary Approaches Addressing Specific Infractions and Conditions

Firearms (as required by the Guns-Free Schools Act)

STATUTES

380.1308. Statewide school safety information policy.

(2) The statewide school safety information policy also may address procedures for reporting incidents involving possession of a dangerous weapon as required under section 1313.

380.1311. Suspension or expulsion of pupils.

(2) If a pupil possesses in a weapon free school zone a weapon that constitutes a dangerous weapon, commits arson in a school building or on school grounds, or commits criminal sexual conduct in a school building or on school grounds, the school board, or the designee of the school board as described in subsection (1) on behalf of the school board, shall expel the pupil from the school district permanently, subject to possible reinstatement under subsection (5).However, a school board is not required to expel a pupil for possessing a weapon if the pupil establishes in a clear and convincing manner at least 1 of the following:

(a) The object or instrument possessed by the pupil was not possessed by the pupil for use as a weapon, or for direct or indirect delivery to another person for use as a weapon.

(b) The weapon was not knowingly possessed by the pupil.

(c) The pupil did not know or have reason to know that the object or instrument possessed by the pupil constituted a dangerous weapon.

(d) The weapon was possessed by the pupil at the suggestion, request, or direction of, or with the express permission of, school or police authorities.

(5) The parent or legal guardian of an individual expelled pursuant to subsection (2) or, if the individual is at least age 18 or is an emancipated minor, the individual may petition the expelling school board for reinstatement of the individual to public education in the school district. If the expelling school board denies a petition for reinstatement, the parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, the individual may petition another school board for reinstatement of the individual in that other school district. All of the following apply to reinstatement under this subsection:

(a) For an individual who was enrolled in grade 5 or below at the time of the expulsion and who has been expelled for possessing a firearm or threatening another person with a dangerous weapon, the parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, the individual may initiate a petition for reinstatement at any time after the expiration of 60 school days after the date of expulsion. For an individual who was enrolled in grade 5 or below at the time of the expulsion and who has been expelled pursuant to subsection (2) for a reason other than possessing a firearm or threatening another person with a dangerous weapon, the parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, the individual may initiate a petition for reinstatement at any time. For an individual who was in grade 6 or above at the time of expulsion, the parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, the individual may initiate a petition for reinstatement at any time after the expiration of 150 school days after the date of expulsion.

(b) An individual who was in grade 5 or below at the time of the expulsion and who has been expelled for possessing a firearm or threatening another person with a dangerous weapon shall not be reinstated

before the expiration of 90 school days after the date of expulsion. An individual who was in grade 5 or below at the time of the expulsion and who has been expelled pursuant to subsection (2) for a reason other than possessing a firearm or threatening another person with a dangerous weapon shall not be reinstated before the expiration of 10 school days after the date of the expulsion. An individual who was in grade 6 or above at the time of the expulsion shall not be reinstated before the expiration of 180 school days after the date of expulsion.

380.1312. "Corporal punishment" defined; infliction of corporal punishment by employee, volunteer, or contractor; exercise of necessary reasonable physical force; liability; violation; deference given to reasonable good-faith judgments; development, implementation, and enforcement of code of student conduct; model list of alternatives to use of corporal punishment; authority permitting corporal punishment void.

(4) A person employed by or engaged as a volunteer or contractor by a local or intermediate school board or public school academy may use reasonable physical force upon a pupil as necessary to maintain order and control in a school or school-related setting for the purpose of providing an environment conducive to safety and learning. In maintaining that order and control, the person may use physical force upon a pupil as may be necessary for 1 or more of the following:

(e) To obtain possession of a weapon or other dangerous object upon or within the control of a pupil.

380.1313. Dangerous weapon found in possession of pupil; report; confiscation by school official; determination of legal owner; "dangerous weapon" defined.

(1) If a dangerous weapon is found in the possession of a pupil while the pupil is in attendance at school or a school activity or while the pupil is enroute to or from school on a school bus, the superintendent of the school district or intermediate school district, or his or her designee, immediately shall report that finding to the pupil's parent or legal guardian and the local law enforcement agency.

(2) If a school official finds that a dangerous weapon is in the possession of a pupil as described in subsection (1), the school official may confiscate the dangerous weapon or shall request a law enforcement agency to respond as soon as possible and to confiscate the dangerous weapon. If a school official confiscates a dangerous weapon under this subsection, the school official shall give the dangerous weapon to a law enforcement agency and shall not release the dangerous weapon to any other person, including the legal owner of the dangerous weapon. A school official who complies in good faith with this section is not civilly or criminally liable for that compliance.

(4) As used in this section, "dangerous weapon" means a firearm, dagger, dirk, stiletto, knife with a blade over 3 inches in length, pocket knife opened by a mechanical device, iron bar, or brass knuckles.

Other weapons

STATUTES

380.1308. Statewide school safety information policy.

(2) The statewide school safety information policy also may address procedures for reporting incidents involving possession of a dangerous weapon as required under section 1313.

380.1311. Suspension or expulsion of pupils.

(2) If a pupil possesses in a weapon free school zone a weapon that constitutes a dangerous weapon, commits arson in a school building or on school grounds, or commits criminal sexual conduct in a school building or on school grounds, the school board, or the designee of the school board as described in subsection (1) on behalf of the school board, shall expel the pupil from the school district permanently,

subject to possible reinstatement under subsection (5).However, a school board is not required to expel a pupil for possessing a weapon if the pupil establishes in a clear and convincing manner at least 1 of the following:

(a) The object or instrument possessed by the pupil was not possessed by the pupil for use as a weapon, or for direct or indirect delivery to another person for use as a weapon.

(b) The weapon was not knowingly possessed by the pupil.

(c) The pupil did not know or have reason to know that the object or instrument possessed by the pupil constituted a dangerous weapon.

(d) The weapon was possessed by the pupil at the suggestion, request, or direction of, or with the express permission of, school or police authorities.

(5) The parent or legal guardian of an individual expelled pursuant to subsection (2) or, if the individual is at least age 18 or is an emancipated minor, the individual may petition the expelling school board for reinstatement of the individual to public education in the school district. If the expelling school board denies a petition for reinstatement, the parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, the individual may petition another school board for reinstatement of the individual in that other school district. All of the following apply to reinstatement under this subsection:

(a) For an individual who was enrolled in grade 5 or below at the time of the expulsion and who has been expelled for possessing a firearm or threatening another person with a dangerous weapon, the parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, the individual may initiate a petition for reinstatement at any time after the expiration of 60 school days after the date of expulsion. For an individual who was enrolled in grade 5 or below at the time of the expulsion and who has been expelled pursuant to subsection (2) for a reason other than possessing a firearm or threatening another person with a dangerous weapon, the parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, the individual may initiate a petition for reinstatement at any time. For an individual who was in grade 6 or above at the time of expulsion, the parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, the individual may initiate a petition for reinstatement at any time after the expiration of 150 school days after the date of expulsion.

(b) An individual who was in grade 5 or below at the time of the expulsion and who has been expelled for possessing a firearm or threatening another person with a dangerous weapon shall not be reinstated before the expiration of 90 school days after the date of expulsion. An individual who was in grade 5 or below at the time of the expulsion and who has been expelled pursuant to subsection (2) for a reason other than possessing a firearm or threatening another person with a dangerous weapon shall not be reinstated before the expiration of 10 school days after the date of the expulsion. An individual who was in grade 6 or above at the time of the expulsion shall not be reinstated before the expiration of 180 school days after the date of expulsion.

380.1312. "Corporal punishment" defined; infliction of corporal punishment by employee, volunteer, or contractor; exercise of necessary reasonable physical force; liability; violation; deference given to reasonable good-faith judgments; development, implementation, and enforcement of code of student conduct; model list of alternatives to use of corporal punishment; authority permitting corporal punishment void.

(4) A person employed by or engaged as a volunteer or contractor by a local or intermediate school board or public school academy may use reasonable physical force upon a pupil as necessary to maintain order and control in a school or school-related setting for the purpose of providing an environment conducive to safety and learning. In maintaining that order and control, the person may use physical force upon a pupil as may be necessary for 1 or more of the following:

(e) To obtain possession of a weapon or other dangerous object upon or within the control of a pupil.

380.1313. Dangerous weapon found in possession of pupil; report; confiscation by school official; determination of legal owner; "dangerous weapon" defined.

(1) If a dangerous weapon is found in the possession of a pupil while the pupil is in attendance at school or a school activity or while the pupil is enroute to or from school on a school bus, the superintendent of the school district or intermediate school district, or his or her designee, immediately shall report that finding to the pupil's parent or legal guardian and the local law enforcement agency.

(2) If a school official finds that a dangerous weapon is in the possession of a pupil as described in subsection (1), the school official may confiscate the dangerous weapon or shall request a law enforcement agency to respond as soon as possible and to confiscate the dangerous weapon. If a school official confiscates a dangerous weapon under this subsection, the school official shall give the dangerous weapon to a law enforcement agency and shall not release the dangerous weapon to any other person, including the legal owner of the dangerous weapon. A school official who complies in good faith with this section is not civilly or criminally liable for that compliance.

(4) As used in this section, "dangerous weapon" means a firearm, dagger, dirk, stiletto, knife with a blade over 3 inches in length, pocket knife opened by a mechanical device, iron bar, or brass knuckles.

Students with chronic disciplinary issues

STATUTES

380.1586. Nonattendance at school; notice; investigation; discussion of irregular attendance, failing work, or behavior problems with parent.

(1) The attendance officer shall investigate each case of nonattendance at school when notified by a teacher, superintendent, intermediate superintendent, or other person of a violation of this part. If the child complained of is not exempt from public school attendance under the conditions listed in section 1561, the attendance officer shall proceed immediately in the manner provided in this part.

(2) If a child is repeatedly absent from school without valid excuse, or is failing in schoolwork or gives evidence of behavior problems, and attempts to confer with the parent or other person in parental relationship to the child fail, the superintendent of schools, or the intermediate superintendent in a district which does not employ a superintendent, may request the attendance officer to notify the parent or other person in parental relationship by registered mail to come to the school or to a place designated at a time specified to discuss the child's irregularity in attendance, failing work, or behavior problems with the proper school authorities.

(3) The superintendent, or the teacher in a district which does not employ a superintendent, shall provide information concerning the nonattendance of each nonresident pupil to the intermediate superintendent of the intermediate school district in which the nonresident pupil resides. The intermediate attendance officer, when notified by the intermediate superintendent or superintendent of schools, shall investigate and proceed in all cases of nonattendance of nonresident pupils in the same manner provided in this part for enforcing attendance of pupils attending schools in districts in which they reside.

Attendance and truancy

STATUTES

380.1571. Attendance officers; acceptance and oath of office; surety bond; powers and duties; list of teachers and superintendent.

(1) The intermediate school board shall select 1 or more persons to act as attendance officers for the intermediate school district. An attendance officer shall file with the secretary of the intermediate school board an acceptance and oath of office, and a surety bond in the sum of $1,000.00.

(2) The board of a school district having a pupil membership of 1,000 or more on the latest pupil membership count day may employ attendance officers. An attendance officer employed by a board of education shall give a surety bond to the board in the sum of $1,000.00.

(3) An attendance officer of an intermediate school district or a local school district shall have the powers of a deputy sheriff within the district or the intermediate school district while performing official duties. An intermediate school district attendance officer shall perform the duties of the office in each constituent district in which the local board does not employ an attendance officer.

(4) At the opening of the schools the intermediate superintendent shall furnish the intermediate attendance officer with a list of the teachers and superintendents employed in constituent districts other than those employing an attendance officer.

380.1586. Nonattendance at school; notice; investigation; discussion of irregular attendance, failing work, or behavior problems with parent.

(1) The attendance officer shall investigate each case of nonattendance at school when notified by a teacher, superintendent, intermediate superintendent, or other person of a violation of this part. If the child complained of is not exempt from public school attendance under the conditions listed in section 1561, the attendance officer shall proceed immediately in the manner provided in this part.

(2) If a child is repeatedly absent from school without valid excuse, or is failing in schoolwork or gives evidence of behavior problems, and attempts to confer with the parent or other person in parental relationship to the child fail, the superintendent of schools, or the intermediate superintendent in a district which does not employ a superintendent, may request the attendance officer to notify the parent or other person in parental relationship by registered mail to come to the school or to a place designated at a time specified to discuss the child's irregularity in attendance, failing work, or behavior problems with the proper school authorities.

(3) The superintendent, or the teacher in a district which does not employ a superintendent, shall provide information concerning the nonattendance of each nonresident pupil to the intermediate superintendent of the intermediate school district in which the nonresident pupil resides. The intermediate attendance officer, when notified by the intermediate superintendent or superintendent of schools, shall investigate and proceed in all cases of nonattendance of nonresident pupils in the same manner provided in this part for enforcing attendance of pupils attending schools in districts in which they reside.

Substance use

STATUTES

380.1170. Physiology and hygiene; instruction; development of comprehensive health education programs; conflict with religious beliefs.

(1) Instruction shall be given in physiology and hygiene, with special reference to substance abuse, including the abusive use of tobacco, alcohol, and drugs, and their effect upon the human system.

(2) Comprehensive health education programs shall be developed as prescribed by Act No. 226 of the Public Acts of 1969, being sections 388.381 to 388.385 of the Michigan Compiled Laws.

(3) A child upon the written statement of parent or guardian that instruction in the characteristics or symptoms of disease is in conflict with his or her sincerely held religious beliefs shall be excused from attending classes where such instruction is being given and no penalties as to credit or graduation shall result therefrom.

380.1310a. Report.

(2) In order to obtain an accurate local and statewide picture of school crime and to develop the partnerships necessary to plan and implement school safety programs, at least annually, each school board shall report to the superintendent of public instruction, in the form and manner prescribed by the superintendent of public instruction, incidents of crime occurring at school within the school district. In determining the form and manner of this report, the superintendent of public instruction shall consult with local and intermediate school districts and law enforcement officials. The reporting shall include at least crimes involving physical violence, gang-related activity, illegal possession of a controlled substance or controlled substance analogue, or other intoxicant, trespassing, and property crimes including, but not limited to, theft and vandalism. For a property crime, the report shall include an estimate of the cost to the school district resulting from the property crime. The school crime reporting requirements of this subsection are intended to do all of the following:

(a) Help policymakers and program designers at the local and state levels develop appropriate prevention and intervention programs.

(b) Provide the continuous assessment tools needed for revising and refining school safety programs.

(c) Assist schools and school districts to identify the most pressing safety issues confronting their school communities, to direct resources appropriately, and to enhance campus safety through prevention and intervention strategies.

(d) Foster the creation of partnerships among schools, school districts, state agencies, communities, law enforcement, and the media to prevent further crime and violence and to assure a safe learning environment for every pupil.

380.1318. Use of performance-enhancing substances in interscholastic athletics; eligibility policy; list of drugs to be provided by department of community health.

(1) The board of a school district or board of directors of a public school academy shall ensure that its policies concerning a pupil's eligibility for participation in interscholastic athletics include use of a performance-enhancing substance by the pupil as a violation that will affect a pupil's eligibility, as determined by the board or board of directors. The governing body of a nonpublic school is encouraged to adopt an eligibility policy that meets the requirements of this section.

(2) For the purposes of this section, the department of community health shall develop, periodically update, and make available to school districts, public school academies, and nonpublic schools a list of

performance-enhancing substances. The department of community health shall base the list on the list of banned drugs contained in bylaw 31.2.3.1 of the bylaws of the national collegiate athletic association.

Bullying, harassment, or hazing

STATUTES

380.1310b. Policy prohibiting bullying; adoption and implementation by board of school district or intermediate school district or board of directors of public school academy; public hearing; submission of policy to department; report; contents of policy; reporting act of bullying; definitions; section to be known as "Matt's Safe School Law."

(1) Subject to subsection (3), not later than 6 months after the effective date of this section, the board of a school district or intermediate school district or board of directors of a public school academy shall adopt and implement a policy prohibiting bullying at school, as defined in this section.

(2) Subject to subsection (3), before adopting the policy required under subsection (1), the board or board of directors shall hold at least 1 public hearing on the proposed policy. This public hearing may be held as part of a regular board meeting. Subject to subsection (3), not later than 30 days after adopting the policy, the board or board of directors shall submit a copy of its policy to the department.

(3) If, as of the effective date of this section, a school district, intermediate school district, or public school academy has already adopted and implemented an existing policy prohibiting bullying at school and that policy is in compliance with subsection (5), the board of the school district or intermediate school district or board of directors of the public school academy is not required to adopt and implement a new policy under subsection (1). However, this subsection applies to a school district, intermediate school district, or public school academy described in this subsection only if the board or board of directors submits a copy of its policy to the department not later than 60 days after the effective date of this section.

(4) Not later than 1 year after the deadline under subsection (2) for districts and public school academies to submit copies of their policies to the department, the department shall submit a report to the senate and house standing committees on education summarizing the status of the implementation of policies under this section.

(5) A policy adopted pursuant to subsection (1) shall include at least all of the following:

(a) A statement prohibiting bullying of a pupil.

(b) A statement prohibiting retaliation or false accusation against a target of bullying, a witness, or another person with reliable information about an act of bullying.

(c) A provision indicating that all pupils are protected under the policy and that bullying is equally prohibited without regard to its subject matter or motivating animus.

(d) The identification by job title of school officials responsible for ensuring that the policy is implemented.

(e) A statement describing how the policy is to be publicized.

(f) A procedure for providing notification to the parent or legal guardian of a victim of bullying and the parent or legal guardian of a perpetrator of the bullying.

(g) A procedure for reporting an act of bullying.

(h) A procedure for prompt investigation of a report of violation of the policy or a related complaint, identifying either the principal or the principal's designee as the person responsible for the investigation.

(i) A procedure for each public school to document any prohibited incident that is reported and a procedure to report all verified incidents of bullying and the resulting consequences, including discipline

and referrals, to the board of the school district or intermediate school district or board of directors of the public school academy on an annual basis.

(6) The legislature encourages a board or board of directors to include all of the following in the policy required under this section:

(a) Provisions to form bullying prevention task forces, programs, teen courts, and other initiatives involving school staff, pupils, school clubs or other student groups, administrators, volunteers, parents, law enforcement, community members, and other stakeholders.

(b) A requirement for annual training for administrators, school employees, and volunteers who have significant contact with pupils on preventing, identifying, responding to, and reporting incidents of bullying.

(c) A requirement for educational programs for pupils and parents on preventing, identifying, responding to, and reporting incidents of bullying and cyberbullying.

(7) A school employee, school volunteer, pupil, or parent or guardian who promptly reports in good faith an act of bullying to the appropriate school official designated in the school district's or public school academy's policy and who makes this report in compliance with the procedures set forth in the policy is immune from a cause of action for damages arising out of the reporting itself or any failure to remedy the reported incident. However, this immunity does not apply to a school official who is designated under subsection (5)(d), or who is responsible for remedying the bullying, when acting in that capacity.

(8) As used in this section:

(a) "At school" means in a classroom, elsewhere on school premises, on a school bus or other school-related vehicle, or at a school-sponsored activity or event whether or not it is held on school premises. "At school" includes conduct using a telecommunications access device or telecommunications service provider that occurs off school premises if the telecommunications access device or the telecommunications service provider is owned by or under the control of the school district or public school academy.

(b) "Bullying" means any written, verbal, or physical act, or any electronic communication, that is intended or that a reasonable person would know is likely to harm 1 or more pupils either directly or indirectly by doing any of the following:

(i) Substantially interfering with educational opportunities, benefits, or programs of 1 or more pupils.

(ii) Adversely affecting the ability of a pupil to participate in or benefit from the school district's or public school's educational programs or activities by placing the pupil in reasonable fear of physical harm or by causing substantial emotional distress.

(iii) Having an actual and substantial detrimental effect on a pupil's physical or mental health.

(iv) Causing substantial disruption in, or substantial interference with, the orderly operation of the school.

(c) "Telecommunications access device" and "telecommunications service provider" mean those terms as defined in section 219a of the Michigan penal code, 1931 PA 328, MCL 750.219a.

(9) This section shall be known as "Matt's Safe School Law".

750.411t. Hazing prohibited; violation; penalty; exceptions; certain defenses barred; definitions; section title.

(1) Except as provided in subsection (4), a person who attends, is employed by, or is a volunteer of an educational institution shall not engage in or participate in the hazing of an individual.

(2) A person who violates subsection (1) is guilty of a crime punishable as follows:

(a) If the violation results in physical injury, the person is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $1,000.00, or both.

(b) If the violation results in serious impairment of a body function, the person is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than $2,500.00, or both.

(c) If the violation results in death, the person is guilty of a felony punishable by imprisonment for not more than 15 years or a fine of not more than $10,000.00, or both.

(3) A criminal penalty provided for under this section may be imposed in addition to any penalty that may be imposed for any other criminal offense arising from the same conduct.

(4) This section does not apply to an individual who is the subject of the hazing, regardless of whether the individual voluntarily allowed himself or herself to be hazed.

(5) This section does not apply to an activity that is normal and customary in an athletic, physical education, military training, or similar program sanctioned by the educational institution.

(6) It is not a defense to a prosecution for a crime under this section that the individual against whom the hazing was directed consented to or acquiesced in the hazing.

(7) As used in this section:

(a) “Educational institution” means a public or private school that is a middle school, junior high school, high school, vocational school, college, or university located in this state.

(b) “Hazing” means an intentional, knowing, or reckless act by a person acting alone or acting with others that is directed against an individual and that the person knew or should have known endangers the physical health or safety of the individual, and that is done for the purpose of pledging, being initiated into, affiliating with, participating in, holding office in, or maintaining membership in any organization. Subject to subsection (5), hazing includes any of the following that is done for such a purpose:

(i) Physical brutality, such as whipping, beating, striking, branding, electronic shocking, placing of a harmful substance on the body, or similar activity.

(ii) Physical activity, such as sleep deprivation, exposure to the elements, confinement in a small space, or calisthenics, that subjects the other person to an unreasonable risk of harm or that adversely affects the physical health or safety of the individual.

(iii) Activity involving consumption of a food, liquid, alcoholic beverage, liquor, drug, or other substance that subjects the individual to an unreasonable risk of harm or that adversely affects the physical health or safety of the individual.

(iv) Activity that induces, causes, or requires an individual to perform a duty or task that involves the commission of a crime or an act of hazing.

(c) “Organization” means a fraternity, sorority, association, corporation, order, society, corps, cooperative, club, service group, social group, athletic team, or similar group whose members are primarily students at an educational institution.

(d) “Pledge” means an individual who has been accepted by, is considering an offer of membership from, or is in the process of qualifying for membership in any organization.

(e) “Pledging” means any action or activity related to becoming a member of an organization.

(f) “Serious impairment of a body function” means that term as defined in section 479a.

(8) This section shall be known and may be cited as “Garret's law”.

Other special infractions or conditions

STATUTES

380.1311. Suspension or expulsion of pupils.

(2) If a pupil possesses in a weapon free school zone a weapon that constitutes a dangerous weapon, commits arson in a school building or on school grounds, or commits criminal sexual conduct in a school building or on school grounds, the school board, or the designee of the school board as described in subsection (1) on behalf of the school board, shall expel the pupil from the school district permanently, subject to possible reinstatement under subsection (5).

Prevention and Behavioral Interventions (Non-Punitive)

Prevention

STATUTES

380.1170. Physiology and hygiene; instruction; development of comprehensive health education programs; conflict with religious beliefs.

(1) Instruction shall be given in physiology and hygiene, with special reference to substance abuse, including the abusive use of tobacco, alcohol, and drugs, and their effect upon the human system.

(2) Comprehensive health education programs shall be developed as prescribed by Act No. 226 of the Public Acts of 1969, being sections 388.381 to 388.385 of the Michigan Compiled Laws.

(3) A child upon the written statement of parent or guardian that instruction in the characteristics or symptoms of disease is in conflict with his or her sincerely held religious beliefs shall be excused from attending classes where such instruction is being given and no penalties as to credit or graduation shall result therefrom.

380.1310a. Report.

(2) In order to obtain an accurate local and statewide picture of school crime and to develop the partnerships necessary to plan and implement school safety programs, at least annually, each school board shall report to the superintendent of public instruction, in the form and manner prescribed by the superintendent of public instruction, incidents of crime occurring at school within the school district. In determining the form and manner of this report, the superintendent of public instruction shall consult with local and intermediate school districts and law enforcement officials. The reporting shall include at least crimes involving physical violence, gang-related activity, illegal possession of a controlled substance or controlled substance analogue, or other intoxicant, trespassing, and property crimes including, but not limited to, theft and vandalism. For a property crime, the report shall include an estimate of the cost to the school district resulting from the property crime. The school crime reporting requirements of this subsection are intended to do all of the following:

(c) Assist schools and school districts to identify the most pressing safety issues confronting their school communities, to direct resources appropriately, and to enhance campus safety through prevention and intervention strategies.

380.1310b. Policy prohibiting bullying; adoption and implementation by board of school district or intermediate school district or board of directors of public school academy; public hearing; submission of policy to department; report; contents of policy; reporting act of bullying; definitions; section to be known as "Matt's Safe School Law."

(1) Subject to subsection (3), not later than 6 months after the effective date of this section, the board of a school district or intermediate school district or board of directors of a public school academy shall adopt and implement a policy prohibiting bullying at school, as defined in this section.

(6) The legislature encourages a board or board of directors to include all of the following in the policy required under this section:

(a) Provisions to form bullying prevention task forces, programs, teen courts, and other initiatives involving school staff, pupils, school clubs or other student groups, administrators, volunteers, parents, law enforcement, community members, and other stakeholders.

(b) A requirement for annual training for administrators, school employees, and volunteers who have significant contact with pupils on preventing, identifying, responding to, and reporting incidents of bullying.

(c) A requirement for educational programs for pupils and parents on preventing, identifying, responding to, and reporting incidents of bullying and cyberbullying.

Behavioral interventions and student support services

STATUTES

380.1310a. Report.

(2) In order to obtain an accurate local and statewide picture of school crime and to develop the partnerships necessary to plan and implement school safety programs, at least annually, each school board shall report to the superintendent of public instruction, in the form and manner prescribed by the superintendent of public instruction, incidents of crime occurring at school within the school district. In determining the form and manner of this report, the superintendent of public instruction shall consult with local and intermediate school districts and law enforcement officials. The reporting shall include at least crimes involving physical violence, gang-related activity, illegal possession of a controlled substance or controlled substance analogue, or other intoxicant, trespassing, and property crimes including, but not limited to, theft and vandalism. For a property crime, the report shall include an estimate of the cost to the school district resulting from the property crime. The school crime reporting requirements of this subsection are intended to do all of the following:

(c) Assist schools and school districts to identify the most pressing safety issues confronting their school communities, to direct resources appropriately, and to enhance campus safety through prevention and intervention strategies.

380.1311. Suspension or expulsion of pupils.

(5) The parent or legal guardian of an individual permanently expelled pursuant to this section or, if the individual is at least age 18 or is an emancipated minor, the individual may petition the expelling school board for reinstatement of the individual to public education in the school district. If the expelling school board denies a petition for reinstatement, the parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, the individual may petition another school board for reinstatement of the individual in that other school district. All of the following apply to reinstatement under this subsection:

(g) A school board may require an individual and, if the petition was filed by a parent or legal guardian, his or her parent or legal guardian to agree in writing to specific conditions before reinstating the individual in a conditional reinstatement. The conditions may include, but are not limited to, agreement to a behavior contract, which may involve the individual, parent or legal guardian, and an outside agency; participation in or completion of an anger management program or other appropriate counseling; periodic progress reviews; and specified immediate consequences for failure to abide by a condition. A parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, the individual may include proposed conditions in a petition for reinstatement submitted under this subsection.

380.1311a. Assault by pupil against employee, volunteer, or contractor; expulsion required; alternative services; referral; reinstatement; immunity from liability; petition for reinstatement form; rights of pupils eligible for special education programs and services; eligibility of school for prorated share of foundation allowance; report of assaults; responsibility for enrollment in educational program; definitions.

(5) The parent or legal guardian of an individual permanently expelled pursuant to this section or, if the individual is at least age 18 or is an emancipated minor, the individual may petition the expelling school board for reinstatement of the individual to public education in the school district. If the expelling school board denies a petition for reinstatement, the parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, the individual may petition another school board for reinstatement of the individual in that other school district. All of the following apply to reinstatement under this subsection:

(g) A school board may require an individual and, if the petition was filed by a parent or legal guardian, his or her parent or legal guardian to agree in writing to specific conditions before reinstating the individual in a conditional reinstatement. The conditions may include, but are not limited to, agreement to a behavior contract, which may involve the individual, parent or legal guardian, and an outside agency; participation in or completion of an anger management program or other appropriate counseling; periodic progress reviews; and specified immediate consequences for failure to abide by a condition. A parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, the individual may include proposed conditions in a petition for reinstatement submitted under this subsection.

380.1312. "Corporal punishment" defined; infliction of corporal punishment by employee, volunteer, or contractor; exercise of necessary reasonable physical force; liability; violation; deference given to reasonable good-faith judgments; development, implementation, and enforcement of code of student conduct; model list of alternatives to use of corporal punishment; authority permitting corporal punishment void.

(9) The department shall develop a model list of alternatives to the use of corporal punishment. This model list shall be developed in consultation with organizations that represent the interests of teachers, school employees, school boards, school administrators, pupils, parents, and child advocates, plus any other organization that the state board of education may wish to consult. The department shall send this model list to each school district, public school academy, and intermediate school district in the state and to each nonpublic school in the state that requests it. A local or intermediate school board or public school academy shall approve and cause to be distributed to each employee, volunteer, and contractor a list of alternatives to the use of corporal punishment. Upon request, the department of education shall provide assistance to schools in the development of programs and materials to implement this section.

Professional development

STATUTES

380.1310b. Policy prohibiting bullying; adoption and implementation by board of school district or intermediate school district or board of directors of public school academy; public hearing; submission of policy to department; report; contents of policy; reporting act of bullying; definitions; section to be known as "Matt's Safe School Law."

(6) The legislature encourages a board or board of directors to include all of the following in the policy required under this section:

(b) A requirement for annual training for administrators, school employees, and volunteers who have significant contact with pupils on preventing, identifying, responding to, and reporting incidents of bullying.

Monitoring and Accountability

Formal incident reporting of conduct violations

STATUTES

380.1310b. Policy prohibiting bullying; adoption and implementation by board of school district or intermediate school district or board of directors of public school academy; public hearing; submission of policy to department; report; contents of policy; reporting act of bullying; definitions; section to be known as "Matt's Safe School Law."

(1) Subject to subsection (3), not later than 6 months after the effective date of this section, the board of a school district or intermediate school district or board of directors of a public school academy shall adopt and implement a policy prohibiting bullying at school, as defined in this section.

(5) A policy adopted pursuant to subsection (1) shall include at least all of the following:

(g) A procedure for reporting an act of bullying.

(h) A procedure for prompt investigation of a report of violation of the policy or a related complaint, identifying either the principal or the principal's designee as the person responsible for the investigation.

380.1586. Nonattendance at school; notice; investigation; discussion of irregular attendance, failing work, or behavior problems with parent.

(3) The superintendent, or the teacher in a district which does not employ a superintendent, shall provide information concerning the nonattendance of each nonresident pupil to the intermediate superintendent of the intermediate school district in which the nonresident pupil resides. The intermediate attendance officer, when notified by the intermediate superintendent or superintendent of schools, shall investigate and proceed in all cases of nonattendance of nonresident pupils in the same manner provided in this part for enforcing attendance of pupils attending schools in districts in which they reside.

Parental notification

STATUTES

380.1306. School lockers; no presumption of privacy; search policy; assistance of law enforcement agency; model policy; admissibility of evidence.

(2) If the board of a school district, local act school district, or intermediate school district or board of directors of a public school academy operates a school that has pupil lockers, then not later than 180 days after the effective date of this section the board or board of directors shall adopt a policy on searches of pupils' lockers and locker contents. This policy shall provide that, in the course of a search conducted pursuant to the policy, the privacy rights of the pupil shall be respected regarding any items that are not illegal or against school policy. The board or board of directors shall provide a copy of this policy to each pupil at a school that has lockers and to the parent or legal guardian of each of those pupils. The board or board of directors shall also provide a copy of the policy to the department upon request by the department.

380.1308. Statewide school safety information policy.

(d) The amount and nature of assistance to be provided by school officials, and the scope of their involvement in law enforcement procedures. This provision shall require school officials to notify the

parent or legal guardian of a minor pupil who is a victim or witness when law enforcement authorities interview the pupil.

(9) Reporting of information by a school district or school personnel under this section is subject to section 444 of subpart 4 of part C of the general education provisions act, Title IV of Public Law 90-247, 20 U.S.C. 1232g, commonly referred to as the family educational rights and privacy act of 1974.

(10) If a pupil is involved in an incident reported to law enforcement according to the statewide school safety information policy under this section, then upon request by school officials, the pupil's parent or legal guardian shall execute any waivers or consents necessary to allow school officials access to school, court, or other pertinent records of the pupil concerning the incident and action taken as a result of the incident.

380.1309. Conduct constituting suspension; action by teacher; report; supervision; conference; return by student; adoption of local policy by school board; definitions.

(1) If a teacher in a public school has good reason to believe that a pupil's conduct in a class, subject, or activity constitutes conduct for which the pupil may be suspended from a class, subject, or activity according to the local policy required under subsection (2), the teacher may cause the pupil to be suspended from the class, subject, or activity for up to 1 full school day. The teacher shall immediately report the suspension and the reason for the suspension to the school principal and send the pupil to the school principal or the school principal's designee for appropriate action. If that action requires the continued presence of the pupil at school, the pupil shall be under appropriate supervision. As soon as possible after a suspension under this section, the teacher shall ask the parent or guardian of the pupil to attend a parent-teacher conference regarding the suspension. Whenever practicable, a school counselor, school psychologist, or school social worker shall attend the conference. A school administrator shall attend the conference if the teacher or the parent or guardian so requests. During a suspension under this section, the pupil shall not be returned that school day to the class, subject, or activity from which he or she was suspended without the concurrence of the teacher of the class, subject, or activity and the school principal.

380.1310b. Policy prohibiting bullying; adoption and implementation by board of school district or intermediate school district or board of directors of public school academy; public hearing; submission of policy to department; report; contents of policy; reporting act of bullying; definitions; section to be known as "Matt's Safe School Law."

(1) Subject to subsection (3), not later than 6 months after the effective date of this section, the board of a school district or intermediate school district or board of directors of a public school academy shall adopt and implement a policy prohibiting bullying at school, as defined in this section.

(5) A policy adopted pursuant to subsection (1) shall include at least all of the following:

(f) A procedure for providing notification to the parent or legal guardian of a victim of bullying and the parent or legal guardian of a perpetrator of the bullying.

380.1311. Suspension or expulsion of pupils.

(4) If a school board expels an individual pursuant to subsection (2), the school board shall ensure that, within 3 days after the expulsion, an official of the school district refers the individual to the appropriate county department of social services or county community mental health agency and notifies the individual's parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, notifies the individual of the referral.

380.1313. Dangerous weapon found in possession of pupil; report; confiscation by school official; determination of legal owner; "dangerous weapon" defined.

(1) If a dangerous weapon is found in the possession of a pupil while the pupil is in attendance at school or a school activity or while the pupil is enroute to or from school on a school bus, the superintendent of the school district or intermediate school district, or his or her designee, immediately shall report that finding to the pupil's parent or legal guardian and the local law enforcement agency.

(2) If a school official finds that a dangerous weapon is in the possession of a pupil as described in subsection (1), the school official may confiscate the dangerous weapon or shall request a law enforcement agency to respond as soon as possible and to confiscate the dangerous weapon. If a school official confiscates a dangerous weapon under this subsection, the school official shall give the dangerous weapon to a law enforcement agency and shall not release the dangerous weapon to any other person, including the legal owner of the dangerous weapon. A school official who complies in good faith with this section is not civilly or criminally liable for that compliance.

(4) As used in this section, "dangerous weapon" means a firearm, dagger, dirk, stiletto, knife with a blade over 3 inches in length, pocket knife opened by a mechanical device, iron bar, or brass knuckles.

380.1586. Nonattendance at school; notice; investigation; discussion of irregular attendance, failing work, or behavior problems with parent.

(2) If a child is repeatedly absent from school without valid excuse, or is failing in schoolwork or gives evidence of behavior problems, and attempts to confer with the parent or other person in parental relationship to the child fail, the superintendent of schools, or the intermediate superintendent in a district which does not employ a superintendent, may request the attendance officer to notify the parent or other person in parental relationship by registered mail to come to the school or to a place designated at a time specified to discuss the child's irregularity in attendance, failing work, or behavior problems with the proper school authorities.

Reporting and referrals between schools and law enforcement

STATUTES

380.1306. School lockers; no presumption of privacy; search policy; assistance of law enforcement agency; model policy; admissibility of evidence.

(4) A law enforcement agency having jurisdiction over the school may assist school personnel in conducting a search of a pupil's locker and the locker's contents if that assistance is at the request of the school principal or his or her designee and the search is conducted in accordance with the policy under subsection (2).

380.1308. Statewide school safety information policy.

(2) The statewide school safety information policy required under subsection (1) shall identify the types of incidents occurring at school that must be reported to law enforcement agencies and shall establish procedures to be followed when such an incident occurs at school. The statewide school safety information policy also may address procedures for reporting incidents involving possession of a dangerous weapon as required under section 1313. The statewide school safety information policy shall address at least all of the following:

(a) Law enforcement protocols and priorities for the reporting process. The law enforcement protocols must be developed with the cooperation of the appropriate state or local law enforcement agency. The law enforcement priorities shall include at least investigation of reported incidents, identification of those

involved in a reported incident, assistance in prevention of these types of incidents, and, when appropriate, assistance from a child protection agency.

(b) Definition of the types of incidents requiring reporting to law enforcement and response by law enforcement, taking into account the intent of the actor and the circumstances surrounding the incident.

(c) Protocols for responding to reportable incidents, addressing at least all of the following:

(i) Initial notification and reporting by school officials.

(ii) The information to be provided by school officials.

(iii) Initial response by law enforcement agencies, which shall be specifically tailored for incidents in progress, incidents not in progress, and incidents involving delayed reporting. School officials shall be consulted to determine the extent of law enforcement involvement required by the situation.

(iv) Custody of actors.

(3) If school officials of a school district determine that an incident has occurred at school that is required to be reported to law enforcement agencies according to the statewide school safety information policy under this section, the superintendent of the school district, or his or her designee, immediately shall report that finding to the appropriate state or local law enforcement agency in the manner prescribed in the statewide school safety information policy.

(4) If provided in the statewide school safety information policy under this section, a local law enforcement agency that has jurisdiction over a school building of a school district shall report to the school officials of the school building incidents reported to the law enforcement agency that allege the commission of a crime and that, according to the incident report, either occurred on school property or within 1,000 feet of the school property or involved a pupil or staff member of the school as a victim or alleged perpetrator. Upon request by a law enforcement agency, school officials shall provide the law enforcement agency with any information the law enforcement agency determines it needs to provide this report to school officials.

(5) If provided in the statewide school safety information policy under this section, the prosecuting attorney of a county shall notify a school district located in whole or in part in that county of any criminal or juvenile court action initiated or taken against a pupil of the school district, including, but not limited to, convictions, adjudications, and dispositions. This notification shall be made to either the school district superintendent or to the intermediate superintendent of the intermediate school district in which the county is located, as provided in the policy or by local agreement. If the notification is made to the intermediate superintendent, the intermediate superintendent shall forward the information to the superintendent of the school district in which the pupil is enrolled. Upon receipt of information under this subsection, a school district superintendent shall share the information with appropriate school building personnel. The prosecuting attorney may inquire of each school age individual involved in a court action described in this subsection whether the individual is a pupil in a school district and, if so, in which school district.

(6) If provided for in the statewide school safety information policy under this section, the appropriate court shall inform an appropriate school administrator of the name of the individual assigned to monitor a convicted or adjudicated youth attending a public school and of how that individual may be contacted.

(7) A school board, county prosecutor, and local law enforcement agency may enter into a local agreement or take other measures to facilitate the sharing of school safety information or to promote school safety if the agreement or other measures are consistent with the statewide school safety information policy.

(8) A school board shall cooperate with local law enforcement agencies to ensure that detailed and accurate building plans, blueprints, and site plans, as appropriate, for each school building operated by the school board are provided to the appropriate local law enforcement agency.

380.1313. Dangerous weapon found in possession of pupil; report; confiscation by school official; determination of legal owner; "dangerous weapon" defined.

(1) If a dangerous weapon is found in the possession of a pupil while the pupil is in attendance at school or a school activity or while the pupil is enroute to or from school on a school bus, the superintendent of the school district or intermediate school district, or his or her designee, immediately shall report that finding to the pupil's parent or legal guardian and the local law enforcement agency.

(2) If a school official finds that a dangerous weapon is in the possession of a pupil as described in subsection (1), the school official may confiscate the dangerous weapon or shall request a law enforcement agency to respond as soon as possible and to confiscate the dangerous weapon. If a school official confiscates a dangerous weapon under this subsection, the school official shall give the dangerous weapon to a law enforcement agency and shall not release the dangerous weapon to any other person, including the legal owner of the dangerous weapon. A school official who complies in good faith with this section is not civilly or criminally liable for that compliance.

(4) As used in this section, "dangerous weapon" means a firearm, dagger, dirk, stiletto, knife with a blade over 3 inches in length, pocket knife opened by a mechanical device, iron bar, or brass knuckles.

Disclosure of school records

STATUTES

380.1308. Statewide school safety information policy.

(4) If provided in the statewide school safety information policy under this section, a local law enforcement agency that has jurisdiction over a school building of a school district shall report to the school officials of the school building incidents reported to the law enforcement agency that allege the commission of a crime and that, according to the incident report, either occurred on school property or within 1,000 feet of the school property or involved a pupil or staff member of the school as a victim or alleged perpetrator. Upon request by a law enforcement agency, school officials shall provide the law enforcement agency with any information the law enforcement agency determines it needs to provide this report to school officials.

(9) Reporting of information by a school district or school personnel under this section is subject to section 444 of subpart 4 of part C of the general education provisions act, Title IV of Public Law 90-247, 20 U.S.C. 1232g, commonly referred to as the family educational rights and privacy act of 1974.

(10) If a pupil is involved in an incident reported to law enforcement according to the statewide school safety information policy under this section, then upon request by school officials, the pupil's parent or legal guardian shall execute any waivers or consents necessary to allow school officials access to school, court, or other pertinent records of the pupil concerning the incident and action taken as a result of the incident.

Data collection, review, and reporting of disciplinary policies and actions

STATUTES

380.1310a. Report.

(1) At least annually, each school board shall prepare and submit to the superintendent of public instruction, in the form and manner prescribed by the superintendent of public instruction, a report stating the number of pupils expelled from the school district during the immediately preceding school year, with a brief description of the incident that caused each expulsion.

(2) In order to obtain an accurate local and statewide picture of school crime and to develop the partnerships necessary to plan and implement school safety programs, at least annually, each school board shall report to the superintendent of public instruction, in the form and manner prescribed by the superintendent of public instruction, incidents of crime occurring at school within the school district. In determining the form and manner of this report, the superintendent of public instruction shall consult with local and intermediate school districts and law enforcement officials. The reporting shall include at least crimes involving physical violence, gang-related activity, illegal possession of a controlled substance or controlled substance analogue, or other intoxicant, trespassing, and property crimes including, but not limited to, theft and vandalism. For a property crime, the report shall include an estimate of the cost to the school district resulting from the property crime. The school crime reporting requirements of this subsection are intended to do all of the following:

(a) Help policymakers and program designers at the local and state levels develop appropriate prevention and intervention programs.

(b) Provide the continuous assessment tools needed for revising and refining school safety programs.

(c) Assist schools and school districts to identify the most pressing safety issues confronting their school communities, to direct resources appropriately, and to enhance campus safety through prevention and intervention strategies.

(d) Foster the creation of partnerships among schools, school districts, state agencies, communities, law enforcement, and the media to prevent further crime and violence and to assure a safe learning environment for every pupil.

(3) Each school building shall collect and keep current on a weekly basis the information required for the report under subsection (2) and must provide that information, within 7 days, upon request. At least annually, each school board shall make a copy disaggregated by school building, of the most recent report for the school district under subsection (2) available to the parent or legal guardian of each pupil enrolled in the school district.

(4) As used in this section, “school board” and “school district” mean those terms as defined in section 1310.

380.1310b. Policy prohibiting bullying; adoption and implementation by board of school district or intermediate school district or board of directors of public school academy; public hearing; submission of policy to department; report; contents of policy; reporting act of bullying; definitions; section to be known as "Matt's Safe School Law."

(1) Subject to subsection (3), not later than 6 months after the effective date of this section, the board of a school district or intermediate school district or board of directors of a public school academy shall adopt and implement a policy prohibiting bullying at school, as defined in this section.

(5) A policy adopted pursuant to subsection (1) shall include at least all of the following:

(i) A procedure for each public school to document any prohibited incident that is reported and a procedure to report all verified incidents of bullying and the resulting consequences, including discipline and referrals, to the board of the school district or intermediate school district or board of directors of the public school academy on an annual basis.

School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers

Authority and power to implement school arrest

STATUTES

380.1571. Attendance officers; acceptance and oath of office; surety bond; powers and duties; list of teachers and superintendent.

(3) An attendance officer of an intermediate school district or a local school district shall have the powers of a deputy sheriff within the district or the intermediate school district while performing official duties. An intermediate school district attendance officer shall perform the duties of the office in each constituent district in which the local board does not employ an attendance officer.

380.1586. Nonattendance at school; notice; investigation; discussion of irregular attendance, failing work, or behavior problems with parent.

(1) The attendance officer shall investigate each case of nonattendance at school when notified by a teacher, superintendent, intermediate superintendent, or other person of a violation of this part. If the child complained of is not exempt from public school attendance under the conditions listed in section 1561, the attendance officer shall proceed immediately in the manner provided in this part.

(2) If a child is repeatedly absent from school without valid excuse, or is failing in schoolwork or gives evidence of behavior problems, and attempts to confer with the parent or other person in parental relationship to the child fail, the superintendent of schools, or the intermediate superintendent in a district which does not employ a superintendent, may request the attendance officer to notify the parent or other person in parental relationship by registered mail to come to the school or to a place designated at a time specified to discuss the child's irregularity in attendance, failing work, or behavior problems with the proper school authorities.

(3) The superintendent, or the teacher in a district which does not employ a superintendent, shall provide information concerning the nonattendance of each nonresident pupil to the intermediate superintendent of the intermediate school district in which the nonresident pupil resides. The intermediate attendance officer, when notified by the intermediate superintendent or superintendent of schools, shall investigate and proceed in all cases of nonattendance of nonresident pupils in the same manner provided in this part for enforcing attendance of pupils attending schools in districts in which they reside.

Certification or training

STATUTES

380.1571. Attendance officers; acceptance and oath of office; surety bond; powers and duties; list of teachers and superintendent.

(1) The intermediate school board shall select 1 or more persons to act as attendance officers for the intermediate school district. An attendance officer shall file with the secretary of the intermediate school board an acceptance and oath of office, and a surety bond in the sum of $1,000.00.

(2) The board of a school district having a pupil membership of 1,000 or more on the latest pupil membership count day may employ attendance officers. An attendance officer employed by a board of education shall give a surety bond to the board in the sum of $1,000.00.

(3) An attendance officer of an intermediate school district or a local school district shall have the powers of a deputy sheriff within the district or the intermediate school district while performing official duties. An intermediate school district attendance officer shall perform the duties of the office in each constituent district in which the local board does not employ an attendance officer.

(4) At the opening of the schools the intermediate superintendent shall furnish the intermediate attendance officer with a list of the teachers and superintendents employed in constituent districts other than those employing an attendance officer.

MOUs, authorization, and/or funding

No relevant statutes found.

State Education Agency Support

State model policies and implementation support

No relevant statutes found.

Funding appropriations

No relevant statutes found.

Other/Uncategorized

Professional immunity or liability

STATUTES

380.1310b. Policy prohibiting bullying; adoption and implementation by board of school district or intermediate school district or board of directors of public school academy; public hearing; submission of policy to department; report; contents of policy; reporting act of bullying; definitions; section to be known as "Matt's Safe School Law."

(1) Subject to subsection (3), not later than 6 months after the effective date of this section, the board of a school district or intermediate school district or board of directors of a public school academy shall adopt and implement a policy prohibiting bullying at school, as defined in this section.

(7) A school employee, school volunteer, pupil, or parent or guardian who promptly reports in good faith an act of bullying to the appropriate school official designated in the school district's or public school academy's policy and who makes this report in compliance with the procedures set forth in the policy is immune from a cause of action for damages arising out of the reporting itself or any failure to remedy the reported incident. However, this immunity does not apply to a school official who is designated under subsection (5)(d), or who is responsible for remedying the bullying, when acting in that capacity.

380.1311. Suspension or expulsion of pupils.

(6) A school board or school administrator that complies with subsection (2) is not liable for damages for expelling a pupil pursuant to subsection (2), and the authorizing body of a public school academy is not liable for damages for expulsion of a pupil by the public school academy pursuant to subsection (2).

380.1311a. Assault by pupil against employee, volunteer, or contractor; expulsion required; alternative services; referral; reinstatement; immunity from liability; petition for reinstatement form; rights of pupils eligible for special education programs and services; eligibility of school for prorated share of foundation allowance; report of assaults; responsibility for enrollment in educational program; definitions.

(6) A school board or school administrator that complies with this section is not liable for damages for suspending or expelling a pupil pursuant to this section, and the authorizing body of a public school academy is not liable for damages for suspension or expulsion of a pupil by the public school academy pursuant to this section.

380.1312. “Corporal punishment” defined; infliction of corporal punishment by employee, volunteer, or contractor; exercise of necessary reasonable physical force; liability; violation; deference given to reasonable good-faith judgments; development, implementation, and enforcement of code of student conduct; model list of alternatives to use of corporal punishment; authority permitting corporal punishment void.

(5) A person employed by or engaged as a volunteer or contractor by a local or intermediate school board or public school academy who exercises necessary reasonable physical force upon a pupil, or upon another person of school age in a school-related setting, as described in subsection (4) is not liable in a civil action for damages arising from the use of that physical force and is presumed not to have violated subsection (3) by the use of that physical force. This subsection does not alter or limit a person's immunity from liability provided under 1964 PA 170, MCL 691.1401 to 691.1415.

380.1313. Dangerous weapon found in possession of pupil; report; confiscation by school official; determination of legal owner; "dangerous weapon" defined.

(2) If a school official finds that a dangerous weapon is in the possession of a pupil as described in subsection (1), the school official may confiscate the dangerous weapon or shall request a law enforcement agency to respond as soon as possible and to confiscate the dangerous weapon. If a school official confiscates a dangerous weapon under this subsection, the school official shall give the dangerous weapon to a law enforcement agency and shall not release the dangerous weapon to any other person, including the legal owner of the dangerous weapon. A school official who complies in good faith with this section is not civilly or criminally liable for that compliance.

(4) As used in this section, "dangerous weapon" means a firearm, dagger, dirk, stiletto, knife with a blade over 3 inches in length, pocket knife opened by a mechanical device, iron bar, or brass knuckles.

Community input or involvement

STATUTES

380.1310a. Report.

(2) In order to obtain an accurate local and statewide picture of school crime and to develop the partnerships necessary to plan and implement school safety programs, at least annually, each school board shall report to the superintendent of public instruction, in the form and manner prescribed by the superintendent of public instruction, incidents of crime occurring at school within the school district. In determining the form and manner of this report, the superintendent of public instruction shall consult with local and intermediate school districts and law enforcement officials. The reporting shall include at least crimes involving physical violence, gang-related activity, illegal possession of a controlled substance or controlled substance analogue, or other intoxicant, trespassing, and property crimes including, but not limited to, theft and vandalism. For a property crime, the report shall include an estimate of the cost to the school district resulting from the property crime. The school crime reporting requirements of this subsection are intended to do all of the following:

(d) Foster the creation of partnerships among schools, school districts, state agencies, communities, law enforcement, and the media to prevent further crime and violence and to assure a safe learning environment for every pupil.

380.1310b. Policy prohibiting bullying; adoption and implementation by board of school district or intermediate school district or board of directors of public school academy; public hearing; submission of policy to department; report; contents of policy; reporting act of bullying; definitions; section to be known as "Matt's Safe School Law."

(2) Subject to subsection (3), before adopting the policy required under subsection (1), the board or board of directors shall hold at least 1 public hearing on the proposed policy. This public hearing may be held as part of a regular board meeting.

380.1311. Suspension or expulsion of pupils.

(4) If a school board expels an individual pursuant to subsection (2), the school board shall ensure that, within 3 days after the expulsion, an official of the school district refers the individual to the appropriate county department of social services or county community mental health agency and notifies the individual's parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, notifies the individual of the referral.

(5) The parent or legal guardian of an individual permanently expelled pursuant to this section or, if the individual is at least age 18 or is an emancipated minor, the individual may petition the expelling school

board for reinstatement of the individual to public education in the school district. If the expelling school board denies a petition for reinstatement, the parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, the individual may petition another school board for reinstatement of the individual in that other school district. All of the following apply to reinstatement under this subsection:

(g) A school board may require an individual and, if the petition was filed by a parent or legal guardian, his or her parent or legal guardian to agree in writing to specific conditions before reinstating the individual in a conditional reinstatement. The conditions may include, but are not limited to, agreement to a behavior contract, which may involve the individual, parent or legal guardian, and an outside agency; participation in or completion of an anger management program or other appropriate counseling; periodic progress reviews; and specified immediate consequences for failure to abide by a condition. A parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, the individual may include proposed conditions in a petition for reinstatement submitted under this subsection.

Other/Uncategorized

No relevant statutes found.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by Michigan provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
Website		
Michigan Department of Education (MDE) Integrating Mental Health in Schools Toolkit	Provides schools with the tools needed to assess the school district's approach to mental health and improve educational performance through community collaboration.	http://michigan.gov/mde/0,4615,7-140-43092_53593---,00.html
Michigan Safe Schools	Includes links to documents and resources, including information and data on school violence and safety reporting and expulsion, state emergency planning resources, and state board policy documents on safe schools.	http://michigan.gov/safeschools/0,4665,7-181-49444---,00.html
Documents		
Michigan State Board of Education (MSBE) State Model Bullying Policy	Provides a model for school districts to assist in developing their own school anti-bullying policies.	http://michigan.gov/documents/mde/Model_Anti-Bullying_Policy_with_Revisions_338592_7.pdf
Michigan State Board of Education Policies on Bullying	Requires state education programs and public schools to develop plans to prevent and respond to bullying as part of a district-wide safety and discipline plan.	http://michigan.gov/documents/mde/Model_Anti-Bullying_Policy_with_Revisions_338556_7.pdf
Michigan State Board of Education Policy on Integrating Mental Health in Schools	Establishes 14 recommended universal prevention, early intervention, and treatment practices for schools and districts to establish socially and emotionally healthy schools.	http://michigan.gov/documents/mde/MH_policy_339729_7.pdf
Michigan Department of Education-Suspensions and Expulsions	Provides guidance to schools on the appropriate use of suspension and expulsions in compliance with state law.	http://www.michigan.gov/documents/suspensions_118759_7.pdf

Title	Description	Website address (if applicable)
Michigan State Board of Education Positive Behavior Support Policy	States that school districts should implement a system of school-wide positive behavior support strategies.	http://michigan.gov/documents/mde/Positivebehaviorsupportpolicy_172347_7.pdf
Standards for the Emergency Use of Seclusion and Restraint Standards	Provides guidance to schools on the use of seclusion and restraint.	http://michigan.gov/documents/mde/Seclusion_and_Restraint_Standards_180715_7.pdf
Policy on Coordinated School Health Programs to Support Academic Achievement and Healthy Schools	Encourages schools to plan and implement Coordinated School Health Programs and includes specific recommendations.	http://michigan.gov/documents/CSHP_Policy_77375_7.pdf
Michigan Department of Education Universal Education Vision & Principles, with Glossary of Terms	Articulates the vision and principles of universal education.	http://michigan.gov/documents/UnivEdBrochureFINAL_incl_152066_7._Glossary_03-02-06a.pdf
School-Wide Positive Behavioral Interventions and Supports Implementation Guide 2010	Intended to help schools implement positive behavioral interventions that can work as alternatives to traditional discipline techniques like suspension. The approach is tiered and allows intervention at various levels of behavioral difficulty.	http://www.michigan.gov/documents/mde/SchoolwidePBS_264634_7.pdf
Other Resources		
No relevant resources found		

Minnesota Compilation of School Discipline Laws and Regulations

Prepared: August 12, 2013

Introduction

This compilation presents school discipline-related state statutes, school discipline-related regulations, and, where available, links to state-sponsored websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSLE). For example, one major category encompasses all state laws or regulations mandating specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of state legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in each state.

Discipline categories were not mutually exclusive. Statutes and regulations often appeared across multiple categories. For states with more extensive statutes covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. State laws, ordered by chapter and section number, appear first within each category followed by state regulations. All statutes and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists statutes by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to state-sponsored websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of May 2013, with the exception of the state laws related to seclusion and restraint, which are complete and current as of December 2012. Readers should also note that the information in this document was compiled from individual state sources that are created by each state and which are maintained and updated with varying frequencies. Readers should consult the source information provided for each state directly in order to check for updates to this state's laws and regulations or conduct further research.

For further information, including definitions of the different policy categories, please refer to the Discipline Laws and Regulations Compendium posted on the Center's website.

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Safe Supportive Learning
Engagement | Safety | Environment

Table of Contents

Minnesota State Codes Cited **1**

General Provisions **4**

Authority to develop and establish rules of conduct 4
Scope 5
Communication of policy 5

In-School Discipline **6**

Use of multi-tiered discipline approaches 6
Teacher authority to remove students from classrooms 6
Alternatives to suspension 7
Use of corporal punishment 8
Use of student and locker searches 8
Other in-school disciplinary approaches 9

Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements **10**

Grounds for possible suspension or expulsion 10
Grounds for mandatory suspension or expulsion 11
Limitations, conditions or exclusions for use of suspension and expulsion 11
Administrative procedures related to suspension and expulsion 12
In-school suspension 17
Return to school following removal 17
Use of restraint and seclusion 18
Alternative placements 18

Disciplinary Approaches Addressing Specific Infractions and Conditions **21**

Firearms (as required by the Guns-Free Schools Act) 21
Other weapons 21
Students with chronic disciplinary issues 22
Attendance and truancy 22
Substance use 25
Bullying, harassment, or hazing 26
Other special infractions or conditions 26

Prevention and Behavioral Interventions (Non-Punitive) **28**

Prevention 28
Behavioral interventions and student support services 29
Professional development 32

Monitoring and Accountability **33**

Formal incident reporting of conduct violations 33
Parental notification 33
Reporting and referrals between schools and law enforcement 35
Disclosure of school records 37
Data collection, review, and reporting of disciplinary policies and actions 40

School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers 42
Authority and power to implement school arrest 42
Certification or training 42
MOUs, authorization, and/or funding 42
State Education Agency Support 43
State model policies and implementation support 43
Funding appropriations 43
Other/Uncategorized 45
Professional immunity or liability 45
Community input or involvement 46
Other/Uncategorized 49
State-Sponsored, Publicly Available Websites or Other Resources on School Discipline 50

Minnesota State Codes Cited

Minnesota Revised Statutes

Education Code: Prekindergarten - Grade 12

Chapter 120A. Education Code; Compulsory Attendance

120A.30. Attendance officers

Chapter 120B. Curriculum and Assessment

120B.22. Violence prevention education
120B.23. Violence prevention education grants

Chapter 121A. Student Rights, Responsibilities, and Behavior

121A.01. Definitions

Discrimination; Harassment; Violence

121A.03. Model policy
121A.035. Crisis management policy
121A.05. Policy to refer firearms possessor
121A.06. Reports of dangerous weapon incidents in school zones
121A.0695. School board policy; prohibiting intimidation and bullying

Student Health and Safety

121A.17. School board responsibilities
121A.25. Chemical abuse preassessment teams; definitions
121A.26. School preassessment teams
121A.28. Law enforcement records
121A.29. Reporting; chemical abuse

Pupil Fair Dismissal Act

121A.40. Citation
121A.41. Definitions
121A.42. Policy
121A.43. Exclusion and expulsion of pupils with a disability
121A.44. Expulsion for possession of firearm
121A.45. Grounds for dismissal
121A.46. Suspension procedures
121A.47. Exclusion and expulsion procedures
121A.48. Good faith exception
121A.49. Appeal
121A.50. Judicial review
121A.51. Reports to service agency
121A.52. Nonapplication of compulsory attendance law
121A.53. Report to commissioner of education
121A.54. Notice of right to Be reinstated

121A.55. Policies to be established
121A.56. Application
121A.575. Alternatives to pupil suspension

Discipline; All Students

121A.58. Corporal punishment
121A.582. Student discipline; reasonable force
121A.585. Notice of recording device on a school bus
121A.59. Bus transportation a privilege not a right
121A.60. Definitions
121A.61. Discipline and removal of students from class
121A.64. Notification; teachers' legitimate educational interest
121A.65. Review of policy
121A.67. Aversive and deprivation procedures
121A.69. Hazing policy
121A.70. Secret fraternities and societies
121A.72. School locker policy

Juvenile Justice Data

121A.75. Receipt of records; sharing

Chapter 122A. Teachers and Other Educators

122A.66. Teacher training; effects of drugs and alcohol

Chapter 123B. School District Powers and Duties

123B.41. Definitions

Chapter 124D. Education Programs

124D.03. Enrollment options program
124D.68. Graduation incentives program

Chapter 125A. Special Education and Special Programs

125A.0941. Definitions

Public Welfare and Related Activities

Chapter 260A. Truancy

260A.01. Truancy programs and services
260A.03. Notice to parent or guardian when child is a continuing truant
260A.04. Community-based truancy projects and service centers
260A.05. School attendance review boards
260A.06. Referral of truant students to school attendance review board

Chapter 260C. Juvenile Safety and Placement

260C.007. Definitions

Minnesota Administrative Code

No relevant regulations found.

General Provisions

Authority to develop and establish rules of conduct

STATUTES

121A.0695. School board policy; prohibiting intimidation and bullying.

Each school board shall adopt a written policy prohibiting intimidation and bullying of any student. The policy shall address intimidation and bullying in all forms, including, but not limited to, electronic forms and forms involving Internet use.

121A.55. Policies to be established.

(a) The commissioner of education shall promulgate guidelines to assist each school board. Each school board shall establish uniform criteria for dismissal and adopt written policies and rules to effectuate the purposes of sections 121A.40. to 121A.56. The policies shall emphasize preventing dismissals through early detection of problems and shall be designed to address students' inappropriate behavior from recurring. The policies shall recognize the continuing responsibility of the school for the education of the pupil during the dismissal period. The alternative educational services, if the pupil wishes to take advantage of them, must be adequate to allow the pupil to make progress towards meeting the graduation standards adopted under section 120B.02 and help prepare the pupil for readmission.

(b) An area learning center under section 123A.05 may not prohibit an expelled or excluded pupil from enrolling solely because a district expelled or excluded the pupil. The board of the area learning center may use the provisions of the Pupil Fair Dismissal Act to exclude a pupil or to require an admission plan.

(c) Each school district shall develop a policy and report it to the commissioner on the appropriate use of peace officers and crisis teams to remove students who have an individualized education program from school grounds.

121A.61. Discipline and removal of students from class.

1. Required policy. Each school board must adopt a written districtwide school discipline policy which includes written rules of conduct for students, minimum consequences for violations of the rules, and grounds and procedures for removal of a student from class. The policy must be developed in consultation with administrators, teachers, employees, pupils, parents, community members, law enforcement agencies, county attorney offices, social service agencies, and such other individuals or organizations as the board determines appropriate. A school site council may adopt additional provisions to the policy subject to the approval of the school board.

121A.69. Hazing policy.

3. School board policy. Each school board shall adopt a written policy governing student or staff hazing. The policy must apply to student behavior that occurs on or off school property and during and after school hours. The policy must include reporting procedures and disciplinary consequences for violating the policy. Disciplinary consequences must be sufficiently severe to deter violations and appropriately discipline prohibited behavior. Disciplinary consequences must conform with sections 121A.41. to 121A.56. Each school must include the policy in the student handbook on school policies.

Scope

STATUTES

121A.69. Hazing policy.

3. School board policy. Each school board shall adopt a written policy governing student or staff hazing. The policy must apply to student behavior that occurs on or off school property and during and after school hours. The policy must include reporting procedures and disciplinary consequences for violating the policy. Disciplinary consequences must be sufficiently severe to deter violations and appropriately discipline prohibited behavior. Disciplinary consequences must conform with sections 121A.41. to 121A.56. Each school must include the policy in the student handbook on school policies.

Communication of policy

STATUTES

121A.03. Model policy.

2. Sexual, religious, and racial harassment and violence policy.

A school board must adopt a written sexual, religious, and racial harassment and sexual, religious, and racial violence policy that conforms with chapter 363A. The policy shall apply to pupils, teachers, administrators, and other school personnel, include reporting procedures, and set forth disciplinary actions that will be taken for violation of the policy. Disciplinary actions must conform with collective bargaining agreements and sections 121A.41 to 121A.56. The policy must be conspicuously posted throughout each school building, given to each district employee and independent contractor at the time of entering into the person's employment contract, and included in each school's student handbook on school policies. Each school must develop a process for discussing the school's sexual, religious, and racial harassment and violence policy with students and school employees.

121A.61. Discipline and removal of students from class.

3. Policy components. The policy must include at least the following components:

(a) rules governing student conduct and procedures for informing students of the rules;

121A.69. Hazing policy.

3. School board policy. Each school board shall adopt a written policy governing student or staff hazing. The policy must apply to student behavior that occurs on or off school property and during and after school hours. The policy must include reporting procedures and disciplinary consequences for violating the policy. Disciplinary consequences must be sufficiently severe to deter violations and appropriately discipline prohibited behavior. Disciplinary consequences must conform with sections 121A.41. to 121A.56. Each school must include the policy in the student handbook on school policies.

121A.72. School locker policy.

2.Dissemination. The locker policy must be disseminated to parents and students in the way that other policies of general application to students are disseminated. A copy of the policy must be provided to a student the first time that the student is given the use of a locker.

In-School Discipline

Use of multi-tiered discipline approaches

STATUTES

No relevant statutes found.

Teacher authority to remove students from classrooms

STATUTES

121A.60. Definitions.

1. Removal from class. "Removal from class" and "removal" mean any actions taken by a teacher, principal, or other school district employee to prohibit a pupil from attending a class or activity period for a period of time not to exceed five days, pursuant to procedures established in the school district discipline policy adopted by the school board pursuant to section 121A.61.

2. Class period. "Class period" or "activity period" means a period of time as defined in the district's written discipline policy.

121A.61. Discipline and removal of students from class.

1. Required policy. Each school board must adopt a written districtwide school discipline policy which includes written rules of conduct for students, minimum consequences for violations of the rules, and grounds and procedures for removal of a student from class. The policy must be developed in consultation with administrators, teachers, employees, pupils, parents, community members, law enforcement agencies, county attorney offices, social service agencies, and such other individuals or organizations as the board determines appropriate. A school site council may adopt additional provisions to the policy subject to the approval of the school board.

2. Grounds for removal from class. The policy must establish the various grounds for which a student may be removed from a class in the district for a period of time under the procedures specified in the policy. The policy must include a procedure for notifying and meeting with a student's parent or guardian to discuss the problem that is causing the student to be removed from class after the student has been removed from class more than ten times in one school year. The grounds in the policy must include at least the following provisions as well as other grounds determined appropriate by the board:

(a) willful conduct that significantly disrupts the rights of others to an education, including conduct that interferes with a teacher's ability to teach or communicate effectively with students in a class or with the ability of other students to learn;

(b) willful conduct that endangers surrounding persons, including school district employees, the student or other students, or the property of the school; and

(c) willful violation of any rule of conduct specified in the discipline policy adopted by the board.

3. Policy components. The policy must include at least the following components:

(a) rules governing student conduct and procedures for informing students of the rules;

(b) the grounds for removal of a student from a class;

(c) the authority of the classroom teacher to remove students from the classroom pursuant to procedures and rules established in the district's policy;

(d) the procedures for removal of a student from a class by a teacher, school administrator, or other school district employee;

(e) the period of time for which a student may be removed from a class, which may not exceed five class periods for a violation of a rule of conduct;

(f) provisions relating to the responsibility for and custody of a student removed from a class;

(g) the procedures for return of a student to the specified class from which the student has been removed;

(h) the procedures for notifying a student and the student's parents or guardian of violations of the rules of conduct and of resulting disciplinary actions;

(i) any procedures determined appropriate for encouraging early involvement of parents or guardians in attempts to improve a student's behavior;

(j) any procedures determined appropriate for encouraging early detection of behavioral problems;

(k) any procedures determined appropriate for referring a student in need of special education services to those services;

(1) the procedures for consideration of whether there is a need for a further assessment or of whether there is a need for a review of the adequacy of a current individualized education program of a student with a disability who is removed from class;

(m) procedures for detecting and addressing chemical abuse problems of a student while on the school premises;

(n) the minimum consequences for violations of the code of conduct;

(o) procedures for immediate and appropriate interventions tied to violations of the code;

(p) a provision that states that a teacher, school employee, school bus driver, or other agent of a district may use reasonable force in compliance with section 121A.582 and other laws; and

(q) an agreement regarding procedures to coordinate crisis services to the extent funds are available with the county board responsible for implementing sections 245.487 to 245.4889 for students with a serious emotional disturbance or other students who have an individualized education program whose behavior may be addressed by crisis intervention.

Alternatives to suspension

STATUTES

121A.45.(1).

No school shall dismiss any pupil without attempting to provide alternative educational services before dismissal proceedings, except where it appears that the pupil will create an immediate and substantial danger to self or to surrounding persons or property; 121A.575. After a school administration notifies a pupil of the grounds for suspension, the school administration may, instead of imposing the suspension, do one or more of the following:

(1) strongly encourage a parent or guardian of the pupil to attend school with the pupil for one day;

(2) assign the pupil to attend school on Saturday as supervised by the principal or the principal's designee; and

(3) petition the juvenile court that the student is in need of services under chapter 260C.

121A.575. Alternatives to pupil suspension.

Notwithstanding any law to the contrary and in accordance with sections 121A.40. to 121A.56, after a school administration notifies a pupil of the grounds for suspension, the school administration may, instead of imposing the suspension, do one or more of the following:

(1) strongly encourage a parent or guardian of the pupil to attend school with the pupil for one day;

(2) assign the pupil to attend school on Saturday as supervised by the principal or the principal's designee; and

(3) petition the juvenile court that the student is in need of services under chapter 260C.

Use of corporal punishment

STATUTES

121A.58. Corporal punishment.

1. Definition. For the purpose of this section, "corporal punishment" means conduct involving:

(1) hitting or spanking a person with or without an object; or

(2) unreasonable physical force that causes bodily harm or substantial emotional harm.

2. Corporal punishment not allowed. An employee or agent of a district shall not inflict corporal punishment or cause corporal punishment to be inflicted upon a pupil to reform unacceptable conduct or as a penalty for unacceptable conduct.

3. Violation. Conduct that violates subdivision 2 is not a crime under section 645.241, but may be a crime under chapter 609 if the conduct violates a provision of chapter 609.

Use of student and locker searches

STATUTES

121A.72. School locker policy.

1. Policy. It is the policy of the state of Minnesota that:

"School lockers are the property of the school district. At no time does the school district relinquish its exclusive control of lockers provided for the convenience of students. Inspection of the interior of lockers may be conducted by school authorities for any reason at any time, without notice, without student consent, and without a search warrant. The personal possessions of students within a school locker may be searched only when school authorities have a reasonable suspicion that the search will uncover evidence of a violation of law or school rules. As soon as practicable after the search of a student's personal possessions, the school authorities must provide notice of the search to students whose lockers were searched unless disclosure would impede an ongoing investigation by police or school officials."

2. Dissemination. The locker policy must be disseminated to parents and students in the way that other policies of general application to students are disseminated. A copy of the policy must be provided to a student the first time that the student is given the use of a locker.

Other in-school disciplinary approaches

STATUTES

121A.70. Secret fraternities and societies.

1. Membership regulated. It is unlawful for any pupil, registered and attending any public school to join, become a member of, or to solicit any other pupil of any public school to join, or become a member of, any secret fraternity or society wholly or partially formed from the membership of pupils attending any public schools or to take part in the organization or formation of any fraternity or society, except societies or associations sanctioned by the district school board.

2. Penalties. A school board may suspend or dismiss any pupil from school, or prevent the pupil from graduating or participating in school honors when, after investigation, in the judgment of the board or a majority of its membership, the pupil is guilty of violating any of the provisions of this section or is guilty of violating any rule or regulation adopted by the board for the purpose of governing its schools, or enforcing this section.

Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements

Grounds for possible suspension or expulsion

STATUTES

121A.45. Grounds for dismissal.

1. Provision of alternative programs. No school shall dismiss any pupil without attempting to provide alternative educational services before dismissal proceedings, except where it appears that the pupil will create an immediate and substantial danger to self or to surrounding persons or property.

2. Grounds for dismissal. A pupil may be dismissed on any of the following grounds:

(a) willful violation of any reasonable school board regulation. Such regulation must be clear and definite to provide notice to pupils that they must conform their conduct to its requirements;

(b) willful conduct that significantly disrupts the rights of others to an education, or the ability of school personnel to perform their duties, or school sponsored extracurricular activities; or

(c) willful conduct that endangers the pupil or other pupils, or surrounding persons, including school district employees, or property of the school.

3. Parent notification and meeting. If a pupil's total days of removal from school exceeds ten cumulative days in a school year, the school district shall make reasonable attempts to convene a meeting with the pupil and the pupil's parent or guardian before subsequently removing the pupil from school and, with the permission of the parent or guardian, arrange for a mental health screening for the pupil. The district is not required to pay for the mental health screening. The purpose of this meeting is to attempt to determine the pupil's need for assessment or other services or whether the parent or guardian should have the pupil assessed or diagnosed to determine whether the pupil needs treatment for a mental health disorder.

121A.61. Discipline and removal of students from class.

1. Required policy. Each school board must adopt a written districtwide school discipline policy which includes written rules of conduct for students, minimum consequences for violations of the rules, and grounds and procedures for removal of a student from class. The policy must be developed in consultation with administrators, teachers, employees, pupils, parents, community members, law enforcement agencies, county attorney offices, social service agencies, and such other individuals or organizations as the board determines appropriate. A school site council may adopt additional provisions to the policy subject to the approval of the school board.

2. Grounds for removal from class. The policy must establish the various grounds for which a student may be removed from a class in the district for a period of time under the procedures specified in the policy. The policy must include a procedure for notifying and meeting with a student's parent or guardian to discuss the problem that is causing the student to be removed from class after the student has been removed from class more than ten times in one school year. The grounds in the policy must include at least the following provisions as well as other grounds determined appropriate by the board:

(a) willful conduct that significantly disrupts the rights of others to an education, including conduct that interferes with a teacher's ability to teach or communicate effectively with students in a class or with the ability of other students to learn;

(b) willful conduct that endangers surrounding persons, including school district employees, the student or other students, or the property of the school; and

(c) willful violation of any rule of conduct specified in the discipline policy adopted by the board.

121A.70. Secret fraternities and societies.

1. Membership regulated. It is unlawful for any pupil, registered and attending any public school to join, become a member of, or to solicit any other pupil of any public school to join, or become a member of, any secret fraternity or society wholly or partially formed from the membership of pupils attending any public schools or to take part in the organization or formation of any fraternity or society, except societies or associations sanctioned by the district school board.

2. Penalties. A school board may suspend or dismiss any pupil from school, or prevent the pupil from graduating or participating in school honors when, after investigation, in the judgment of the board or a majority of its membership, the pupil is guilty of violating any of the provisions of this section or is guilty of violating any rule or regulation adopted by the board for the purpose of governing its schools, or enforcing this section.

Grounds for mandatory suspension or expulsion

STATUTES

121A.44. Expulsion for possession of firearm.

(a) Notwithstanding the time limitation in section 121A.41, subdivision 5, a school board must expel for a period of at least one year a pupil who is determined to have brought a firearm to school except the board may modify this expulsion requirement for a pupil on a case-by-case basis. For the purposes of this section, firearm is as defined in United States Code, title 18, section 921.

(b) Notwithstanding chapter 13, a student's expulsion or withdrawal or transfer from a school after an expulsion action is initiated against the student for a weapons violation under paragraph (a) may be disclosed by the school district initiating the expulsion proceeding. Unless the information is otherwise public, the disclosure may be made only to another school district in connection with the possible admission of the student to the other district.

Limitations, conditions or exclusions for use of suspension and expulsion

STATUTES

121A.43. Exclusion and expulsion of pupils with a disability.

(a) Consistent with federal law governing days of removal and section 121A.46, school personnel may suspend a child with a disability. When a child with a disability has been suspended for more than five consecutive school days or ten cumulative school days in the same school year, and that suspension does not involve a recommendation for expulsion or exclusion or other change of placement under federal law, relevant members of the child's individualized education program team, including at least one of the child's teachers, shall meet and determine the extent to which the child needs services in order to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals in the child's individualized education program. That meeting must occur as soon as possible, but no more than ten days after the sixth consecutive day of suspension or the tenth cumulative day of suspension has elapsed.

(b) A dismissal for one school day or less is a day or a partial day of suspension if the child with a disability does not receive regular or special education instruction during that dismissal period. The notice requirements under section 121A.46 do not apply to a dismissal of one day or less.

(c) A child with a disability shall be provided alternative educational services to the extent a suspension exceeds five consecutive school days.

(d) Before initiating an expulsion or exclusion under sections 121A.40. to 121A.56, the district, relevant members of the child's individualized education program team, and the child's parent shall, consistent with federal law, determine whether the child's behavior was caused by or had a direct and substantial relationship to the child's disability and whether the child's conduct was a direct result of a failure to implement the child's individualized education program. When a child with a disability who has an individualized education program is excluded or expelled under sections 121A.40. to 121A.56 for misbehavior that is not a manifestation of the child's disability, the district shall continue to provide special education and related services during the exclusion or expulsion.

121A.44. Expulsion for possession of firearm.

(a) Notwithstanding the time limitation in section 121A.41, subdivision 5, a school board must expel for a period of at least one year a pupil who is determined to have brought a firearm to school except the board may modify this expulsion requirement for a pupil on a case-by-case basis. For the purposes of this section, firearm is as defined in United States Code, title 18, section 921.

121A.61. Discipline and removal of students from class.

3. Policy components. The policy must include at least the following components:

(e) the period of time for which a student may be removed from a class, which may not exceed five class periods for a violation of a rule of conduct;

Administrative procedures related to suspension and expulsion

STATUTES

121A.42. Policy.

No public school shall deny due process or equal protection of the law to any public school pupil involved in a dismissal proceeding which may result in suspension, exclusion, or expulsion.

121A.46. Suspension procedures.

1. Informal administrative conference before suspension. The school administration shall not suspend a pupil from school without an informal administrative conference with the pupil. The informal administrative conference shall take place before the suspension, except where it appears that the pupil will create an immediate and substantial danger to self or to surrounding persons or property, in which case the conference shall take place as soon as practicable following the suspension.

2. Administrator notifies pupil of grounds for suspension. At the informal administrative conference, a school administrator shall notify the pupil of the grounds for the suspension, provide an explanation of the evidence the authorities have, and the pupil may present the pupil's version of the facts.

3. Written notice of grounds for suspension. A written notice containing the grounds for suspension, a brief statement of the facts, a description of the testimony, a readmission plan, and a copy of sections 121A.40. to 121A.56, shall be personally served upon the pupil at or before the time the suspension is to take effect, and upon the pupil's parent or guardian by mail within 48 hours of the conference. The district shall make reasonable efforts to notify the parents of the suspension by telephone as soon as possible following suspension. In the event a pupil is suspended without an informal administrative conference on

the grounds that the pupil will create an immediate and substantial danger to surrounding persons or property, the written notice shall be served upon the pupil and the pupil's parent or guardian within 48 hours of the suspension. Service by mail is complete upon mailing.

4. Suspension pending expulsion or exclusion hearing. Notwithstanding the provisions of subdivisions 1 and 3, the pupil may be suspended pending the school board's decision in the expulsion or exclusion hearing; provided that alternative educational services are implemented to the extent that suspension exceeds five days.

121A.47. Exclusion and expulsion procedures.

1. Requiring a hearing; pupil may waive hearing. No exclusion or expulsion shall be imposed without a hearing, unless the right to a hearing is waived in writing by the pupil and parent or guardian. The action shall be initiated by the school board or its agent.

2. Written notice. Written notice of intent to take action shall:

(a) be served upon the pupil and the pupil's parent or guardian personally or by mail;

(b) contain a complete statement of the facts, a list of the witnesses and a description of their testimony;

(c) state the date, time, and place of the hearing;

(d) be accompanied by a copy of sections 121A.40. to 121A.56;

(e) describe alternative educational services accorded the pupil in an attempt to avoid the expulsion proceedings; and

(f) inform the pupil and parent or guardian of the right to:

(1) have a representative of the pupil's own choosing, including legal counsel, at the hearing. The district shall advise the pupil's parent or guardian that free or low-cost legal assistance may be available and that a legal assistance resource list is available from the Department of Education;

(2) examine the pupil's records before the hearing;

(3) present evidence; and

(4) confront and cross-examine witnesses.

3. Hearing schedule. The hearing shall be scheduled within ten days of the service of the written notice unless an extension, not to exceed five days, is requested for good cause by the school board, pupil, parent or guardian.

4. Convenient time and place of hearing. The hearing shall be at a time and place reasonably convenient to pupil, parent or guardian.

5. Closed or open hearing. The hearing shall be closed unless the pupil, parent or guardian requests an open hearing.

6. Impartial hearer. The hearing shall take place before:

(1) an independent hearing officer;

(2) a member of the school board;

(3) a committee of the school board; or

(4) the full school board;

as determined by the school board. The hearing shall be conducted in a fair and impartial manner.

7. Creating hearing record. The school board shall record the hearing proceedings at district expense, and a party may obtain a transcript at its own expense. Testimony shall be given under oath. The hearing officer or a member of the school board shall have the power to issue subpoenas and administer oaths.

8. Access to pupil's records. At a reasonable time prior to the hearing, the pupil, parent or guardian, or representative, shall be given access to all public school system records pertaining to the pupil, including any tests or reports upon which the proposed action may be based.

9. Pupil's right to compel testimony. The pupil, parent or guardian, or representative, shall have the right to compel the attendance of any official employee or agent of the public school system or any public employee or any other person who may have evidence upon which the proposed action may be based, and to confront and to cross-examine any witness testifying for the public school system.

10. Pupil's right to present evidence and testimony. The pupil, parent or guardian, or representative, shall have the right to present evidence and testimony, including expert psychological or educational testimony.

11. Pupil not compelled to testify. The pupil cannot be compelled to testify in the dismissal proceedings.

12. Hearer's recommendation limited to evidence at hearing; service within two days. The recommendation of the hearing officer or school board member or committee shall be based solely upon substantial evidence presented at the hearing and must be made to the school board and served upon the parties within two days of the end of the hearing.

13. Basis of school board decision; opportunity for comment. The school board shall base its decision upon the recommendation of the hearing officer or school board member or committee and shall render its decision at a meeting held within five days after receiving the recommendation. The school board may provide the parties with the opportunity to present exceptions and comments to the hearing officer's recommendations provided that neither party presents any evidence not admitted at the hearing. The decision by the school board must be based on the record, must be in writing, and must state the controlling facts on which the decision is made in sufficient detail to apprise the parties and the commissioner of education of the basis and reason for the decision.

14. Admission or readmission plan.

(a) A school administrator shall prepare and enforce an admission or readmission plan for any pupil who is excluded or expelled from school. The plan may include measures to improve the pupil's behavior, including completing a character education program, consistent with section 120B.232, subdivision 1, and require parental involvement in the admission or readmission process, and may indicate the consequences to the pupil of not improving the pupil's behavior.

(b) The definition of suspension under section 121A.41, subdivision 10, does not apply to a student's dismissal from school for one school day or less, except as provided under federal law for a student with a disability. Each suspension action may include a readmission plan. A readmission plan must provide, where appropriate, alternative education services, which must not be used to extend the student's current suspension period. Consistent with section 125A.091, subdivision 5, a readmission plan must not obligate a parent or guardian to provide psychotropic drugs to their student as a condition of readmission. School officials must not use the refusal of a parent or guardian to consent to the administration of psychotropic drugs to their student or to consent to a psychiatric evaluation, screening or examination of the student as a ground, by itself, to prohibit the student from attending class or participating in a school-related activity, or as a basis of a charge of child abuse, child neglect or medical or educational neglect.

121A.49. Appeal.

A party to an exclusion or expulsion decision made under sections 121A.40. to 121A.56 may appeal the decision to the commissioner of education within 21 calendar days of school board action. Upon being served with a notice of appeal, the district shall provide the commissioner and the parent or guardian with a complete copy of the hearing record within five days of its receipt of the notice of appeal. All written submissions by the appellant must be submitted and served on the respondent within ten days of its

actual receipt of the transcript. All written submissions by the respondent must be submitted and served on the appellant within ten days of its actual receipt of the written submissions of the appellant. The decision of the school board must be implemented during the appeal to the commissioner.

In an appeal under this section, the commissioner may affirm the decision of the agency, may remand the decision for additional findings, or may reverse or modify the decision if the substantial rights of the petitioners have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:

(1) in violation of constitutional provisions;

(2) in excess of the statutory authority or jurisdiction of the school district;

(3) made upon unlawful procedure, except as provided in section 121A.48;

(4) affected by other error of law;

(5) unsupported by substantial evidence in view of the entire record submitted; or

(6) arbitrary or capricious.

The commissioner or the commissioner's representative shall make a final decision based upon the record. The commissioner shall issue a decision within 30 calendar days of receiving the entire record and the parties' written submission on appeal. The commissioner's decision shall be final and binding upon the parties after the time for appeal expires under section 121A.50.

121A.50. Judicial review.

The decision of the commissioner of education made under sections 121A.40. to 121A.56 is subject to judicial review under sections 14.63 to 14.69. The decision of the commissioner is stayed pending an appeal under this section.

121A.53. Report to commissioner of education.

1. Exclusions and expulsions. The school board must report through the department electronic reporting system each exclusion or expulsion within 30 days of the effective date of the action to the commissioner of education. This report must include a statement of alternative educational services given the pupil and the reason for, the effective date, and the duration of the exclusion or expulsion. The report must also include the student's age, grade, gender, race, and special education status.

121A.55. Policies to be established.

(a) The commissioner of education shall promulgate guidelines to assist each school board. Each school board shall establish uniform criteria for dismissal and adopt written policies and rules to effectuate the purposes of sections 121A.40. to 121A.56. The policies shall emphasize preventing dismissals through early detection of problems and shall be designed to address students' inappropriate behavior from recurring. The policies shall recognize the continuing responsibility of the school for the education of the pupil during the dismissal period. The alternative educational services, if the pupil wishes to take advantage of them, must be adequate to allow the pupil to make progress towards meeting the graduation standards adopted under section 120B.02 and help prepare the pupil for readmission.

(b) An area learning center under section 123A.05 may not prohibit an expelled or excluded pupil from enrolling solely because a district expelled or excluded the pupil. The board of the area learning center may use the provisions of the Pupil Fair Dismissal Act to exclude a pupil or to require an admission plan.

(c) Each school district shall develop a policy and report it to the commissioner on the appropriate use of peace officers and crisis teams to remove students who have an individualized education program from school grounds.

121A.61. Discipline and removal of students from class.

1. Required policy. Each school board must adopt a written districtwide school discipline policy which includes written rules of conduct for students, minimum consequences for violations of the rules, and grounds and procedures for removal of a student from class. The policy must be developed in consultation with administrators, teachers, employees, pupils, parents, community members, law enforcement agencies, county attorney offices, social service agencies, and such other individuals or organizations as the board determines appropriate. A school site council may adopt additional provisions to the policy subject to the approval of the school board.

2. Grounds for removal from class. The policy must establish the various grounds for which a student may be removed from a class in the district for a period of time under the procedures specified in the policy. The policy must include a procedure for notifying and meeting with a student's parent or guardian to discuss the problem that is causing the student to be removed from class after the student has been removed from class more than ten times in one school year. The grounds in the policy must include at least the following provisions as well as other grounds determined appropriate by the board:

(a) willful conduct that significantly disrupts the rights of others to an education, including conduct that interferes with a teacher's ability to teach or communicate effectively with students in a class or with the ability of other students to learn;

(b) willful conduct that endangers surrounding persons, including school district employees, the student or other students, or the property of the school; and

(c) willful violation of any rule of conduct specified in the discipline policy adopted by the board.

3. Policy components. The policy must include at least the following components:

(d) the procedures for removal of a student from a class by a teacher, school administrator, or other school district employee;

(e) the period of time for which a student may be removed from a class, which may not exceed five class periods for a violation of a rule of conduct;

(f) provisions relating to the responsibility for and custody of a student removed from a class;

(g) the procedures for return of a student to the specified class from which the student has been removed;

(h) the procedures for notifying a student and the student's parents or guardian of violations of the rules of conduct and of resulting disciplinary actions;

(i) any procedures determined appropriate for encouraging early involvement of parents or guardians in attempts to improve a student's behavior;

(j) any procedures determined appropriate for encouraging early detection of behavioral problems;

(k) any procedures determined appropriate for referring a student in need of special education services to those services;

(1) the procedures for consideration of whether there is a need for a further assessment or of whether there is a need for a review of the adequacy of a current individualized education program of a student with a disability who is removed from class;

(m) procedures for detecting and addressing chemical abuse problems of a student while on the school premises;

(n) the minimum consequences for violations of the code of conduct;

(o) procedures for immediate and appropriate interventions tied to violations of the code;

(p) a provision that states that a teacher, school employee, school bus driver, or other agent of a district may use reasonable force in compliance with section 121A.582 and other laws; and

(q) an agreement regarding procedures to coordinate crisis services to the extent funds are available with the county board responsible for implementing sections 245.487 to 245.4889 for students with a serious emotional disturbance or other students who have an individualized education program whose behavior may be addressed by crisis intervention.

121A.67. Aversive and deprivation procedures.

2. Removal by peace officer. If a pupil who has an individualized education program is restrained or removed from a classroom, school building, or school grounds by a peace officer at the request of a school administrator or a school staff person during the school day twice in a 30-day period, the pupil's individualized education program team must meet to determine if the pupil's individualized education program is adequate or if additional evaluation is needed.

In-school suspension

STATUTES

No relevant statutes found.

Return to school following removal

STATUTES

121A.47. Exclusion and expulsion procedures.

14. Admission or readmission plan.

(a) A school administrator shall prepare and enforce an admission or readmission plan for any pupil who is excluded or expelled from school. The plan may include measures to improve the pupil's behavior, including completing a character education program, consistent with section 120B.232, subdivision 1, and require parental involvement in the admission or readmission process, and may indicate the consequences to the pupil of not improving the pupil's behavior.

(b) The definition of suspension under section 121A.41, subdivision 10, does not apply to a student's dismissal from school for one school day or less, except as provided under federal law for a student with a disability. Each suspension action may include a readmission plan. A readmission plan must provide, where appropriate, alternative education services, which must not be used to extend the student's current suspension period. Consistent with section 125A.091, subdivision 5, a readmission plan must not obligate a parent or guardian to provide psychotropic drugs to their student as a condition of readmission. School officials must not use the refusal of a parent or guardian to consent to the administration of psychotropic drugs to their student or to consent to a psychiatric evaluation, screening or examination of the student as a ground, by itself, to prohibit the student from attending class or participating in a school-related activity, or as a basis of a charge of child abuse, child neglect or medical or educational neglect.

121A.54. Notice of right to be reinstated.

Whenever a pupil fails to return to school within ten school days of the termination of dismissal, a school administrator shall inform the pupil and the pupil's parents by mail of the pupil's right to attend and to be reinstated in the public school.

121A.61. Discipline and removal of students from class.

3. Policy components. The policy must include at least the following components:

(g) the procedures for return of a student to the specified class from which the student has been removed;

Use of restraint and seclusion

STATUTES

121A.43. Exclusion and expulsion of pupils with a disability.

(a) Consistent with federal law governing days of removal and section 121A.46, school personnel may suspend a child with a disability. When a child with a disability has been suspended for more than five consecutive school days or ten cumulative school days in the same school year, and that suspension does not involve a recommendation for expulsion or exclusion or other change of placement under federal law, relevant members of the child's individualized education program team, including at least one of the child's teachers, shall meet and determine the extent to which the child needs services in order to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals in the child's individualized education program. That meeting must occur as soon as possible, but no more than ten days after the sixth consecutive day of suspension or the tenth cumulative day of suspension has elapsed.

(b) A dismissal for one school day or less is a day or a partial day of suspension if the child with a disability does not receive regular or special education instruction during that dismissal period. The notice requirements under section 121A.46 do not apply to a dismissal of one day or less.

(c) A child with a disability shall be provided alternative educational services to the extent a suspension exceeds five consecutive school days.

(d) Before initiating an expulsion or exclusion under sections 121A.40. to 121A.56, the district, relevant members of the child's individualized education program team, and the child's parent shall, consistent with federal law, determine whether the child's behavior was caused by or had a direct and substantial relationship to the child's disability and whether the child's conduct was a direct result of a failure to implement the child's individualized education program. When a child with a disability who has an individualized education program is excluded or expelled under sections 121A.40. to 121A.56 for misbehavior that is not a manifestation of the child's disability, the district shall continue to provide special education and related services during the exclusion or expulsion.

121A.67. Aversive and deprivation procedures.

2. Removal by peace officer. If a pupil who has an individualized education program is restrained or removed from a classroom, school building, or school grounds by a peace officer at the request of a school administrator or a school staff person during the school day twice in a 30-day period, the pupil's individualized education program team must meet to determine if the pupil's individualized education program is adequate or if additional evaluation is needed.

Alternative placements

STATUTES

121A.41. Definitions.

11. Alternative educational services. "Alternative educational services" may include, but are not limited to, special tutoring, modified curriculum, modified instruction, other modifications or adaptations, instruction through electronic media, special education services as indicated by appropriate assessment, homebound instruction, supervised homework, or enrollment in another district or in an alternative

learning center under section 123A.05 selected to allow the pupil to progress toward meeting graduation standards under section 120B.02, although in a different setting.

121A.43. Exclusion and expulsion of pupils with a disability.

(a) Consistent with federal law governing days of removal and section 121A.46, school personnel may suspend a child with a disability. When a child with a disability has been suspended for more than five consecutive school days or ten cumulative school days in the same school year, and that suspension does not involve a recommendation for expulsion or exclusion or other change of placement under federal law, relevant members of the child's individualized education program team, including at least one of the child's teachers, shall meet and determine the extent to which the child needs services in order to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals in the child's individualized education program. That meeting must occur as soon as possible, but no more than ten days after the sixth consecutive day of suspension or the tenth cumulative day of suspension has elapsed.

(b) A dismissal for one school day or less is a day or a partial day of suspension if the child with a disability does not receive regular or special education instruction during that dismissal period. The notice requirements under section 121A.46 do not apply to a dismissal of one day or less.

(c) A child with a disability shall be provided alternative educational services to the extent a suspension exceeds five consecutive school days.

(d) Before initiating an expulsion or exclusion under sections 121A.40. to 121A.56, the district, relevant members of the child's individualized education program team, and the child's parent shall, consistent with federal law, determine whether the child's behavior was caused by or had a direct and substantial relationship to the child's disability and whether the child's conduct was a direct result of a failure to implement the child's individualized education program. When a child with a disability who has an individualized education program is excluded or expelled under sections 121A.40. to 121A.56 for misbehavior that is not a manifestation of the child's disability, the district shall continue to provide special education and related services during the exclusion or expulsion.

121A.45. Grounds for dismissal.

1. Provision of alternative programs. No school shall dismiss any pupil without attempting to provide alternative educational services before dismissal proceedings, except where it appears that the pupil will create an immediate and substantial danger to self or to surrounding persons or property.

121A.53. Report to commissioner of education.

1. Exclusions and expulsions. The school board must report through the department electronic reporting system each exclusion or expulsion within 30 days of the effective date of the action to the commissioner of education. This report must include a statement of alternative educational services given the pupil and the reason for, the effective date, and the duration of the exclusion or expulsion. The report must also include the student's age, grade, gender, race, and special education status.

121A.55. Policies to be established.

(a) The commissioner of education shall promulgate guidelines to assist each school board. Each school board shall establish uniform criteria for dismissal and adopt written policies and rules to effectuate the purposes of sections 121A.40. to 121A.56. The policies shall emphasize preventing dismissals through early detection of problems and shall be designed to address students' inappropriate behavior from recurring. The policies shall recognize the continuing responsibility of the school for the education of the pupil during the dismissal period. The alternative educational services, if the pupil wishes to take

advantage of them, must be adequate to allow the pupil to make progress towards meeting the graduation standards adopted under section 120B.02 and help prepare the pupil for readmission.

(b) An area learning center under section 123A.05 may not prohibit an expelled or excluded pupil from enrolling solely because a district expelled or excluded the pupil. The board of the area learning center may use the provisions of the Pupil Fair Dismissal Act to exclude a pupil or to require an admission plan.

(c) Each school district shall develop a policy and report it to the commissioner on the appropriate use of peace officers and crisis teams to remove students who have an individualized education program from school grounds.

121A.61. Discipline and removal of students from class.

3. Policy components. The policy must include at least the following components:

(1) the procedures for consideration of whether there is a need for a further assessment or of whether there is a need for a review of the adequacy of a current individualized education program of a student with a disability who is removed from class;

Disciplinary Approaches Addressing Specific Infractions and Conditions

Firearms (as required by the Guns-Free Schools Act)

STATUTES

121A.05. Policy to refer firearms possessor.

A school board must have a policy requiring the appropriate school official to, as soon as practicable, refer to the criminal justice or juvenile delinquency system, as appropriate, a pupil who brings a firearm to school unlawfully.

121A.44. Expulsion for possession of firearm.

(a) Notwithstanding the time limitation in section 121A.41, subdivision 5, a school board must expel for a period of at least one year a pupil who is determined to have brought a firearm to school except the board may modify this expulsion requirement for a pupil on a case-by-case basis. For the purposes of this section, firearm is as defined in United States Code, title 18, section 921.

(b) Notwithstanding chapter 13, a student's expulsion or withdrawal or transfer from a school after an expulsion action is initiated against the student for a weapons violation under paragraph (a) may be disclosed by the school district initiating the expulsion proceeding. Unless the information is otherwise public, the disclosure may be made only to another school district in connection with the possible admission of the student to the other district.

Other weapons

STATUTES

121A.06. Reports of dangerous weapon incidents in school zones.

1. Definitions. As used in this section:

(1) "dangerous weapon" has the meaning given it in section 609.02, subdivision 6;

(2) "school" has the meaning given it in section 120A.22, subdivision 4; and

(3) "school zone" has the meaning given it in section 152.01, subdivision 14a, clauses (1) and (3).

2. Reports; content. School districts must electronically report to the commissioner of education incidents involving the use or possession of a dangerous weapon in school zones. The form must include the following information:

(1) a description of each incident, including a description of the dangerous weapon involved in the incident;

(2) where, at what time, and under what circumstances the incident occurred;

(3) information about the offender, other than the offender's name, including the offender's age; whether the offender was a student and, if so, where the offender attended school; and whether the offender was under school expulsion or suspension at the time of the incident;

(4) information about the victim other than the victim's name, if any, including the victim's age; whether the victim was a student and, if so, where the victim attended school; and if the victim was not a student, whether the victim was employed at the school;

(5) the cost of the incident to the school and to the victim; and

(6) the action taken by the school administration to respond to the incident.

The commissioner shall provide an electronic reporting format that allows school districts to provide aggregate data.

3. Reports; filing requirements. By July 31 of each year, each public school shall report incidents involving the use or possession of a dangerous weapon in school zones to the commissioner. The reports must be submitted using the electronic reporting system developed by the commissioner under subdivision 2. The commissioner shall compile the information it receives from the schools and report it annually to the commissioner of public safety and the legislature.

Students with chronic disciplinary issues

STATUTES

260C.007. Definitions.

19. Habitual truant. "Habitual truant" means a child under the age of 16 years who is absent from attendance at school without lawful excuse for seven school days if the child is in elementary school or for one or more class periods on seven school days if the child is in middle school, junior high school, or high school, or a child who is 16 or 17 years of age who is absent from attendance at school without lawful excuse for one or more class periods on seven school days and who has not lawfully withdrawn from school under section 120A.22, subdivision 8.

Attendance and truancy

STATUTES

120A.30. Attendance Officers.

The board of any district may authorize the employment of attendance officers, who must investigate truancy or nonattendance at school, make complaints, serve notice and process, and attend to the enforcement of all laws and district rules regarding school attendance. When any attendance officer learns of any case of habitual truancy or continued nonattendance of any child required to attend school the officer must immediately notify the person having control of the child to send and keep the child in school. The attendance officer must also refer a habitual truant child as defined in section 260C.007, subdivision 19, and the child's parent or legal guardian to appropriate services and procedures under chapter 260A, if available within the school district. Attendance officers or other designated school officials must ensure that the notice required by section 260A.03 for a child who is a continuing truant is sent. The officer must act under the general supervision of the superintendent.

124D.03. Enrollment options program.

12. Termination of enrollment. A district may terminate the enrollment of a nonresident student enrolled under this section or section 124D.08 at the end of a school year if the student meets the definition of a habitual truant under section 260C.007, subdivision 19, the student has been provided appropriate services under chapter 260A, and the student's case has been referred to juvenile court. A district may also terminate the enrollment of a nonresident student over the age of 16 enrolled under this section if the student is absent without lawful excuse for one or more periods on 15 school days and has not lawfully withdrawn from school under section 120A.22, subdivision 8.

260A.01. Truancy programs and services.

(a) The programs in this chapter are designed to provide a continuum of intervention and services to support families and children in keeping children in school and combating truancy and educational neglect. School districts, county attorneys, and law enforcement may establish the programs and coordinate them with other community-based truancy services in order to provide the necessary and most effective intervention for children and their families. This continuum of intervention and services involves progressively intrusive intervention, beginning with strong service-oriented efforts at the school and community level and involving the court's authority only when necessary.

(b) Consistent with section 125A.091, subdivision 5, a parent's refusal to provide the parent's child with sympathomimetic medications does not constitute educational neglect.

260A.03. Notice to parent or guardian when child is a continuing truant.

Upon a child's initial classification as a continuing truant, the school attendance officer or other designated school official shall notify the child's parent or legal guardian, by first-class mail or other reasonable means, of the following:

(1) that the child is truant;

(2) that the parent or guardian should notify the school if there is a valid excuse for the child's absences;

(3) that the parent or guardian is obligated to compel the attendance of the child at school pursuant to section 120A.22 and parents or guardians who fail to meet this obligation may be subject to prosecution under section 120A.34;

(4) that this notification serves as the notification required by section 120A.34;

(5) that alternative educational programs and services may be available in the district;

(6) that the parent or guardian has the right to meet with appropriate school personnel to discuss solutions to the child's truancy;

(7) that if the child continues to be truant, the parent and child may be subject to juvenile court proceedings under chapter 260C;

(8) that if the child is subject to juvenile court proceedings, the child may be subject to suspension, restriction, or delay of the child's driving privilege pursuant to section 260C.201; and

(9) that it is recommended that the parent or guardian accompany the child to school and attend classes with the child for one day.

260A.04. Community-based truancy projects and service centers

1. Establishment.

(a) Community-based truancy projects and service centers may be established to:

(1) provide for identification of students with school attendance problems;

(2) facilitate the provision of services geared to address the underlying issues that are contributing to a student's truant behavior; and

(3) provide facilities to receive truant students from peace officers and probation officers.

(b) Truancy projects and service centers may provide any of these services and shall provide for referral of children and families to other appropriate programs and services.

2. Community-based action projects. Schools, community agencies, law enforcement, parent associations, and other interested groups may cooperate to provide coordinated intervention, prevention, and educational services for truant students and their families. Services may include:

(1) assessment for underlying issues that are contributing to the child's truant behavior;

(2) referral to other community-based services for the child and family, such as individual or family counseling, educational testing, psychological evaluations, tutoring, mentoring, and mediation;

(3) transition services to integrate the child back into school and to help the child succeed once there;

(4) culturally sensitive programming and staffing; and

(5) increased school response, including in-school suspension, better attendance monitoring and enforcement, after-school study programs, and in-service training for teachers and staff.

3. Truancy service centers.

(a) Truancy service centers may be established as facilities to receive truant students from peace officers and probation officers and provide other appropriate services. A truancy service center may:

(1) assess a truant student's attendance situation, including enrollment status, verification of truancy, and school attendance history;

(2) assist in coordinating intervention efforts where appropriate, including checking with juvenile probation and children and family services to determine whether an active case is pending and facilitating transfer to an appropriate facility, if indicated; and evaluating the need for and making referral to a health clinic, chemical dependency treatment, protective services, social or recreational programs, or other school or community-based services and programs described in subdivision 2;

(3) contact the parents or legal guardian of the truant student and release the truant student to the custody of the parents, guardian, or other suitable person; and

(4) facilitate the student's earliest possible return to school.

(b) Truancy service centers may not accept:

(1) juveniles taken into custody for violations of law that would be crimes if committed by adults;

(2) intoxicated juveniles;

(3) ill or injured juveniles; or

(4) juveniles older than mandatory school attendance age.

(c) Truancy service centers may expand their service capability in order to receive curfew violators and take appropriate action, such as coordination of intervention efforts, contacting parents, and developing strategies to ensure that parents assume responsibility for their children's curfew violations.

260A.05. School attendance review boards.

1. Establishment. A school district may establish one or more school attendance review boards to exercise the powers and duties in this section. The school district board shall appoint the members of the school attendance review board and designate the schools within the board's jurisdiction. Members of a school attendance review board may include:

(1) the superintendent of the school district or the superintendent's designee;

(2) a principal and one or more other school officials from within the district;

(3) parent representatives;

(4) representatives from community agencies that provide services for truant students and their families;

(5) a juvenile probation officer;

(6) school counselors and attendance officers; and

(7) law enforcement officers.

2. General powers and duties. A school attendance review board shall prepare an annual plan to promote interagency and community cooperation and to reduce duplication of services for students with school attendance problems. The plan shall include a description of truancy procedures and services currently in

operation within the board's jurisdiction, including the programs and services under section 260A.04. A board may provide consultant services to, and coordinate activities of, truancy programs and services. If a board determines that it will be unable to provide services for all truant students who are referred to it, the board shall establish procedures and criteria for determining whether to accept referrals of students or refer them for other appropriate action.

3. Oversight of truant students. A school attendance review board shall oversee referrals of truant students and provide appropriate intervention and services under section 260A.06. The board shall establish procedures for documenting student attendance and verifying actions and interventions with respect to truant students and their families.

260C.007. Definitions.

19. Habitual truant. "Habitual truant" means a child under the age of 16 years who is absent from attendance at school without lawful excuse for seven school days if the child is in elementary school or for one or more class periods on seven school days if the child is in middle school, junior high school, or high school, or a child who is 16 or 17 years of age who is absent from attendance at school without lawful excuse for one or more class periods on seven school days and who has not lawfully withdrawn from school under section 120A.22, subdivision 8.

Substance use

STATUTES

121A.29. Reporting; chemical abuse.

1. Teacher's duty. A teacher in a nonpublic school participating in a school district chemical use program, or a public school teacher, who knows or has reason to believe that a student is using, possessing, or transferring alcohol or a controlled substance while on the school premises or involved in school-related activities, shall immediately notify the school's chemical abuse preassessment team of this information. A teacher who complies with this section shall be defended and indemnified under section 466.07, subdivision 1, in any action for damages arising out of the compliance.

2. Other reports. Nothing in this section prevents a teacher or any other school employee from reporting to a law enforcement agency any violation of law occurring on school premises or at school sponsored events.

121A.61. Discipline and removal of students from class.

3. Policy components. The policy must include at least the following components:

(m) procedures for detecting and addressing chemical abuse problems of a student while on the school premises;

122A.66. Teacher training; effects of drugs and alcohol

All educational institutions providing teacher education must offer a program in the personal use and misuse of and dependency on tobacco, alcohol, drugs and other chemicals. Every student attending educational institutions in preparation for teaching service shall be required to take and to satisfactorily complete a program under this section.

Bullying, harassment, or hazing

STATUTES

121A.03. Model policy.

1. Model policy. The commissioner shall maintain and make available to school boards a model sexual, religious, and racial harassment and violence policy. The model policy shall address the requirements of subdivision 2, and may encourage violence prevention and character development education programs, consistent with section 120B.232, subdivision 1, to prevent and reduce policy violations.

2. Sexual, religious, and racial harassment and violence policy. A school board must adopt a written sexual, religious, and racial harassment and sexual, religious, and racial violence policy that conforms with chapter 363A. The policy shall apply to pupils, teachers, administrators, and other school personnel, include reporting procedures, and set forth disciplinary actions that will be taken for violation of the policy. Disciplinary actions must conform with collective bargaining agreements and sections 121A.41 to 121A.56. The policy must be conspicuously posted throughout each school building, given to each district employee and independent contractor at the time of entering into the person's employment contract, and included in each school's student handbook on school policies. Each school must develop a process for discussing the school's sexual, religious, and racial harassment and violence policy with students and school employees.

3. Submission to commissioner. Each school board must submit to the commissioner a copy of the sexual, religious, and racial harassment and sexual, religious, and racial violence policy the board has adopted.

121A.69. Hazing policy.

1. Definitions.

(a) "Hazing" means committing an act against a student, or coercing a student into committing an act, that creates a substantial risk of harm to a person in order for the student to be initiated into or affiliated with a student organization.

(b) "Student organization" means a group, club, or organization having students as its primary members or participants.

2. Model policy. The commissioner of education shall maintain and make available to school boards a model policy on student or staff hazing that addresses the requirements of subdivision 3.

3. School board policy. Each school board shall adopt a written policy governing student or staff hazing. The policy must apply to student behavior that occurs on or off school property and during and after school hours. The policy must include reporting procedures and disciplinary consequences for violating the policy. Disciplinary consequences must be sufficiently severe to deter violations and appropriately discipline prohibited behavior. Disciplinary consequences must conform with sections 121A.41. to 121A.56. Each school must include the policy in the student handbook on school policies.

Other special infractions or conditions

STATUTES

121A.70. Secret fraternities and societies.

1. Membership regulated. It is unlawful for any pupil, registered and attending any public school to join, become a member of, or to solicit any other pupil of any public school to join, or become a member of, any secret fraternity or society wholly or partially formed from the membership of pupils attending any

public schools or to take part in the organization or formation of any fraternity or society, except societies or associations sanctioned by the district school board.

2. Penalties. A school board may suspend or dismiss any pupil from school, or prevent the pupil from graduating or participating in school honors when, after investigation, in the judgment of the board or a majority of its membership, the pupil is guilty of violating any of the provisions of this section or is guilty of violating any rule or regulation adopted by the board for the purpose of governing its schools, or enforcing this section.

3. "Rushing" or soliciting forbidden. It is a misdemeanor for any person, not a pupil of the schools, to be upon school grounds, or to enter any school building, for the purpose of "rushing" or soliciting any pupil of the schools to join any fraternity, society, or association organized outside of the schools. The district court has jurisdiction of offenses committed under this subdivision. All persons found guilty shall be fined not less than $2, nor more than $10, to be paid to the county treasurer or, upon failure to pay the fine, to be imprisoned for not more than ten days.

Prevention and Behavioral Interventions (Non-Punitive)

Prevention

STATUTES

120B.22. Violence prevention education.

1. Violence prevention curriculum.

(a) The commissioner of education, in consultation with the commissioners of health and human services, state minority councils, battered women's and domestic abuse programs, battered women's shelters, sexual assault centers, representatives of religious communities, and the assistant commissioner of the Office of Drug Policy and Violence Prevention, shall assist districts on request in developing or implementing a violence prevention program for students in kindergarten to grade 12 that can be integrated into existing curriculum. The purpose of the program is to help students learn how to resolve conflicts within their families and communities in nonviolent, effective ways.

(b) Each district is encouraged to integrate into its existing curriculum a program for violence prevention that includes at least:

(1) a comprehensive, accurate, and age appropriate curriculum on violence prevention, nonviolent conflict resolution, sexual, racial, and cultural harassment, self-protection, and student hazing that promotes equality, respect, understanding, effective communication, individual responsibility, thoughtful decision making, positive conflict resolution, useful coping skills, critical thinking, listening and watching skills, and personal safety;

(2) planning materials, guidelines, and other accurate information on preventing physical and emotional violence, identifying and reducing the incidence of sexual, racial, and cultural harassment, and reducing child abuse and neglect;

(3) a special parent education component of early childhood family education programs to prevent child abuse and neglect and to promote positive parenting skills, giving priority to services and outreach programs for at-risk families;

(4) involvement of parents and other community members, including the clergy, business representatives, civic leaders, local elected officials, law enforcement officials, and the county attorney;

(5) collaboration with local community services, agencies, and organizations that assist in violence intervention or prevention, including family-based services, crisis services, life management skills services, case coordination services, mental health services, and early intervention services;

(6) collaboration among districts and service cooperatives;

(7) targeting early adolescents for prevention efforts, especially early adolescents whose personal circumstances may lead to violent or harassing behavior;

(8) opportunities for teachers to receive in-service training or attend other programs on strategies or curriculum designed to assist students in intervening in or preventing violence in school and at home; and

(9) administrative policies that reflect, and a staff that models, nonviolent behaviors that do not display or condone sexual, racial, or cultural harassment or student hazing.

(c) The department may provide assistance at a neutral site to a nonpublic school participating in a district's program.

2. In-service training. Each district is encouraged to provide training for district staff and school board members to help students identify violence in the family and the community so that students may learn to resolve conflicts in effective, nonviolent ways. The in-service training must be ongoing and involve experts familiar with domestic violence and personal safety issues.

3. Funding sources. Districts may accept funds from public and private sources for violence prevention programs developed and implemented under this section.

Behavioral interventions and student support services

STATUTES

121A.45. Grounds for dismissal.

3. Parent notification and meeting. If a pupil's total days of removal from school exceeds ten cumulative days in a school year, the school district shall make reasonable attempts to convene a meeting with the pupil and the pupil's parent or guardian before subsequently removing the pupil from school and, with the permission of the parent or guardian, arrange for a mental health screening for the pupil. The district is not required to pay for the mental health screening. The purpose of this meeting is to attempt to determine the pupil's need for assessment or other services or whether the parent or guardian should have the pupil assessed or diagnosed to determine whether the pupil needs treatment for a mental health disorder.

121A.67. Aversive and deprivation procedures.

2. Removal by peace officer. If a pupil who has an individualized education program is restrained or removed from a classroom, school building, or school grounds by a peace officer at the request of a school administrator or a school staff person during the school day twice in a 30-day period, the pupil's individualized education program team must meet to determine if the pupil's individualized education program is adequate or if additional evaluation is needed.

123B.41. Definitions.

4. Pupil support services. "Pupil support services" means guidance and counseling services and health services.

124D.68. Graduation incentives program.

1. Purpose. The legislature finds that it is critical to provide options for children to succeed in school. Therefore, the purpose of this section is to provide incentives for and encourage all Minnesota students who have experienced or are experiencing difficulty in the traditional education system to enroll in alternative programs.

2. Eligible pupils. A pupil under the age of 21 or who meets the requirements of section 120A.20, subdivision 1, paragraph (c), is eligible to participate in the graduation incentives program, if the pupil:

(1) performs substantially below the performance level for pupils of the same age in a locally determined achievement test;

(2) is behind in satisfactorily completing coursework or obtaining credits for graduation;

(3) is pregnant or is a parent;

(4) has been assessed as chemically dependent;

(5) has been excluded or expelled according to sections 121A.40 to 121A.56;

(6) has been referred by a school district for enrollment in an eligible program or a program pursuant to section 124D.69;

(7) is a victim of physical or sexual abuse;

(8) has experienced mental health problems;

(9) has experienced homelessness sometime within six months before requesting a transfer to an eligible program;

(10) speaks English as a second language or is an English learner; or

(11) has withdrawn from school or has been chronically truant; or

(12) is being treated in a hospital in the seven-county metropolitan area for cancer or other life threatening illness or is the sibling of an eligible pupil who is being currently treated, and resides with the pupil's family at least 60 miles beyond the outside boundary of the seven-county metropolitan area.

3. Eligible programs.

(a) A pupil who is eligible according to subdivision 2 may enroll in a state-approved alternative program under sections 123A.05 to 123A.08.

(b) A pupil who is eligible according to subdivision 2 and who is a high school junior or senior may enroll in postsecondary courses under section 124D.09.

(c) A pupil who is eligible under subdivision 2, may enroll in any public elementary or secondary education program.

(d) A pupil who is eligible under subdivision 2, may enroll in any nonpublic, nonsectarian school that has contracted with the serving school district to provide educational services. However, notwithstanding other provisions of this section, only a pupil who is eligible under subdivision 2, clause (12), may enroll in a contract alternative school that is specifically structured to provide educational services to such a pupil.

(e) A pupil who is between the ages of 16 and 21 may enroll in any adult basic education programs approved under section 124D.52 and operated under the community education program contained in section 124D.19.

4. Additional eligible program. A pupil who is at least 16 years of age, who is eligible under subdivision 2, and who has been enrolled only in a public school, if the pupil has been enrolled in any school, during the year immediately before transferring under this subdivision, may transfer to any nonpublic school that has contracted with the serving school district to provide nonsectarian educational services. The school must enroll every eligible pupil who seeks to transfer to the school under this program subject to available space.

5. Pupil enrollment.

(a) Any eligible pupil may apply to enroll in an eligible program. Approval of the resident district is not required for:

(1) an eligible pupil to enroll in any eligible program in a nonresident district under subdivision 3 or 4 or a state-approved alternative program established under section 123A.05; or

(2) an eligible pupil under subdivision 2, to enroll in an adult basic education program approved under section 124D.52.

(b) Notwithstanding paragraph (a), a nonresident district must first approve the enrollment application of any eligible pupil who was expelled under section 121A.45 for a reason stated in section 124D.03, subdivision 1, paragraph (b).

6. Dissemination of information. A district must disseminate information, developed by the department, about the graduation incentives program to residents in the district who are under the age of 21.

7. Desegregation plans. Notwithstanding any provision to the contrary, students may not enroll in a nonresident district under this section if their enrollment in another district would result in a violation of a district's desegregation plan, as mandated and approved by the commissioner of education.

8. Aid adjustments. General education aid and transportation aid attributable to a pupil covered by programs under this section must be paid according to sections 127A.47, subdivision 7, and 123B.92, subdivision 3, respectively.

9. Enrollment verification.

(a) For a pupil attending an eligible program full time under subdivision 3, paragraph (d), the department must pay 90 percent of the district's average general education revenue less basic skills revenue to the eligible program and ten percent of the district's average general education revenue less basic skills revenue to the contracting district within 30 days after the eligible program verifies enrollment using the form provided by the department. For a pupil attending an eligible program part time, revenue, excluding compensatory revenue, shall be reduced proportionately, according to the amount of time the pupil attends the program, and the payments to the eligible program and the contracting district shall be reduced accordingly. A pupil for whom payment is made according to this section may not be counted by any district for any purpose other than computation of general education revenue. If payment is made for a pupil under this subdivision, a district shall not reimburse a program under section 124D.69 for the same pupil. The basic skills revenue generated by pupils attending the eligible program according to section 126C.10, subdivision 4, shall be paid to the eligible program.

(b) The department must pay up to 100 percent of the revenue to the eligible program if there is an agreement to that effect between the school district and the eligible program.

(c) Notwithstanding paragraphs (a) and (b), for an eligible program that provides chemical treatment services to students, the department must pay 100 percent of the revenue to the eligible program.

10. Severability. If for any reason any portion of this section is found by a court to be unconstitutional, the remaining portions of the section shall remain in effect.

125A.0941. Definitions.

(d) "Positive behavioral interventions and supports" means interventions and strategies to improve the school environment and teach children the skills to behave appropriately.

260A.01. Truancy programs and services.

(a) The programs in this chapter are designed to provide a continuum of intervention and services to support families and children in keeping children in school and combating truancy and educational neglect. School districts, county attorneys, and law enforcement may establish the programs and coordinate them with other community-based truancy services in order to provide the necessary and most effective intervention for children and their families. This continuum of intervention and services involves progressively intrusive intervention, beginning with strong service-oriented efforts at the school and community level and involving the court's authority only when necessary.

(b) Consistent with section 125A.091, subdivision 5, a parent's refusal to provide the parent's child with sympathomimetic medications does not constitute educational neglect.

Professional development

STATUTES

120B.22. Violence prevention education.

2. In-service training. Each district is encouraged to provide training for district staff and school board members to help students identify violence in the family and the community so that students may learn to resolve conflicts in effective, nonviolent ways. The in-service training must be ongoing and involve experts familiar with domestic violence and personal safety issues.

3. Funding sources. Districts may accept funds from public and private sources for violence prevention programs developed and implemented under this section.

122A.66. Teacher training; effects of drugs and alcohol

All educational institutions providing teacher education must offer a program in the personal use and misuse of and dependency on tobacco, alcohol, drugs and other chemicals. Every student attending educational institutions in preparation for teaching service shall be required to take and to satisfactorily complete a program under this section.

Monitoring and Accountability

Formal incident reporting of conduct violations

STATUTES

121A.03. Model policy.

2. Sexual, religious, and racial harassment and violence policy.

A school board must adopt a written sexual, religious, and racial harassment and sexual, religious, and racial violence policy that conforms with chapter 363A. The policy shall apply to pupils, teachers, administrators, and other school personnel, include reporting procedures, and set forth disciplinary actions that will be taken for violation of the policy. Disciplinary actions must conform with collective bargaining agreements and sections 121A.41 to 121A.56. The policy must be conspicuously posted throughout each school building, given to each district employee and independent contractor at the time of entering into the person's employment contract, and included in each school's student handbook on school policies. Each school must develop a process for discussing the school's sexual, religious, and racial harassment and violence policy with students and school employees.

121A.69. Hazing policy.

3. School board policy. Each school board shall adopt a written policy governing student or staff hazing. The policy must apply to student behavior that occurs on or off school property and during and after school hours. The policy must include reporting procedures and disciplinary consequences for violating the policy. Disciplinary consequences must be sufficiently severe to deter violations and appropriately discipline prohibited behavior.

Parental notification

STATUTES

121A.45. Grounds for dismissal.

3. Parent notification and meeting. If a pupil's total days of removal from school exceeds ten cumulative days in a school year, the school district shall make reasonable attempts to convene a meeting with the pupil and the pupil's parent or guardian before subsequently removing the pupil from school and, with the permission of the parent or guardian, arrange for a mental health screening for the pupil. The district is not required to pay for the mental health screening. The purpose of this meeting is to attempt to determine the pupil's need for assessment or other services or whether the parent or guardian should have the pupil assessed or diagnosed to determine whether the pupil needs treatment for a mental health disorder.

121A.46. Suspension procedures.

3. Written notice of grounds for suspension. A written notice containing the grounds for suspension, a brief statement of the facts, a description of the testimony, a readmission plan, and a copy of sections 121A.40. to 121A.56, shall be personally served upon the pupil at or before the time the suspension is to take effect, and upon the pupil's parent or guardian by mail within 48 hours of the conference. The district shall make reasonable efforts to notify the parents of the suspension by telephone as soon as possible following suspension. In the event a pupil is suspended without an informal administrative conference on the grounds that the pupil will create an immediate and substantial danger to surrounding persons or

property, the written notice shall be served upon the pupil and the pupil's parent or guardian within 48 hours of the suspension. Service by mail is complete upon mailing.

121A.47. Exclusion and expulsion procedures.

1. Requiring a hearing; pupil may waive hearing. No exclusion or expulsion shall be imposed without a hearing, unless the right to a hearing is waived in writing by the pupil and parent or guardian. The action shall be initiated by the school board or its agent.

2. Written notice. Written notice of intent to take action shall:

(a) be served upon the pupil and the pupil's parent or guardian personally or by mail;

(b) contain a complete statement of the facts, a list of the witnesses and a description of their testimony;

(c) state the date, time, and place of the hearing;

(d) be accompanied by a copy of sections 121A.40. to 121A.56;

(e) describe alternative educational services accorded the pupil in an attempt to avoid the expulsion proceedings; and

(f) inform the pupil and parent or guardian of the right to:

(1) have a representative of the pupil's own choosing, including legal counsel, at the hearing. The district shall advise the pupil's parent or guardian that free or low-cost legal assistance may be available and that a legal assistance resource list is available from the Department of Education;

(2) examine the pupil's records before the hearing;

(3) present evidence; and

(4) confront and cross-examine witnesses.

121A.54. Notice of right to be reinstated.

Whenever a pupil fails to return to school within ten school days of the termination of dismissal, a school administrator shall inform the pupil and the pupil's parents by mail of the pupil's right to attend and to be reinstated in the public school.

121A.61. Discipline and removal of students from class.

2. Grounds for removal from class. The policy must establish the various grounds for which a student may be removed from a class in the district for a period of time under the procedures specified in the policy. The policy must include a procedure for notifying and meeting with a student's parent or guardian to discuss the problem that is causing the student to be removed from class after the student has been removed from class more than ten times in one school year…

3. Policy components. The policy must include at least the following components:

(h) the procedures for notifying a student and the student's parents or guardian of violations of the rules of conduct and of resulting disciplinary actions;

(i) any procedures determined appropriate for encouraging early involvement of parents or guardians in attempts to improve a student's behavior;

260A.03. Notice to parent or guardian when child is a continuing truant.

Upon a child's initial classification as a continuing truant, the school attendance officer or other designated school official shall notify the child's parent or legal guardian, by first-class mail or other reasonable means, of the following:

(1) that the child is truant;

(2) that the parent or guardian should notify the school if there is a valid excuse for the child's absences;

(3) that the parent or guardian is obligated to compel the attendance of the child at school pursuant to section 120A.22 and parents or guardians who fail to meet this obligation may be subject to prosecution under section 120A.34;

(4) that this notification serves as the notification required by section 120A.34;

(5) that alternative educational programs and services may be available in the district;

(6) that the parent or guardian has the right to meet with appropriate school personnel to discuss solutions to the child's truancy;

(7) that if the child continues to be truant, the parent and child may be subject to juvenile court proceedings under chapter 260C;

(8) that if the child is subject to juvenile court proceedings, the child may be subject to suspension, restriction, or delay of the child's driving privilege pursuant to section 260C.201; and

(9) that it is recommended that the parent or guardian accompany the child to school and attend classes with the child for one day.

260A.04. Community-based truancy projects and service centers

3. Truancy service centers.

(a) Truancy service centers may be established as facilities to receive truant students from peace officers and probation officers and provide other appropriate services. A truancy service center may:

(3) contact the parents or legal guardian of the truant student and release the truant student to the custody of the parents, guardian, or other suitable person;

260A.06. Referral of truant students to school attendance review board.

1. Referral; notice.

An attendance officer or other school official may refer a student who is a continuing truant to the school attendance review board. The person making the referral shall provide a written notice by first class mail or other reasonable means to the student and the student's parent or legal guardian. The notice must:

(1) include the name and address of the board to which the student has been referred and the reason for the referral; and

(2) indicate that the student, the parent or legal guardian, and the referring person will meet with the board to determine a proper disposition of the referral, unless the board refers the student directly to the county attorney or for other appropriate legal action.

Reporting and referrals between schools and law enforcement

STATUTES

121A.05. Policy to refer firearms possessor.

A school board must have a policy requiring the appropriate school official to, as soon as practicable, refer to the criminal justice or juvenile delinquency system, as appropriate, a pupil who brings a firearm to school unlawfully.

121A.28. Law enforcement records.

A law enforcement agency shall provide notice of any drug incident occurring within the agency's jurisdiction, in which the agency has probable cause to believe a student violated section 152.021, 152.022, 152.023, 152.024, 152.025, 152.0262, 152.027, 152.092, 152.097, or 340A.503, subdivision 1,

2, or 3. The notice shall be in writing and shall be provided, within two weeks after an incident occurs, to the chemical abuse preassessment team in the school where the student is enrolled.

121A.29. Reporting; chemical abuse.

1. Teacher's duty. A teacher in a nonpublic school participating in a school district chemical use program, or a public school teacher, who knows or has reason to believe that a student is using, possessing, or transferring alcohol or a controlled substance while on the school premises or involved in school-related activities, shall immediately notify the school's chemical abuse preassessment team of this information. A teacher who complies with this section shall be defended and indemnified under section 466.07, subdivision 1, in any action for damages arising out of the compliance.

2. Other reports. Nothing in this section prevents a teacher or any other school employee from reporting to a law enforcement agency any violation of law occurring on school premises or at school sponsored events.

121A.75. Receipt of records; sharing.

3. Peace officer records of children.

(a) A law enforcement agency must transmit the notice required by section 260B.171, subdivision 5, to the superintendent of the student's school district who must immediately transmit the notice to the principal of the school the student attends, or to the principal of the school the student attends if there is no superintendent. The principal must place the notice in the student's educational record. The principal must immediately notify any teacher, counselor, or administrator directly supervising the student who the principal believes needs the data to work with the student in an appropriate manner, to avoid being needlessly vulnerable, or to protect other persons from needless vulnerability. The principal may also notify other district employees, substitutes, or volunteers who are in direct contact with the student if the principal determines these individuals need the data to work with the juvenile in an appropriate manner, to avoid being needlessly vulnerable, or to protect other persons from needless vulnerability. When provided in the peace officer notice, the notice from the principal must identify the student and describe the alleged offense.

(b) Data received under this subdivision are private data on individuals under section 13.32 and are received for the limited purpose of serving the student's educational needs and protecting students or staff. The teacher, counselor, staff member, administrator, substitute, or volunteer must not further disseminate the data, except to communicate with the student or the student's parent or guardian as needed to serve the student, protect students or staff, or as otherwise required by law.

(c) The principal must include the notice in the student's educational record as required by section 120A.22, subdivision 7.

(d) If the county attorney determines not to proceed with a petition alleging any offense in section 260B.171, subdivision 3, paragraph (a), clauses (1) to (3), or directs the student into a diversion or mediation program, the county attorney must notify the superintendent of the student's school district who must immediately transmit the notice to the principal of the school the student attends, or to the principal of the school that the student attends if there is no superintendent. The notice must contain the name of the student and a summary of the resolution of the case. Notwithstanding section 138.17, the principal must delete the peace officer's report and notice from the student's educational record and destroy the data and make reasonable efforts to notify any teacher, counselor, staff member, administrator, substitute, or volunteer who received data from the peace officer notice.

(e) If the juvenile court makes a decision on a petition that alleges any offense in section 260B.171, subdivision 3, paragraph (a), clauses (1) to (3), and the decision affects a student and is not a disposition order, the court must notify the superintendent of the student's school district who must

immediately transmit the notice to the principal of the school the student attends, or to the principal of the school that the student attends if there is no superintendent, of the decision. Notwithstanding section 138.17, the principal must delete the peace officer's report and notice from the student's educational record and destroy the data and make reasonable efforts to notify any teacher, counselor, staff member, administrator, substitute, or volunteer who received data from the peace officer notice.

(f) In addition to the data destruction requirements of this subdivision, a principal must comply with the requirements of section 120A.22, subdivision 7.

260A.06. Referral of truant students to school attendance review board.

3. Referral to county attorney; other appropriate action.

If the school attendance review board determines that available community services cannot resolve the attendance problems of the truant student, if the student or the parent or guardian has failed to comply with any referrals or agreements under subdivision 2 or to otherwise cooperate with the board, or if the board determines that a student should be referred directly under this subdivision, the board may:

(1) refer the matter to the county attorney under section 260A.07, if the county attorney has elected to participate in the truancy mediation program; or

(2) if the county attorney has not elected to participate in the truancy mediation program, refer the matter for appropriate legal action against the child or the child's parent or guardian under chapter 260 or section 120A.34.

Disclosure of school records

STATUTES

121A.44. Expulsion for possession of firearm.

(b) Notwithstanding chapter 13, a student's expulsion or withdrawal or transfer from a school after an expulsion action is initiated against the student for a weapons violation under paragraph (a) may be disclosed by the school district initiating the expulsion proceeding. Unless the information is otherwise public, the disclosure may be made only to another school district in connection with the possible admission of the student to the other district.

121A.47. Exclusion and expulsion procedures.

8. Access to pupil's records. At a reasonable time prior to the hearing, the pupil, parent or guardian, or representative, shall be given access to all public school system records pertaining to the pupil, including any tests or reports upon which the proposed action may be based.

121A.51. Reports to service agency.

The school board shall report any action taken pursuant to sections 121A.40. to 121A.56 to the appropriate public service agency, when the pupil is under the supervision of such agency.

121A.64. Notification; teachers' legitimate education interest.

(a) A classroom teacher has a legitimate educational interest in knowing which students placed in the teacher's classroom have a history of violent behavior and must be notified before such students are placed in the teacher's classroom.

(b) Representatives of the school board and the exclusive representative of the teachers shall discuss issues related to the model policy on student records adopted under Laws 1999, chapter 241, article 9, section 50, and any modifications adopted under Laws 2003, First Special Session chapter 9, for notifying classroom teachers and other school district employees having a legitimate educational interest in

knowing about students with a history of violent behavior placed in classrooms. The representatives of the school board and the exclusive representative of the teachers also may discuss the need for intervention services or conflict resolution or training for staff related to placing students with a history of violent behavior in teachers' classrooms.

121A.75. Receipt of records; sharing.

1. Definitions.

(a) For purposes of this section "principal" means a principal or other person having general administrative control and supervision of a school.

(b) For purposes of this section, "school" means a public school under section 120A.22, subdivision 4; a nonpublic school under section 120A.22, subdivision 4, that elects to comply with this section; and a charter school under section 124D.10, but does not mean a home school.

2. Disposition orders.

(a) On receipt of a disposition order under section 260B.171, subdivision 3, the superintendent of the student's school district or chief administrative officer of the student's school must immediately transmit the order to the principal of the school where the student is in attendance. The principal must place the disposition order in the student's permanent education record. The principal must also immediately notify any counselor directly supervising or reporting on the behavior or progress of the student. In addition, the principal must immediately notify any teacher or administrator who directly supervises or reports on the behavior or progress of the student whom the principal believes needs the data to work with the student in an appropriate manner, to avoid being needlessly vulnerable, or to protect other persons from needless vulnerability. The principal may also notify other district employees, substitutes, and volunteers who are in direct contact with the student, if they determine these individuals need the data to work with the student in an appropriate manner, to avoid being needlessly vulnerable, or to protect other persons from needless vulnerability. When provided in the disposition order, the notice given under this paragraph by the principal must identify the student, outline the offense, and describe any conditions of probation about which the school must provide information.

(b) Information received under this subdivision is private data on individuals as defined in section 13.32 and is received for the limited purpose of serving the educational needs of the student and protecting students or staff. The data may not be further disseminated by the teacher, counselor, staff member, administrator, substitute, or volunteer, except as necessary to serve the student, to protect students or staff, or as otherwise required by law, and only to the following persons:

(1) the student; or

(2) the student's parent or guardian.

(c) If a student is removed from school as part of the disposition order, the superintendent of the student's school district or chief administrative officer of the student's school must maintain the copy of the order in a secure file and shall notify the principal when the student is returned to school. If the student is returned to a different school district or school, the student's probation officer must send a copy of the disposition order to the superintendent of the new school district or the chief administrative officer of the new school.

(d) The disposition order must be included if the student's permanent education record is released to another school district or educational entity to which the student is transferring under section 120A.22, subdivision 7.

(e) Notwithstanding section 138.17, a disposition order received under section 260B.171, subdivision 3, paragraph (a), must be destroyed when the student graduates from school or at the end of the school year in which the student reaches age 23, whichever is earlier. A disposition order received under

section 260B.171, subdivision 3, paragraph (b), must be destroyed when the student is discharged from probation.

3. Peace officer records of children.

(a) A law enforcement agency must transmit the notice required by section 260B.171, subdivision 5, to the superintendent of the student's school district who must immediately transmit the notice to the principal of the school the student attends, or to the principal of the school the student attends if there is no superintendent. The principal must place the notice in the student's educational record. The principal must immediately notify any teacher, counselor, or administrator directly supervising the student who the principal believes needs the data to work with the student in an appropriate manner, to avoid being needlessly vulnerable, or to protect other persons from needless vulnerability. The principal may also notify other district employees, substitutes, or volunteers who are in direct contact with the student if the principal determines these individuals need the data to work with the juvenile in an appropriate manner, to avoid being needlessly vulnerable, or to protect other persons from needless vulnerability. When provided in the peace officer notice, the notice from the principal must identify the student and describe the alleged offense.

(b) Data received under this subdivision are private data on individuals under section 13.32 and are received for the limited purpose of serving the student's educational needs and protecting students or staff. The teacher, counselor, staff member, administrator, substitute, or volunteer must not further disseminate the data, except to communicate with the student or the student's parent or guardian as needed to serve the student, protect students or staff, or as otherwise required by law.

(c) The principal must include the notice in the student's educational record as required by section 120A.22, subdivision 7.

(d) If the county attorney determines not to proceed with a petition alleging any offense in section 260B.171, subdivision 3, paragraph (a), clauses (1) to (3), or directs the student into a diversion or mediation program, the county attorney must notify the superintendent of the student's school district who must immediately transmit the notice to the principal of the school the student attends, or to the principal of the school that the student attends if there is no superintendent. The notice must contain the name of the student and a summary of the resolution of the case. Notwithstanding section 138.17, the principal must delete the peace officer's report and notice from the student's educational record and destroy the data and make reasonable efforts to notify any teacher, counselor, staff member, administrator, substitute, or volunteer who received data from the peace officer notice.

(e) If the juvenile court makes a decision on a petition that alleges any offense in section 260B.171, subdivision 3, paragraph (a), clauses (1) to (3), and the decision affects a student and is not a disposition order, the court must notify the superintendent of the student's school district who must immediately transmit the notice to the principal of the school the student attends, or to the principal of the school that the student attends if there is no superintendent, of the decision. Notwithstanding section 138.17, the principal must delete the peace officer's report and notice from the student's educational record and destroy the data and make reasonable efforts to notify any teacher, counselor, staff member, administrator, substitute, or volunteer who received data from the peace officer notice.

(f) In addition to the data destruction requirements of this subdivision, a principal must comply with the requirements of section 120A.22, subdivision 7.

Data collection, review, and reporting of disciplinary policies and actions

STATUTES

121A.06. Reports of dangerous weapon incidents in school zones.

1. Definitions. As used in this section:

(1) "dangerous weapon" has the meaning given it in section 609.02, subdivision 6;

(2) "school" has the meaning given it in section 120A.22, subdivision 4; and

(3) "school zone" has the meaning given it in section 152.01, subdivision 14a, clauses (1) and (3).

2. Reports; content. School districts must electronically report to the commissioner of education incidents involving the use or possession of a dangerous weapon in school zones. The form must include the following information:

(1) a description of each incident, including a description of the dangerous weapon involved in the incident;

(2) where, at what time, and under what circumstances the incident occurred;

(3) information about the offender, other than the offender's name, including the offender's age; whether the offender was a student and, if so, where the offender attended school; and whether the offender was under school expulsion or suspension at the time of the incident;

(4) information about the victim other than the victim's name, if any, including the victim's age; whether the victim was a student and, if so, where the victim attended school; and if the victim was not a student, whether the victim was employed at the school;

(5) the cost of the incident to the school and to the victim; and

(6) the action taken by the school administration to respond to the incident.

The commissioner shall provide an electronic reporting format that allows school districts to provide aggregate data.

3. Reports; filing requirements. By July 31 of each year, each public school shall report incidents involving the use or possession of a dangerous weapon in school zones to the commissioner. The reports must be submitted using the electronic reporting system developed by the commissioner under subdivision 2. The commissioner shall compile the information it receives from the schools and report it annually to the commissioner of public safety and the legislature.

121A.53. Report to commissioner of education.

1. Exclusions and expulsions. The school board must report through the department electronic reporting system each exclusion or expulsion within 30 days of the effective date of the action to the commissioner of education. This report must include a statement of alternative educational services given the pupil and the reason for, the effective date, and the duration of the exclusion or expulsion. The report must also include the student's age, grade, gender, race, and special education status.

2. Report. The school board must include state student identification numbers of affected pupils on all dismissal reports required by the department. The department must report annually to the commissioner summary data on the number of dismissals by age, grade, gender, race, and special education status of the affected pupils. All dismissal reports must be submitted through the department electronic reporting system.

121A.65. Review of policy.

The principal or other person having general control and supervision of the school, and representatives of parents, students, and staff in a school building shall confer at least annually to review the discipline

policy and to assess whether the policy has been enforced. A school board must conduct an annual review of the districtwide discipline policy.

School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers

Authority and power to implement school arrest

STATUTES

121A.67. Aversive and deprivation procedures.

2. Removal by peace officer. If a pupil who has an individualized education program is restrained or removed from a classroom, school building, or school grounds by a peace officer at the request of a school administrator or a school staff person during the school day twice in a 30-day period, the pupil's individualized education program team must meet to determine if the pupil's individualized education program is adequate or if additional evaluation is needed.

260A.06. Referral of truant students to school attendance review board.

1. Referral; notice.

An attendance officer or other school official may refer a student who is a continuing truant to the school attendance review board. The person making the referral shall provide a written notice by first class mail or other reasonable means to the student and the student's parent or legal guardian.

Certification or training

STATUTES

No relevant statutes found.

MOUs, authorization, and/or funding

STATUTES

120A.30. Attendance Officers.

The board of any district may authorize the employment of attendance officers, who must investigate truancy or nonattendance at school, make complaints, serve notice and process, and attend to the enforcement of all laws and district rules regarding school attendance. When any attendance officer learns of any case of habitual truancy or continued nonattendance of any child required to attend school the officer must immediately notify the person having control of the child to send and keep the child in school. The attendance officer must also refer a habitual truant child as defined in section 260C.007, subdivision 19, and the child's parent or legal guardian to appropriate services and procedures under chapter 260A, if available within the school district. Attendance officers or other designated school officials must ensure that the notice required by section 260A.03 for a child who is a continuing truant is sent. The officer must act under the general supervision of the superintendent.

State Education Agency Support

State model policies and implementation support

STATUTES

121A.03. Model policy.

1. Model policy. The commissioner shall maintain and make available to school boards a model sexual, religious, and racial harassment and violence policy. The model policy shall address the requirements of subdivision 2, and may encourage violence prevention and character development education programs, consistent with section 120B.232, subdivision 1, to prevent and reduce policy violations.

2. Sexual, religious, and racial harassment and violence policy. A school board must adopt a written sexual, religious, and racial harassment and sexual, religious, and racial violence policy that conforms with chapter 363A. The policy shall apply to pupils, teachers, administrators, and other school personnel, include reporting procedures, and set forth disciplinary actions that will be taken for violation of the policy. Disciplinary actions must conform with collective bargaining agreements and sections 121A.41. to 121A.56. The policy must be conspicuously posted throughout each school building, given to each district employee and independent contractor at the time of entering into the person's employment contract, and included in each school's student handbook on school policies. Each school must develop a process for discussing the school's sexual, religious, and racial harassment and violence policy with students and school employees.

3. Submission to commissioner. Each school board must submit to the commissioner a copy of the sexual, religious, and racial harassment and sexual, religious, and racial violence policy the board has adopted.

121A.69. Hazing policy.

2. Model policy. The commissioner of education shall maintain and make available to school boards a model policy on student or staff hazing that addresses the requirements of subdivision 3.

Funding appropriations

STATUTES

120B.22. Violence prevention education.

3. Funding sources. Districts may accept funds from public and private sources for violence prevention programs developed and implemented under this section.

120B.23. Violence prevention education grants.

1.Grant program established.

The commissioner of education, after consulting with the assistant commissioner of the Office of Drug Policy and Violence Prevention, shall establish a violence prevention education grant program to enable a school district, an education district, or a group of districts that cooperate for a particular purpose to develop and implement or to continue a violence prevention program for students in kindergarten through grade 12 that can be integrated into existing curriculum. A district or group of districts that elects to develop and implement or to continue a violence prevention program under section 120B.22 is eligible to apply for a grant under this section.

2. Grant application.

To be eligible to receive a grant, a school district, an education district, a service cooperative, or a group of districts that cooperate for a particular purpose must submit an application to the commissioner in the form and manner and according to the timeline established by the commissioner. The application must describe how the applicant will:

(1) continue or integrate into its existing K-12 curriculum a program for violence prevention that contains the program components listed in section 120B.22;

(2) collaborate with local organizations involved in violence prevention and intervention; and

(3) structure the program to reflect the characteristics of the children, their families and the community involved in the program. The commissioner may require additional information from the applicant. When reviewing the applications, the commissioner shall determine whether the applicant has met the requirements of this subdivision.

3. Grant awards.

The commissioner may award grants for a violence prevention education program to eligible applicants as defined in subdivision 2. Grant amounts may not exceed $3 per resident pupil unit in the district or group of districts in the prior school year. Grant recipients should be geographically distributed throughout the state.

4. Grant proceeds.

A successful applicant must use the grant money to develop and implement or to continue a violence prevention program according to the terms of the grant application.

121A.61. Discipline and removal of students from class.

2. Grounds for removal from class. The policy must establish the various grounds for which a student may be removed from a class in the district for a period of time under the procedures specified in the policy. The policy must include a procedure for notifying and meeting with a student's parent or guardian to discuss the problem that is causing the student to be removed from class after the student has been removed from class more than ten times in one school year. The grounds in the policy must include at least the following provisions as well as other grounds determined appropriate by the board:

(q) an agreement regarding procedures to coordinate crisis services to the extent funds are available with the county board responsible for implementing sections 245.487 to 245.4889 for students with a serious emotional disturbance or other students who have an individualized education program whose behavior may be addressed by crisis intervention.

Other/Uncategorized

Professional immunity or liability

STATUTES

121A.29. Reporting; chemical abuse.

1. Teacher's duty. A teacher in a nonpublic school participating in a school district chemical use program, or a public school teacher, who knows or has reason to believe that a student is using, possessing, or transferring alcohol or a controlled substance while on the school premises or involved in school-related activities, shall immediately notify the school's chemical abuse preassessment team of this information. A teacher who complies with this section shall be defended and indemnified under section 466.07, subdivision 1, in any action for damages arising out of the compliance.

2. Other reports. Nothing in this section prevents a teacher or any other school employee from reporting to a law enforcement agency any violation of law occurring on school premises or at school sponsored events.

121A.582. Student discipline; reasonable force.

1. Reasonable force standard.

(a) A teacher or school principal, in exercising the person's lawful authority, may use reasonable force when it is necessary under the circumstances to correct or restrain a student or prevent bodily harm or death to another.

(b) A school employee, school bus driver, or other agent of a district, in exercising the person's lawful authority, may use reasonable force when it is necessary under the circumstances to restrain a student or prevent bodily harm or death to another.

(c) Paragraphs (a) and (b) do not authorize conduct prohibited under sections 121A.58 and 121A.67.

2. Civil liability.

(a) A teacher or school principal who, in the exercise of the person's lawful authority, uses reasonable force under the standard in subdivision 1, paragraph (a), has a defense against a civil action for damages under section 123B.25.

(b) A school employee, bus driver, or other agent of a district who, in the exercise of the person's lawful authority, uses reasonable force under the standard in subdivision 1, paragraph (b), has a defense against a civil action for damages under section 123B.25.

3. Criminal prosecution.

(a) A teacher or school principal who, in the exercise of the person's lawful authority, uses reasonable force under the standard in subdivision 1, paragraph (a), has a defense against a criminal prosecution under section 609.06, subdivision 1.

(b) A school employee, bus driver, or other agent of a district who, in the exercise of the person's lawful authority, uses reasonable force under the standard in subdivision 1, paragraph (b), has a defense against a criminal prosecution under section 609.06, subdivision 1.

4. Supplementary rights and defenses. Any right or defense in this section is supplementary to those specified in section 121A.58, 121A.67, 123B.25, or 609.06, subdivision 1.

Community input or involvement

STATUTES

120B.22.Violence prevention education.

1. Violence prevention curriculum.

(b) Each district is encouraged to integrate into its existing curriculum a program for violence prevention that includes at least:

(3) a special parent education component of early childhood family education programs to prevent child abuse and neglect and to promote positive parenting skills, giving priority to services and outreach programs for at-risk families;

(4) involvement of parents and other community members, including the clergy, business representatives, civic leaders, local elected officials, law enforcement officials, and the county attorney;

(5) collaboration with local community services, agencies, and organizations that assist in violence intervention or prevention, including family-based services, crisis services, life management skills services, case coordination services, mental health services, and early intervention services;

(6) collaboration among districts and service cooperatives;

(7) targeting early adolescents for prevention efforts, especially early adolescents whose personal circumstances may lead to violent or harassing behavior;

(8) opportunities for teachers to receive in-service training or attend other programs on strategies or curriculum designed to assist students in intervening in or preventing violence in school and at home; and

(9) administrative policies that reflect, and a staff that models, nonviolent behaviors that do not display or condone sexual, racial, or cultural harassment or student hazing.

(c) The department may provide assistance at a neutral site to a nonpublic school participating in a district's program.

2. In-service training. Each district is encouraged to provide training for district staff and school board members to help students identify violence in the family and the community so that students may learn to resolve conflicts in effective, nonviolent ways. The in-service training must be ongoing and involve experts familiar with domestic violence and personal safety issues.

121A.61. Discipline and removal of students from class.

1. Required policy. Each school board must adopt a written districtwide school discipline policy which includes written rules of conduct for students, minimum consequences for violations of the rules, and grounds and procedures for removal of a student from class. The policy must be developed in consultation with administrators, teachers, employees, pupils, parents, community members, law enforcement agencies, county attorney offices, social service agencies, and such other individuals or organizations as the board determines appropriate. A school site council may adopt additional provisions to the policy subject to the approval of the school board.

260A.01. Truancy programs and services.

(a) The programs in this chapter are designed to provide a continuum of intervention and services to support families and children in keeping children in school and combating truancy and educational neglect. School districts, county attorneys, and law enforcement may establish the programs and coordinate them with other community-based truancy services in order to provide the necessary and most

effective intervention for children and their families. This continuum of intervention and services involves progressively intrusive intervention, beginning with strong service-oriented efforts at the school and community level and involving the court's authority only when necessary.

(b) Consistent with section 125A.091, subdivision 5, a parent's refusal to provide the parent's child with sympathomimetic medications does not constitute educational neglect.

260A.04. Community-based truancy projects and service centers

1. Establishment.

(a) Community-based truancy projects and service centers may be established to:

(1) provide for identification of students with school attendance problems;

(2) facilitate the provision of services geared to address the underlying issues that are contributing to a student's truant behavior; and

(3) provide facilities to receive truant students from peace officers and probation officers.

(b) Truancy projects and service centers may provide any of these services and shall provide for referral of children and families to other appropriate programs and services.

2. Community-based action projects. Schools, community agencies, law enforcement, parent associations, and other interested groups may cooperate to provide coordinated intervention, prevention, and educational services for truant students and their families. Services may include:

(1) assessment for underlying issues that are contributing to the child's truant behavior;

(2) referral to other community-based services for the child and family, such as individual or family counseling, educational testing, psychological evaluations, tutoring, mentoring, and mediation;

(3) transition services to integrate the child back into school and to help the child succeed once there;

(4) culturally sensitive programming and staffing; and

(5) increased school response, including in-school suspension, better attendance monitoring and enforcement, after-school study programs, and in-service training for teachers and staff.

3. Truancy service centers.

(a) Truancy service centers may be established as facilities to receive truant students from peace officers and probation officers and provide other appropriate services. A truancy service center may:

(1) assess a truant student's attendance situation, including enrollment status, verification of truancy, and school attendance history;

(2) assist in coordinating intervention efforts where appropriate, including checking with juvenile probation and children and family services to determine whether an active case is pending and facilitating transfer to an appropriate facility, if indicated; and evaluating the need for and making referral to a health clinic, chemical dependency treatment, protective services, social or recreational programs, or other school or community-based services and programs described in subdivision 2;

(3) contact the parents or legal guardian of the truant student and release the truant student to the custody of the parents, guardian, or other suitable person; and

(4) facilitate the student's earliest possible return to school.

(b) Truancy service centers may not accept:

(1) juveniles taken into custody for violations of law that would be crimes if committed by adults;

(2) intoxicated juveniles;

(3) ill or injured juveniles; or

(4) juveniles older than mandatory school attendance age.

(c) Truancy service centers may expand their service capability in order to receive curfew violators and take appropriate action, such as coordination of intervention efforts, contacting parents, and developing strategies to ensure that parents assume responsibility for their children's curfew violations.

260A.05. School attendance review boards.

1. Establishment. A school district may establish one or more school attendance review boards to exercise the powers and duties in this section. The school district board shall appoint the members of the school attendance review board and designate the schools within the board's jurisdiction. Members of a school attendance review board may include:

(1) the superintendent of the school district or the superintendent's designee;

(2) a principal and one or more other school officials from within the district;

(3) parent representatives;

(4) representatives from community agencies that provide services for truant students and their families;

(5) a juvenile probation officer;

(6) school counselors and attendance officers; and

(7) law enforcement officers.

2. General powers and duties. A school attendance review board shall prepare an annual plan to promote interagency and community cooperation and to reduce duplication of services for students with school attendance problems. The plan shall include a description of truancy procedures and services currently in operation within the board's jurisdiction, including the programs and services under section 260A.04. A board may provide consultant services to, and coordinate activities of, truancy programs and services. If a board determines that it will be unable to provide services for all truant students who are referred to it, the board shall establish procedures and criteria for determining whether to accept referrals of students or refer them for other appropriate action.

3. Oversight of truant students. A school attendance review board shall oversee referrals of truant students and provide appropriate intervention and services under section 260A.06. The board shall establish procedures for documenting student attendance and verifying actions and interventions with respect to truant students and their families.

260A.06. Referral of truant students to school attendance review board.

1. Referral; notice.

An attendance officer or other school official may refer a student who is a continuing truant to the school attendance review board. The person making the referral shall provide a written notice by first class mail or other reasonable means to the student and the student's parent or legal guardian. The notice must:

(1) include the name and address of the board to which the student has been referred and the reason for the referral; and

(2) indicate that the student, the parent or legal guardian, and the referring person will meet with the board to determine a proper disposition of the referral, unless the board refers the student directly to the county attorney or for other appropriate legal action.

2. Meeting; community services.

(a) Except as provided in paragraph (b), the school attendance review board shall schedule the meeting described in subdivision 1 and provide notice of the meeting by first class mail or other reasonable means to the student, parent or guardian, and referring person. If the board determines that available community services may resolve the attendance problems of the truant student, the board shall refer the student or the student's parent or guardian to participate in the community services. The board may

develop an agreement with the student and parent or guardian that specifies the actions to be taken. The board shall inform the student and parent or guardian that failure to comply with any agreement or to participate in appropriate community services will result in a referral to the county attorney under subdivision 3. The board may require the student or parent or guardian to provide evidence of participation in available community services or compliance with any agreement.

(b) A school attendance review board may refer a student directly to the county attorney or for other appropriate legal action under subdivision 3 if it has established procedures and criteria for these referrals.

3. Referral to county attorney; other appropriate action.

If the school attendance review board determines that available community services cannot resolve the attendance problems of the truant student, if the student or the parent or guardian has failed to comply with any referrals or agreements under subdivision 2 or to otherwise cooperate with the board, or if the board determines that a student should be referred directly under this subdivision, the board may:

(1) refer the matter to the county attorney under section 260A.07, if the county attorney has elected to participate in the truancy mediation program; or

(2) if the county attorney has not elected to participate in the truancy mediation program, refer the matter for appropriate legal action against the child or the child's parent or guardian under chapter 260 or section 120A.34.

Other/Uncategorized

STATUTES

121A.59. Bus transportation a privilege not a right.

Transportation by school bus is a privilege not a right for an eligible student. A student's eligibility to ride a school bus may be revoked for a violation of school bus safety or conduct policies, or for violation of any other law governing student conduct on a school bus, pursuant to a written school district discipline policy. Revocation of a student's bus riding privilege is not an exclusion, expulsion, or suspension under the Pupil Fair Dismissal Act. Revocation procedures for a student who is an individual with a disability under the Individuals with Disabilities Education Act, United States Code, title 20, section 1400 et seq., section 504 of the Rehabilitation Act of 1973, United States Code, title 29, section 794, and the Americans with Disabilities Act, Public Law 101-336, are governed by these provisions.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by Minnesota provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
Website		
No relevant resources found		
Documents		
No relevant resources found		
Other Resources		
Model Harassment and Violence Prohibition Policy	The model policy provides a model for school districts' individual policies to help maintain a positive, safe learning and working environment for students and staff.	http://education.state.mn.us/MDE/Welcome/Policies
Model Hazing Prohibition Policy	The model policy provides a model for schools to assist them in adopting a written policy governing student or staff hazing.	http://education.state.mn.us/MDE/Welcome/Policies

Mississippi Compilation of School Discipline Laws and Regulations

Prepared: August 12, 2013

Introduction

This compilation presents school discipline-related state statutes, school discipline-related regulations, and, where available, links to state-sponsored websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSLE). For example, one major category encompasses all state laws or regulations mandating specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of state legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in each state.

Discipline categories were not mutually exclusive. Statutes and regulations often appeared across multiple categories. For states with more extensive statutes covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. State laws, ordered by chapter and section number, appear first within each category followed by state regulations. All statutes and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists statutes by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to state-sponsored websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of May 2013, with the exception of the state laws related to seclusion and restraint, which are complete and current as of December 2012. Readers should also note that the information in this document was compiled from individual state sources that are created by each state and which are maintained and updated with varying frequencies. Readers should consult the source information provided for each state directly in order to check for updates to this state's laws and regulations or conduct further research.

For further information, including definitions of the different policy categories, please refer to the Discipline Laws and Regulations Compendium posted on the Center's website.

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Safe Supportive Learning
Engagement | Safety | Environment

Table of Contents

Mississippi State Codes Cited **1**

General Provisions **3**

Authority to develop and establish rules of conduct 3
Scope 4
Communication of Policy 4

In-School Discipline **6**

Use of multi-tiered discipline approaches 6
Teacher authority to remove students from classrooms 6
Alternatives to suspension 6
Use of corporal punishment 7
Use of student and locker searches 7
Other in-school disciplinary approaches 7

Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements **8**

Grounds for possible suspension or expulsion 8
Grounds for mandatory suspension or expulsion 8
Limitations, conditions, or exclusions for use of suspension and expulsion 8
Administrative procedures related to suspensions and expulsion 8
In-school suspension 10
Return to school following removal 10
Use of restraint and seclusion 10
Alternative Placements 10

Disciplinary Approaches Addressing Specific Infractions and Conditions **14**

Firearms (as required by the Guns-Free Schools Act) 14
Other weapons 16
Students with chronic disciplinary issues 17
Attendance and truancy 18
Substance use 21
Bullying, harassment, or hazing 22
Other special infractions or conditions 23

Prevention and Behavioral Interventions (Non-Punitive) **24**

Prevention 24
Behavioral interventions and student support services 24
Professional development 25

Monitoring and Accountability **27**

Formal incident reporting of conduct violations 27
Parental notification 28
Reporting and referrals between schools and law enforcement 28
Disclosure of school records 30
Data collection, review, and reporting of disciplinary policies and actions 31

School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers 32
Authority and power to implement school arrest 32
Certification or training 33
MOUs, authorization and/or funding 35
State Education Agency Support 36
State model policies and implementation support 36
Funding appropriations 36
Other/Uncategorized 37
Professional immunity or liability 37
Community input or involvement 39
Other/uncategorized 39
State-Sponsored, Publicly Available Websites or Other Resources on School Discipline 40

Mississippi State Codes Cited

Mississippi Revised Statutes

Title 37. Education

Chapter 3. State Department of Education

37-3-89. School discipline and classroom management courses; requirement; approval
37-3-91. Regional behavioral institutes; discipline and classroom management strategies; participation

Chapter 7. School Districts; Board of Trustees of School Districts

37-7-321. Employment and designation of peace officers; minimum level of basic law enforcement training required; operation of radio broadcasting and transmission station; interlocal agreements with other law enforcement entities for provision of certain equipment or services

Chapter 9. District Superintendents, Principals, Teachers, and other Employees

37-9-71. Suspension of pupils

Chapter 11. General Provisions Pertaining to Education

37-11-18. Expulsion of student possessing controlled substance or weapon or committing violent act on school property
37-11.18.1. Expulsion of habitually disruptive students aged 13 years or older upon third occurrence of disruptive behavior within school year
37-11-19. Suspension or expulsion of student damaging school property; liability of parent or custodian.
37-11-20. Intimidation, threatening or coercion of students for purpose of interfering with attendance of classes
37-11-29. Reporting of unlawful activity or violent act on educational property or during school related activity; authority of law enforcement officers; reporting of disposition of charges against student; liability of school personnel participating in reporting
37-11-53. School district discipline plans; appearance by parents, guardians or custodians at discipline conferences; recovery from parents for damage or destruction of school property; parent allowed to accompany child to school as alternative to child's suspension
37-11-54. State Board of Education to develop list of conflict resolution and peer mediation materials, models, and curricula from evidence-based practices and positive behavioral intervention supports
37-11-55. Code of student conduct
37-11-57. Immunity of school personnel from liability for carrying out action in enforcing rules regarding control, discipline, suspension and expulsion of students
37-11-67. Bullying or harassing behavior in public schools prohibited
37-11-69. Personnel and discipline policies and code of student conduct to include prohibition against bullying or harassing behavior

Chapter 13. Curriculum; School year and attendance

37-13-85. Powers and duties
37-13-89. School attendance officers; qualifications; duties; salaries
37-13-91. Compulsory school attendance requirements generally; enforcement of law
37-13-92. Alternative school program for compulsory-school-age students; placement of children in alternative school; transportation of students; expenses; annual report
37-13-107. Training and education course for school attendance officers; effect of failure to receive certificate

Chapter 14. Mary Kirkpatrick Haskell-Mary Sprayberry Public School Nurse Act of 2007

37-14-3. Office of Healthy Schools of State Department of Education to administer school nurse program; transfer of school nurse intervention program to Office of Healthy Schools; responsibilities of program nurses; duties of Office of Healthy Schools

Chapter 15. Public schools; Records, Enrollment and Transfer of Pupils

37-15-6. Central reporting system for information concerning expulsions from public schools; access to information

Chapter 18. School Performance Programs

37-18-5. School improvement plan; assistance team; community-based prekindergarten through higher education council

Title 97. Crimes

Chapter 37. Weapons and Explosives

97-37-17. Possession of weapons by students; aiding or encouraging

Title 99. Criminal Procedure

Chapter 3. Arrests

99-3-28. Teachers or sworn law enforcement officers charged with committing crime while in the performance of duties; certain procedural requirements to be met prior to issuance of arrest warrant

Mississippi Administrative Code

No relevant regulations found.

General Provisions

Authority to develop and establish rules of conduct

STATUTES

§ 37-11-55. Code of student conduct

The local school board shall adopt and make available to all teachers, school personnel, students and parents or guardians, at the beginning of each school year, a code of student conduct developed in consultation with teachers, school personnel, students and parents or guardians. The code shall be based on the rules governing student conduct and discipline adopted by the school board and shall be made available at the school level in the student handbook or similar publication. The code shall include, but not be limited to:

(a) Specific grounds for disciplinary action under the school district's discipline plan;

(b) Procedures to be followed for acts requiring discipline, including suspensions and expulsion, which comply with due process requirements;

(c) An explanation of the responsibilities and rights of students with regard to: attendance; respect for persons and property; knowledge and observation of rules of conduct; free speech and student publications; assembly; privacy; and participation in school programs and activities;

(d) Policies and procedures recognizing the teacher as the authority in classroom matters, and supporting that teacher in any decision in compliance with the written discipline code of conduct. Such recognition shall include the right of the teacher to remove from the classroom any student who, in the professional judgment of the teacher, is disrupting the learning environment, to the office of the principal or assistant principal. The principal or assistant principal shall determine the proper placement for the student, who may not be returned to the classroom until a conference of some kind has been held with the parent, guardian or custodian during which the disrupting behavior is discussed and agreements are reached that no further disruption will be tolerated. If the principal does not approve of the determination of the teacher to remove the student from the classroom, the student may not be removed from the classroom, and the principal, upon request from the teacher, must provide justification for his disapproval;

(e) Policies and procedures for dealing with a student who causes a disruption in the classroom, on school property or vehicles, or at school-related activities;

(f) Procedures for the development of behavior modification plans by the school principal, reporting teacher and student's parent for a student who causes a disruption in the classroom, on school property or vehicles, or at school-related activities for a second time during the school year; and

(g) Policies and procedures specifically concerning gang-related activities in the school, on school property or vehicles, or at school-related activities.

§ 37-11-69. Personnel and discipline policies and code of student conduct to include prohibition against bullying or harassing behavior

Before December 31, 2010, each local school district shall include in its personnel policies, discipline policies and code of student conduct a prohibition against bullying or harassing behavior and adopt procedures for reporting, investigating and addressing such behavior. The policies must recognize the fundamental right of every student to take reasonable actions as may be necessary to defend himself or

herself from an attack by another student who has evidenced menacing or threatening behavior through bullying or harassing.

Scope

STATUTES

§ 37-11-55. Code of student conduct

The local school board shall adopt and make available to all teachers, school personnel, students and parents or guardians, at the beginning of each school year, a code of student conduct developed in consultation with teachers, school personnel, students and parents or guardians. The code shall be based on the rules governing student conduct and discipline adopted by the school board and shall be made available at the school level in the student handbook or similar publication. The code shall include, but not be limited to:

(e) Policies and procedures for dealing with a student who causes a disruption in the classroom, on school property or vehicles, or at school-related activities;

(f) Procedures for the development of behavior modification plans by the school principal, reporting teacher and student's parent for a student who causes a disruption in the classroom, on school property or vehicles, or at school-related activities for a second time during the school year; and

(g) Policies and procedures specifically concerning gang-related activities in the school, on school property or vehicles, or at school-related activities.

§ 97-37-17. Possession of weapons by students; aiding or encouraging.

(1) The following definitions apply to this section:

(a) “Educational property” shall mean any public or private school building or bus, public or private school campus, grounds, recreational area, athletic field, or other property owned, used or operated by any local school board, school, college or university board of trustees, or directors for the administration of any public or private educational institution or during a school related activity; provided however, that the term “educational property” shall not include any sixteenth section school land or lieu land on which is not located a school building, school campus, recreational area or athletic field.

Communication of Policy

STATUTES

§ 37-11-55. Code of student conduct

The local school board shall adopt and make available to all teachers, school personnel, students and parents or guardians, at the beginning of each school year, a code of student conduct developed in consultation with teachers, school personnel, students and parents or guardians. The code shall be based on the rules governing student conduct and discipline adopted by the school board and shall be made available at the school level in the student handbook or similar publication. The code shall include, but not be limited to:

(a) Specific grounds for disciplinary action under the school district's discipline plan;

(b) Procedures to be followed for acts requiring discipline, including suspensions and expulsion, which comply with due process requirements;

(c) An explanation of the responsibilities and rights of students with regard to: attendance; respect for persons and property; knowledge and observation of rules of conduct; free speech and student publications; assembly; privacy; and participation in school programs and activities;

(d) Policies and procedures recognizing the teacher as the authority in classroom matters, and supporting that teacher in any decision in compliance with the written discipline code of conduct. Such recognition shall include the right of the teacher to remove from the classroom any student who, in the professional judgment of the teacher, is disrupting the learning environment, to the office of the principal or assistant principal. The principal or assistant principal shall determine the proper placement for the student, who may not be returned to the classroom until a conference of some kind has been held with the parent, guardian or custodian during which the disrupting behavior is discussed and agreements are reached that no further disruption will be tolerated. If the principal does not approve of the determination of the teacher to remove the student from the classroom, the student may not be removed from the classroom, and the principal, upon request from the teacher, must provide justification for his disapproval;

(e) Policies and procedures for dealing with a student who causes a disruption in the classroom, on school property or vehicles, or at school-related activities;

(f) Procedures for the development of behavior modification plans by the school principal, reporting teacher and student's parent for a student who causes a disruption in the classroom, on school property or vehicles, or at school-related activities for a second time during the school year; and

(g) Policies and procedures specifically concerning gang-related activities in the school, on school property or vehicles, or at school-related activities.

§ 37-11-53. School district discipline plans; appearance by parents, guardians or custodians at discipline conferences; recovery from parents for damage or destruction of school property; parent allowed to accompany child to school as alternative to child's suspension

(1) A copy of the school district's discipline plan shall be distributed to each student enrolled in the district, and the parents, guardian or custodian of such student shall sign a statement verifying that they have been given notice of the discipline policies of their respective school district. The school board shall have its official discipline plan and code of student conduct legally audited on an annual basis to insure that its policies and procedures are currently in compliance with applicable statutes, case law and state and federal constitutional provisions. As part of the first legal audit occurring after July 1, 2001, the provisions of this section, Section 37-11-55 and Section 37-11-18.1, shall be fully incorporated into the school district's discipline plan and code of student conduct.

In-School Discipline

Use of multi-tiered discipline approaches

No relevant statutes found.

Teacher authority to remove students from classrooms

STATUTES

§ 37-11-55. Code of student conduct

The local school board shall adopt and make available to all teachers, school personnel, students and parents or guardians, at the beginning of each school year, a code of student conduct developed in consultation with teachers, school personnel, students and parents or guardians. The code shall be based on the rules governing student conduct and discipline adopted by the school board and shall be made available at the school level in the student handbook or similar publication. The code shall include, but not be limited to:

(d) Policies and procedures recognizing the teacher as the authority in classroom matters, and supporting that teacher in any decision in compliance with the written discipline code of conduct. Such recognition shall include the right of the teacher to remove from the classroom any student who, in the professional judgment of the teacher, is disrupting the learning environment, to the office of the principal or assistant principal. The principal or assistant principal shall determine the proper placement for the student, who may not be returned to the classroom until a conference of some kind has been held with the parent, guardian or custodian during which the disrupting behavior is discussed and agreements are reached that no further disruption will be tolerated. If the principal does not approve of the determination of the teacher to remove the student from the classroom, the student may not be removed from the classroom, and the principal, upon request from the teacher, must provide justification for his disapproval;

Alternatives to suspension

STATUTES

§ 37-11-53. School district discipline plans; appearance by parents, guardians or custodians at discipline conferences; recovery from parents for damage or destruction of school property; parent allowed to accompany child to school as alternative to child's suspension

(5) A school district's discipline plan may provide that as an alternative to suspension, a student may remain in school by having the parent, guardian or custodian, with the consent of the student's teacher or teachers, attend class with the student for a period of time specifically agreed upon by the reporting teacher and school principal. If the parent, guardian or custodian does not agree to attend class with the student or fails to attend class with the student, the student shall be suspended in accordance with the code of student conduct and discipline policies of the school district.

Use of corporal punishment

STATUTES

§ 37-11-57. Immunity of school personnel from liability for carrying out action in enforcing rules regarding control, discipline, suspension and expulsion of students

(2) Corporal punishment administered in a reasonable manner, or any reasonable action to maintain control and discipline of students taken by a teacher, assistant teacher, principal or assistant principal acting within the scope of his employment or function and in accordance with any state or federal laws or rules or regulations of the State Board of Education or the local school board, does not constitute negligence or child abuse. No teacher, assistant teacher, principal or assistant principal so acting shall be held liable in a suit for civil damages alleged to have been suffered by a student as a result of the administration of corporal punishment, or the taking of action to maintain control and discipline of a student, unless the court determines that the teacher, assistant teacher, principal or assistant principal acted in bad faith or with malicious purpose or in a manner exhibiting a wanton and willful disregard of human rights or safety. For the purposes of this subsection, "corporal punishment" means the reasonable use of physical force or physical contact by a teacher, assistant teacher, principal or assistant principal, as may be necessary to maintain discipline, to enforce a school rule, for self-protection or for the protection of other students from disruptive students.

Use of student and locker searches

No relevant statutes found.

Other in-school disciplinary approaches

No relevant statutes found.

Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements

Grounds for possible suspension or expulsion

No relevant statutes found.

Grounds for mandatory suspension or expulsion

STATUTES

§ 37-11-18. Expulsion of student possessing controlled substance or weapon or committing violent act on school property

Any student in any school who possesses any controlled substance in violation of the Uniform Controlled Substances Law, a knife, handgun, other firearm or any other instrument considered to be dangerous and capable of causing bodily harm or who commits a violent act on educational property as defined in Section 97-37-17, Mississippi Code of 1972, shall be subject to automatic expulsion for a calendar year by the superintendent or principal of the school in which the student is enrolled; provided, however, that the superintendent of the school shall be authorized to modify the period of time for such expulsion on a case by case basis. Such expulsion shall take effect immediately subject to the constitutional rights of due process, which shall include the student's right to appeal to the local school board.

37-11-19. Suspension or expulsion of student damaging school property; liability of parent or custodian.

If any pupil shall wilfully destroy, cut, deface, damage, or injure any school building, equipment or other school property he shall be liable to suspension or expulsion and his parents or person or persons in loco parentis shall be liable for all damages

Limitations, conditions, or exclusions for use of suspension and expulsion

No relevant statutes found.

Administrative procedures related to suspensions and expulsion

STATUTES

§ 37-9-71. Suspension of pupils.

The superintendent of schools and the principal of a school shall have the power to suspend a pupil for good cause, including misconduct in the school or on school property, as defined in Section 37-11-29, on the road to and from school, or at any school-related activity or event, or for conduct occurring on property other than school property or other than at a school-related activity or event when such conduct by a pupil, in the determination of the superintendent or principal, renders that pupil's presence in the classroom a disruption to the educational environment of the school or a detriment to the best interest and welfare of the pupils and teacher of such class as a whole, or for any reason for which such pupil might be suspended, dismissed or expelled by the school board under state or federal law or any rule, regulation or policy of the local school district. However, such action of the superintendent or principal shall be subject to review by and the approval or disapproval of the school board. If the parent, guardian or other person having custody of any child shall feel aggrieved by the suspension or dismissal of that

child, then such parent, guardian or other person shall have the right to a due process hearing. The parent or guardian of the child shall be advised of this right to a hearing by the appropriate superintendent or principal and the proper form shall be provided for requesting such a hearing.

§ 37-11-53. School district discipline plans; appearance by parents, guardians or custodians at discipline conferences; recovery from parents for damage or destruction of school property; parent allowed to accompany child to school as alternative to child's suspension

(1) A copy of the school district's discipline plan shall be distributed to each student enrolled in the district, and the parents, guardian or custodian of such student shall sign a statement verifying that they have been given notice of the discipline policies of their respective school district. The school board shall have its official discipline plan and code of student conduct legally audited on an annual basis to insure that its policies and procedures are currently in compliance with applicable statutes, case law and state and federal constitutional provisions. As part of the first legal audit occurring after July 1, 2001, the provisions of this section, Section 37-11-55 and Section 37-11-18.1, shall be fully incorporated into the school district's discipline plan and code of student conduct.

(2) All discipline plans of school districts shall include, but not be limited to, the following:

(a) A parent, guardian or custodian of a compulsory-school-age child enrolled in a public school district shall be responsible financially for his or her minor child's destructive acts against school property or persons;

(b) A parent, guardian or custodian of a compulsory-school-age child enrolled in a public school district may be requested to appear at school by the school attendance officer or an appropriate school official for a conference regarding acts of the child specified in paragraph (a) of this subsection, or for any other discipline conference regarding the acts of the child;

(c) Any parent, guardian or custodian of a compulsory-school-age child enrolled in a school district who refuses or willfully fails to attend such discipline conference specified in paragraph (b) of this section may be summoned by proper notification by the superintendent of schools or the school attendance officer and be required to attend such discipline conference; and

(d) A parent, guardian or custodian of a compulsory-school-age child enrolled in a public school district shall be responsible for any criminal fines brought against such student for unlawful activity occurring on school grounds or buses.

(3) Any parent, guardian or custodian of a compulsory-school-age child who (a) fails to attend a discipline conference to which such parent, guardian or custodian has been summoned under the provisions of this section, or (b) refuses or willfully fails to perform any other duties imposed upon him or her under the provisions of this section, shall be guilty of a misdemeanor and, upon conviction, shall be fined not to exceed Two Hundred Fifty Dollars ($ 250.00).

(4) Any public school district shall be entitled to recover damages in an amount not to exceed Twenty Thousand Dollars ($ 20,000.00), plus necessary court costs, from the parents of any minor under the age of eighteen (18) years and over the age of six (6) years, who maliciously and willfully damages or destroys property belonging to such school district. However, this section shall not apply to parents whose parental control of such child has been removed by court order or decree. The action authorized in this section shall be in addition to all other actions which the school district is entitled to maintain and nothing in this section shall preclude recovery in a greater amount from the minor or from a person, including the parents, for damages to which such minor or other person would otherwise be liable.

(5) A school district's discipline plan may provide that as an alternative to suspension, a student may remain in school by having the parent, guardian or custodian, with the consent of the student's teacher or teachers, attend class with the student for a period of time specifically agreed upon by the reporting teacher and school principal. If the parent, guardian or custodian does not agree to attend class with the

student or fails to attend class with the student, the student shall be suspended in accordance with the code of student conduct and discipline policies of the school district.

In-school suspension

No relevant statutes found.

Return to school following removal

STATUTES

§ 37-11-55. Code of student conduct.

The local school board shall adopt and make available to all teachers, school personnel, students and parents or guardians, at the beginning of each school year, a code of student conduct developed in consultation with teachers, school personnel, students and parents or guardians. The code shall be based on the rules governing student conduct and discipline adopted by the school board and shall be made available at the school level in the student handbook or similar publication. The code shall include, but not be limited to:

(d) Policies and procedures recognizing the teacher as the authority in classroom matters, and supporting that teacher in any decision in compliance with the written discipline code of conduct. Such recognition shall include the right of the teacher to remove from the classroom any student who, in the professional judgment of the teacher, is disrupting the learning environment, to the office of the principal or assistant principal. The principal or assistant principal shall determine the proper placement for the student, who may not be returned to the classroom until a conference of some kind has been held with the parent, guardian or custodian during which the disrupting behavior is discussed and agreements are reached that no further disruption will be tolerated. If the principal does not approve of the determination of the teacher to remove the student from the classroom, the student may not be removed from the classroom, and the principal, upon request from the teacher, must provide justification for his disapproval;

Use of restraint and seclusion

No relevant statutes found.

Alternative Placements

STATUTES

§ 37-13-92. Alternative school program for compulsory-school-age students; placement of children in alternative school; transportation of students; expenses; annual report

(1) Beginning with the school year 2004-2005, the school boards of all school districts shall establish, maintain and operate, in connection with the regular programs of the school district, an alternative school program or behavior modification program as defined by the State Board of Education for, but not limited to, the following categories of compulsory-school-age students:

(a) Any compulsory-school-age child who has been suspended for more than ten (10) days or expelled from school, except for any student expelled for possession of a weapon or other felonious conduct;

(b) Any compulsory-school-age child referred to such alternative school based upon a documented need for placement in the alternative school program by the parent, legal guardian or custodian of such child due to disciplinary problems;

(c) Any compulsory-school-age child referred to such alternative school program by the dispositive order of a chancellor or youth court judge, with the consent of the superintendent of the child's school district;

(d) Any compulsory-school-age child whose presence in the classroom, in the determination of the school superintendent or principal, is a disruption to the educational environment of the school or a detriment to the interest and welfare of the students and teachers of such class as a whole; and

(e) No school district is required to place a child returning from out-of-home placement in the mental health, juvenile justice or foster care system in alternative school. Placement of a child in the alternative school shall be done consistently, and for students identified under the Individuals with Disabilities Education Act (IDEA), shall adhere to the requirements of the Individuals with Disabilities Education Improvement Act of 2004. If a school district chooses to place a child in alternative school the district will make an individual assessment and evaluation of that child in the following time periods:

(i) Five (5) days for a child transitioning from a group home, mental health care system, and/or the custody of the Department of Human Services, Division of Youth and Family Services custody;

(ii) Ten (10) days for a child transitioning from a dispositional placement order by a youth court pursuant to Section 43-21-605; and

(iii) An individualized assessment for youth transitioning from out-of-home placement to the alternative school shall include:

1. A strength needs assessment.
2. A determination of the child's academic strengths and deficiencies.
3. A proposed plan for transitioning the child to a regular education placement at the earliest possible date.

(2) The principal or program administrator of any such alternative school program shall require verification from the appropriate guidance counselor of any such child referred to the alternative school program regarding the suitability of such child for attendance at the alternative school program. Before a student may be removed to an alternative school education program, the superintendent of the student's school district must determine that the written and distributed disciplinary policy of the local district is being followed. The policy shall include standards for:

(a) The removal of a student to an alternative education program that will include a process of educational review to develop the student's individual instruction plan and the evaluation at regular intervals of the student's educational progress; the process shall include classroom teachers and/or other appropriate professional personnel, as defined in the district policy, to ensure a continuing educational program for the removed student;

(b) The duration of alternative placement; and

(c) The notification of parents or guardians, and their appropriate inclusion in the removal and evaluation process, as defined in the district policy. Nothing in this paragraph should be defined in a manner to circumvent the principal's or the superintendent's authority to remove a student to alternative education.

(3) The local school board or the superintendent shall provide for the continuing education of a student who has been removed to an alternative school program.

(4) A school district, in its discretion, may provide a program of general educational development (GED) preparatory instruction in the alternative school program. However, any GED preparation program offered in an alternative school program must be administered in compliance with the rules and regulations established for such programs under Sections 37-35-1 through 37-35-11 and by the State Board for Community and Junior Colleges. The school district may administer the General Educational

Development (GED) Testing Program under the policies and guidelines of the GED Testing Service of the American Council on Education in the alternative school program or may authorize the test to be administered through the community/junior college district in which the alternative school is situated.

(5) Any such alternative school program operated under the authority of this section shall meet all appropriate accreditation requirements of the State Department of Education.

(6) The alternative school program may be held within such school district or may be operated by two (2) or more adjacent school districts, pursuant to a contract approved by the State Board of Education. When two (2) or more school districts contract to operate an alternative school program, the school board of a district designated to be the lead district shall serve as the governing board of the alternative school program. Transportation for students attending the alternative school program shall be the responsibility of the local school district. The expense of establishing, maintaining and operating such alternative school program may be paid from funds contributed or otherwise made available to the school district for such purpose or from local district maintenance funds.

(7) The State Board of Education shall promulgate minimum guidelines for alternative school programs. The guidelines shall require, at a minimum, the formulation of an individual instruction plan for each student referred to the alternative school program and, upon a determination that it is in a student's best interest for that student to receive general educational development (GED) preparatory instruction, that the local school board assign the student to a GED preparatory program established under subsection (4) of this section. The minimum guidelines for alternative school programs shall also require the following components:

(a) Clear guidelines and procedures for placement of students into alternative education programs which at a minimum shall prescribe due process procedures for disciplinary and general educational development (GED) placement;

(b) Clear and consistent goals for students and parents;

(c) Curricula addressing cultural and learning style differences;

(d) Direct supervision of all activities on a closed campus;

(e) Attendance requirements that allow for educational and workforce development opportunities;

(f) Selection of program from options provided by the local school district, Division of Youth Services or the youth court, including transfer to a community-based alternative school;

(g) Continual monitoring and evaluation and formalized passage from one (1) step or program to another;

(h) A motivated and culturally diverse staff;

(i) Counseling for parents and students;

(j) Administrative and community support for the program; and

(k) Clear procedures for annual alternative school program review and evaluation.

(8) On request of a school district, the State Department of Education shall provide the district informational material on developing an alternative school program that takes into consideration size, wealth and existing facilities in determining a program best suited to a district.

(9) Any compulsory-school-age child who becomes involved in any criminal or violent behavior shall be removed from such alternative school program and, if probable cause exists, a case shall be referred to the youth court.

(10) The State Board of Education shall promulgate guidelines for alternative school programs which provide broad authority to school boards of local school districts to establish alternative education programs to meet the specific needs of the school district.

(11) Each school district having an alternative school program shall submit a report annually to the State Department of Education describing the results of its annual alternative school program review and evaluation undertaken pursuant to subsection (7)(k). The report shall include a detailed account of any actions taken by the school district during the previous year to comply with substantive guidelines promulgated by the State Board of Education under subsection (7)(a) through (j).

Disciplinary Approaches Addressing Specific Infractions and Conditions

Firearms (as required by the Guns-Free Schools Act)

STATUTES

§ 37-11-18. Expulsion of student possessing controlled substance or weapon or committing violent act on school property

Any student in any school who possesses any controlled substance in violation of the Uniform Controlled Substances Law, a knife, handgun, other firearm or any other instrument considered to be dangerous and capable of causing bodily harm or who commits a violent act on educational property as defined in Section 97-37-17, Mississippi Code of 1972, shall be subject to automatic expulsion for a calendar year by the superintendent or principal of the school in which the student is enrolled; provided, however, that the superintendent of the school shall be authorized to modify the period of time for such expulsion on a case by case basis. Such expulsion shall take effect immediately subject to the constitutional rights of due process, which shall include the student's right to appeal to the local school board.

§ 97-37-17. Possession of weapons by students; aiding or encouraging.

(1) The following definitions apply to this section:

(a) "Educational property" shall mean any public or private school building or bus, public or private school campus, grounds, recreational area, athletic field, or other property owned, used or operated by any local school board, school, college or university board of trustees, or directors for the administration of any public or private educational institution or during a school related activity; provided however, that the term "educational property" shall not include any sixteenth section school land or lieu land on which is not located a school building, school campus, recreational area or athletic field.

(b) "Student" shall mean a person enrolled in a public or private school, college or university, or a person who has been suspended or expelled within the last five (5) years from a public or private school, college or university, whether the person is an adult or a minor.

(c) "Switchblade knife" shall mean a knife containing a blade or blades which open automatically by the release of a spring or a similar contrivance.

(d) "Weapon" shall mean any device enumerated in subsection (2) or (4) of this section.

(2) It shall be a felony for any person to possess or carry, whether openly or concealed, any gun, rifle, pistol or other firearm of any kind, or any dynamite cartridge, bomb, grenade, mine or powerful explosive on educational property. However, this subsection does not apply to a BB gun, air rifle or air pistol. Any person violating this subsection shall be guilty of a felony and, upon conviction thereof, shall be fined not more than Five Thousand Dollars ($5,000.00), or committed to the custody of the State Department of Corrections for not more than three (3) years, or both.

(3) It shall be a felony for any person to cause, encourage or aid a minor who is less than eighteen (18) years old to possess or carry, whether openly or concealed, any gun, rifle, pistol or other firearm of any kind, or any dynamite cartridge, bomb, grenade, mine or powerful explosive on educational property. However, this subsection does not apply to a BB gun, air rifle or air pistol. Any person violating this subsection shall be guilty of a felony and, upon conviction thereof, shall be fined not more than Five

Thousand Dollars ($5,000.00), or committed to the custody of the State Department of Corrections for not more than three (3) years, or both.

(4) It shall be a misdemeanor for any person to possess or carry, whether openly or concealed, any BB gun, air rifle, air pistol, Bowie knife, dirk, dagger, slingshot, leaded cane, switchblade knife, blackjack, metallic knuckles, razors and razor blades (except solely for personal shaving), and any sharp-pointed or edged instrument except instructional supplies, unaltered nail files and clips and tools used solely for preparation of food, instruction and maintenance on educational property. Any person violating this subsection shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than One Thousand Dollars ($1,000.00), or be imprisoned not exceeding six (6) months, or both.

(5) It shall be a misdemeanor for any person to cause, encourage or aid a minor who is less than eighteen (18) years old to possess or carry, whether openly or concealed, any BB gun, air rifle, air pistol, Bowie knife, dirk, dagger, slingshot, leaded cane, switchblade, knife, blackjack, metallic knuckles, razors and razor blades (except solely for personal shaving) and any sharp-pointed or edged instrument except instructional supplies, unaltered nail files and clips and tools used solely for preparation of food, instruction and maintenance on educational property. Any person violating this subsection shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than One Thousand Dollars ($1,000.00), or be imprisoned not exceeding six (6) months, or both.

(6) It shall not be a violation of this section for any person to possess or carry, whether openly or concealed, any gun, rifle, pistol or other firearm of any kind on educational property if:

(a) The person is not a student attending school on any educational property; (b) The firearm is within a motor vehicle; and

(b) The firearm is within a motor vehicle; and

(c) The person does not brandish, exhibit or display the firearm in any careless, angry or threatening manner.

(7) This section shall not apply to:

(a) A weapon used solely for educational or school-sanctioned ceremonial purposes, or used in a school-approved program conducted under the supervision of an adult whose supervision has been approved by the school authority;

(b) Armed forces personnel of the United States, officers and soldiers of the militia and National Guard, law enforcement personnel, any private police employed by an educational institution, State Militia or Emergency Management Corps and any guard or patrolman in a state or municipal institution, when acting in the discharge of their official duties;

(c) Home schools as defined in the compulsory school attendance law, Section 37-13-91;

(d) Competitors while participating in organized shooting events;

(e) Any person as authorized in Section 97-37-7 while in the performance of his official duties;

(f) Any mail carrier while in the performance of his official duties; or

(g) Any weapon not prescribed by Section 97-37-1 which is in a motor vehicle under the control of a parent, guardian or custodian, as defined in Section 43-21-105, which is used to bring or pick up a student at a school building, school property or school function.

(8) All schools shall post in public view a copy of the provisions of this section.

Other weapons

STATUTES

§97-37-17. Possession of weapons by students; aiding or encouraging.

(1) The following definitions apply to this section:

(a) "Educational property" shall mean any public or private school building or bus, public or private school campus, grounds, recreational area, athletic field, or other property owned, used or operated by any local school board, school, college or university board of trustees, or directors for the administration of any public or private educational institution or during a school related activity; provided however, that the term "educational property" shall not include any sixteenth section school land or lieu land on which is not located a school building, school campus, recreational area or athletic field.

(b) "Student" shall mean a person enrolled in a public or private school, college or university, or a person who has been suspended or expelled within the last five (5) years from a public or private school, college or university, whether the person is an adult or a minor.

(c) "Switchblade knife" shall mean a knife containing a blade or blades which open automatically by the release of a spring or a similar contrivance.

(d) "Weapon" shall mean any device enumerated in subsection (2) or (4) of this section.

(2) It shall be a felony for any person to possess or carry, whether openly or concealed, any gun, rifle, pistol or other firearm of any kind, or any dynamite cartridge, bomb, grenade, mine or powerful explosive on educational property. However, this subsection does not apply to a BB gun, air rifle or air pistol. Any person violating this subsection shall be guilty of a felony and, upon conviction thereof, shall be fined not more than Five Thousand Dollars ($5,000.00), or committed to the custody of the State Department of Corrections for not more than three (3) years, or both.

(3) It shall be a felony for any person to cause, encourage or aid a minor who is less than eighteen (18) years old to possess or carry, whether openly or concealed, any gun, rifle, pistol or other firearm of any kind, or any dynamite cartridge, bomb, grenade, mine or powerful explosive on educational property. However, this subsection does not apply to a BB gun, air rifle or air pistol. Any person violating this subsection shall be guilty of a felony and, upon conviction thereof, shall be fined not more than Five Thousand Dollars ($5,000.00), or committed to the custody of the State Department of Corrections for not more than three (3) years, or both.

(4) It shall be a misdemeanor for any person to possess or carry, whether openly or concealed, any BB gun, air rifle, air pistol, Bowie knife, dirk, dagger, slingshot, leaded cane, switchblade knife, blackjack, metallic knuckles, razors and razor blades (except solely for personal shaving), and any sharp-pointed or edged instrument except instructional supplies, unaltered nail files and clips and tools used solely for preparation of food, instruction and maintenance on educational property. Any person violating this subsection shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than One Thousand Dollars ($1,000.00), or be imprisoned not exceeding six (6) months, or both.

(5) It shall be a misdemeanor for any person to cause, encourage or aid a minor who is less than eighteen (18) years old to possess or carry, whether openly or concealed, any BB gun, air rifle, air pistol, Bowie knife, dirk, dagger, slingshot, leaded cane, switchblade, knife, blackjack, metallic knuckles, razors and razor blades (except solely for personal shaving) and any sharp-pointed or edged instrument except instructional supplies, unaltered nail files and clips and tools used solely for preparation of food, instruction and maintenance on educational property. Any person violating this subsection shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than One Thousand Dollars ($1,000.00), or be imprisoned not exceeding six (6) months, or both.

(6) It shall not be a violation of this section for any person to possess or carry, whether openly or concealed, any gun, rifle, pistol or other firearm of any kind on educational property if:

(a) The person is not a student attending school on any educational property;

(b) The firearm is within a motor vehicle; and

(c) The person does not brandish, exhibit or display the firearm in any careless, angry or threatening manner.

(7) This section shall not apply to:

(a) A weapon used solely for educational or school-sanctioned ceremonial purposes, or used in a school-approved program conducted under the supervision of an adult whose supervision has been approved by the school authority;

(b) Armed forces personnel of the United States, officers and soldiers of the militia and National Guard, law enforcement personnel, any private police employed by an educational institution, State Militia or Emergency Management Corps and any guard or patrolman in a state or municipal institution, when acting in the discharge of their official duties;

(c) Home schools as defined in the compulsory school attendance law, Section 37-13-91;

(d) Competitors while participating in organized shooting events;

(e) Any person as authorized in Section 97-37-7 while in the performance of his official duties;

(f) Any mail carrier while in the performance of his official duties; or

(g) Any weapon not prescribed by Section 97-37-1 which is in a motor vehicle under the control of a parent, guardian or custodian, as defined in Section 43-21-105, which is used to bring or pick up a student at a school building, school property or school function.

(8) All schools shall post in public view a copy of the provisions of this section.

Students with chronic disciplinary issues

STATUTES

§ 37-11-18.1. Expulsion of habitually disruptive students aged 13 years or older upon third occurrence of disruptive behavior within school year

(1) For the purposes of this section:

(a) The term "disruptive behavior" means conduct of a student that is so unruly, disruptive or abusive that it seriously interferes with a school teacher's or school administrator's ability to communicate with the students in a classroom, with a student's ability to learn, or with the operation of a school or school-related activity, and which is not covered by other laws related to violence or possession of weapons or controlled substances on school property, school vehicles or at school-related activities. Such behaviors include, but are not limited to: foul, profane, obscene, threatening, defiant or abusive language or action toward teachers or other school employees; defiance, ridicule or verbal attack of a teacher; and willful, deliberate and overt acts of disobedience of the directions of a teacher; and

(b) The term "habitually disruptive" refers to such actions of a student which cause disruption in a classroom, on school property or vehicles or at a school-related activity on more than two (2) occasions during a school year, and to disruptive behavior that was initiated, willful and overt on the part of the student and which required the attention of school personnel to deal with the disruption. However, no student shall be considered to be habitually disruptive before the development of a behavior modification plan for the student in accordance with the code of student conduct and discipline plans of the school district.

(2) Every behavior modification plan written pursuant to this section must be developed by utilizing evidence-based practices and positive behavioral intervention supports. The plan must be implemented no later than two (2) weeks after the occurrence of the disruptive behavior.

(3) Any student who is thirteen (13) years of age or older for whom a behavior modification plan is developed by the school principal, reporting teacher and student's parent and which student does not comply with the plan shall be deemed habitually disruptive and subject to expulsion on the occurrence of the third act of disruptive behavior during a school year. After the second act of disruptive behavior during a school year by a student, a psychological evaluation shall be performed upon the child.

Attendance and truancy

STATUTES

§ 37-13-91. Compulsory school attendance requirements generally; enforcement of law

(1) This section shall be referred to as the "Mississippi Compulsory School Attendance Law."

(2) The following terms as used in this section are defined as follows:

(a) "Parent" means the father or mother to whom a child has been born, or the father or mother by whom a child has been legally adopted.

(b) "Guardian" means a guardian of the person of a child, other than a parent, who is legally appointed by a court of competent jurisdiction.

(c) "Custodian" means any person having the present care or custody of a child, other than a parent or guardian of the child.

(d) "School day" means not less than five (5) and not more than eight (8) hours of actual teaching in which both teachers and pupils are in regular attendance for scheduled schoolwork.

(e) "School" means any public school in this state or any nonpublic school in this state which is in session each school year for at least one hundred eighty (180) school days, except that the "nonpublic" school term shall be the number of days that each school shall require for promotion from grade to grade.

(f) "Compulsory-school-age child" means a child who has attained or will attain the age of six (6) years on or before September 1 of the calendar year and who has not attained the age of seventeen (17) years on or before September 1 of the calendar year; and shall include any child who has attained or will attain the age of five (5) years on or before September 1 and has enrolled in a full-day public school kindergarten program. Provided, however, that the parent or guardian of any child enrolled in a full-day public school kindergarten program shall be allowed to disenroll the child from the program on a one-time basis, and such child shall not be deemed a compulsory-school-age child until the child attains the age of six (6) years.

(g) "School attendance officer" means a person employed by the State Department of Education pursuant to Section 37-13-89.

(h) "Appropriate school official" means the superintendent of the school district, or his designee, or, in the case of a nonpublic school, the principal or the headmaster.

(i) "Nonpublic school" means an institution for the teaching of children, consisting of a physical plant, whether owned or leased, including a home, instructional staff members and students, and which is in session each school year. This definition shall include, but not be limited to, private, church, parochial and home instruction programs.

(3) A parent, guardian or custodian of a compulsory-school-age child in this state shall cause the child to enroll in and attend a public school or legitimate nonpublic school for the period of time that the child is of compulsory school age, except under the following circumstances:

(a) When a compulsory-school-age child is physically, mentally or emotionally incapable of attending school as determined by the appropriate school official based upon sufficient medical documentation.

(b) When a compulsory-school-age child is enrolled in and pursuing a course of special education, remedial education or education for handicapped or physically or mentally disadvantaged children.

(c) When a compulsory-school-age child is being educated in a legitimate home instruction program.

The parent, guardian or custodian of a compulsory-school-age child described in this subsection, or the parent, guardian or custodian of a compulsory-school-age child attending any nonpublic school, or the appropriate school official for any or all children attending a nonpublic school shall complete a "certificate of enrollment" in order to facilitate the administration of this section.

The form of the certificate of enrollment shall be prepared by the Office of Compulsory School Attendance Enforcement of the State Department of Education and shall be designed to obtain the following information only:

(i) The name, address, telephone number and date of birth of the compulsory-school-age child;

(ii) The name, address and telephone number of the parent, guardian or custodian of the compulsory-school-age child;

(iii) A simple description of the type of education the compulsory-school-age child is receiving and, if the child is enrolled in a nonpublic school, the name and address of the school; and

(iv) The signature of the parent, guardian or custodian of the compulsory-school-age child or, for any or all compulsory-school-age child or children attending a nonpublic school, the signature of the appropriate school official and the date signed.

The certificate of enrollment shall be returned to the school attendance officer where the child resides on or before September 15 of each year. Any parent, guardian or custodian found by the school attendance officer to be in noncompliance with this section shall comply, after written notice of the noncompliance by the school attendance officer, with this subsection within ten (10) days after the notice or be in violation of this section. However, in the event the child has been enrolled in a public school within fifteen (15) calendar days after the first day of the school year as required in subsection (6), the parent or custodian may, at a later date, enroll the child in a legitimate nonpublic school or legitimate home instruction program and send the certificate of enrollment to the school attendance officer and be in compliance with this subsection.

For the purposes of this subsection, a legitimate nonpublic school or legitimate home instruction program shall be those not operated or instituted for the purpose of avoiding or circumventing the compulsory attendance law.

(4) An "unlawful absence" is an absence during a school day by a compulsory-school-age child, which absence is not due to a valid excuse for temporary nonattendance. Days missed from school due to disciplinary suspension shall not be considered an "excused" absence under this section. This subsection shall not apply to children enrolled in a nonpublic school.

Each of the following shall constitute a valid excuse for temporary nonattendance of a compulsory-school-age child enrolled in a public school, provided satisfactory evidence of the excuse is provided to the superintendent of the school district, or his designee:

(a) An absence is excused when the absence results from the compulsory-school-age child's attendance at an authorized school activity with the prior approval of the superintendent of the school

district, or his designee. These activities may include field trips, athletic contests, student conventions, musical festivals and any similar activity.

(b) An absence is excused when the absence results from illness or injury which prevents the compulsory-school-age child from being physically able to attend school.

(c) An absence is excused when isolation of a compulsory-school-age child is ordered by the county health officer, by the State Board of Health or appropriate school official.

(d) An absence is excused when it results from the death or serious illness of a member of the immediate family of a compulsory-school-age child. The immediate family members of a compulsory-school-age child shall include children, spouse, grandparents, parents, brothers and sisters, including stepbrothers and stepsisters.

(e) An absence is excused when it results from a medical or dental appointment of a compulsory-school-age child.

(f) An absence is excused when it results from the attendance of a compulsory-school-age child at the proceedings of a court or an administrative tribunal if the child is a party to the action or under subpoena as a witness.

(g) An absence may be excused if the religion to which the compulsory-school-age child or the child's parents adheres, requires or suggests the observance of a religious event. The approval of the absence is within the discretion of the superintendent of the school district, or his designee, but approval should be granted unless the religion's observance is of such duration as to interfere with the education of the child.

(h) An absence may be excused when it is demonstrated to the satisfaction of the superintendent of the school district, or his designee, that the purpose of the absence is to take advantage of a valid educational opportunity such as travel, including vacations or other family travel. Approval of the absence must be gained from the superintendent of the school district, or his designee, before the absence, but the approval shall not be unreasonably withheld.

(i) An absence may be excused when it is demonstrated to the satisfaction of the superintendent of the school district, or his designee, that conditions are sufficient to warrant the compulsory-school-age child's nonattendance. However, no absences shall be excused by the school district superintendent, or his designee, when any student suspensions or expulsions circumvent the intent and spirit of the compulsory attendance law.

(5) Any parent, guardian or custodian of a compulsory-school-age child subject to this section who refuses or willfully fails to perform any of the duties imposed upon him or her under this section or who intentionally falsifies any information required to be contained in a certificate of enrollment, shall be guilty of contributing to the neglect of a child and, upon conviction, shall be punished in accordance with Section 97-5-39.

Upon prosecution of a parent, guardian or custodian of a compulsory-school-age child for violation of this section, the presentation of evidence by the prosecutor that shows that the child has not been enrolled in school within eighteen (18) calendar days after the first day of the school year of the public school which the child is eligible to attend, or that the child has accumulated twelve (12) unlawful absences during the school year at the public school in which the child has been enrolled, shall establish a prima facie case that the child's parent, guardian or custodian is responsible for the absences and has refused or willfully failed to perform the duties imposed upon him or her under this section. However, no proceedings under this section shall be brought against a parent, guardian or custodian of a compulsory-school-age child unless the school attendance officer has contacted promptly the home of the child and has provided written notice to the parent, guardian or custodian of the requirement for the child's enrollment or attendance.

(6) If a compulsory-school-age child has not been enrolled in a school within fifteen (15) calendar days after the first day of the school year of the school which the child is eligible to attend or the child has accumulated five (5) unlawful absences during the school year of the public school in which the child is enrolled, the school district superintendent or his designee shall report, within two (2) school days or within five (5) calendar days, whichever is less, the absences to the school attendance officer. The State Department of Education shall prescribe a uniform method for schools to utilize in reporting the unlawful absences to the school attendance officer. The superintendent, or his designee, also shall report any student suspensions or student expulsions to the school attendance officer when they occur.

(7) When a school attendance officer has made all attempts to secure enrollment and/or attendance of a compulsory-school-age child and is unable to effect the enrollment and/or attendance, the attendance officer shall file a petition with the youth court under Section 43-21-451 or shall file a petition in a court of competent jurisdiction as it pertains to parent or child. Sheriffs, deputy sheriffs and municipal law enforcement officers shall be fully authorized to investigate all cases of nonattendance and unlawful absences by compulsory-school-age children, and shall be authorized to file a petition with the youth court under Section 43-21-451 or file a petition or information in the court of competent jurisdiction as it pertains to parent or child for violation of this section. The youth court shall expedite a hearing to make an appropriate adjudication and a disposition to ensure compliance with the Compulsory School Attendance Law, and may order the child to enroll or re-enroll in school. The superintendent of the school district to which the child is ordered may assign, in his discretion, the child to the alternative school program of the school established pursuant to Section 37-13-92.

(8) The State Board of Education shall adopt rules and regulations for the purpose of reprimanding any school superintendents who fail to timely report unexcused absences under the provisions of this section.

(9) Notwithstanding any provision or implication herein to the contrary, it is not the intention of this section to impair the primary right and the obligation of the parent or parents, or person or persons in loco parentis to a child, to choose the proper education and training for such child, and nothing in this section shall ever be construed to grant, by implication or otherwise, to the State of Mississippi, any of its officers, agencies or subdivisions any right or authority to control, manage, supervise or make any suggestion as to the control, management or supervision of any private or parochial school or institution for the education or training of children, of any kind whatsoever that is not a public school according to the laws of this state; and this section shall never be construed so as to grant, by implication or otherwise, any right or authority to any state agency or other entity to control, manage, supervise, provide for or affect the operation, management, program, curriculum, admissions policy or discipline of any such school or home instruction program.

Substance use

STATUTES

§ 37-11-18. Expulsion of student possessing controlled substance or weapon or committing violent act on school property

Any student in any school who possesses any controlled substance in violation of the Uniform Controlled Substances Law, a knife, handgun, other firearm or any other instrument considered to be dangerous and capable of causing bodily harm or who commits a violent act on educational property as defined in Section 97-37-17, Mississippi Code of 1972, shall be subject to automatic expulsion for a calendar year by the superintendent or principal of the school in which the student is enrolled; provided, however, that the superintendent of the school shall be authorized to modify the period of time for such expulsion on a case by case basis. Such expulsion shall take effect immediately subject to the constitutional rights of due process, which shall include the student's right to appeal to the local school board.

§ 37-14-3. Office of Healthy Schools of state department of education to administer school nurse program; transfer of School Nurse Intervention Program to Office of Healthy Schools; responsibilities of program nurses; duties of Office of Healthy Schools

(4) The nurses in the Mary Kirkpatrick Haskell-Mary Sprayberry Public School Nurse Program shall have the following specific responsibilities:

(c) Implement activities to promote health and prevent tobacco, alcohol and substance use and abuse;

Bullying, harassment, or hazing

STATUTES

37-11-20. Intimidation, threatening or coercion of students for purpose of interfering with attendance of classes.

It shall be unlawful for any person to intimidate, threaten or coerce, or attempt to intimidate, threaten or coerce, whether by illegal force, threats of force or by the distribution of intimidating, threatening or coercive material, any person enrolled in any school for the purpose of interfering with the right of that person to attend school classes or of causing him not to attend such classes.

Upon conviction of violation of any provision of this section, such individual shall be guilty of a misdemeanor and shall be subject to a fine of not to exceed five hundred dollars ($500.00), imprisonment in jail for a period not to exceed six (6) months, or both. Any person under the age of seventeen (17) years who violates any provision of this section shall be treated as a delinquent within the jurisdiction of the youth court.

37-11-54. State Board of Education to develop list of conflict resolution and peer mediation materials, models, and curricula from evidence-based practices and positive behavioral intervention supports

The State Board of Education shall develop a list of recommended conflict resolution and mediation materials, models and curricula that are developed from evidence-based practices and positive behavioral intervention supports to address responsible decision making, the causes and effects of school violence and harassment, cultural diversity, and nonviolent methods for resolving conflict, including peer mediation, and shall make the list available to local school administrative units and school buildings before the beginning of the 2007-2008 school year. In addition, local school boards shall incorporate evidence-based practices and positive behavioral intervention supports into individual school district policies and Codes of Conduct. In developing this list, the board shall emphasize materials, models and curricula that currently are being used in Mississippi and that the board determines to be effective. The board shall include at least one (1) model that includes instruction and guidance for the voluntary implementation of peer mediation programs and one (1) model that provides instruction and guidance for teachers concerning the integration of conflict resolution and mediation lessons into the existing classroom curriculum.

§ 37-11-67. Bullying or harassing behavior in public schools prohibited

(1) As used in this section and Section 37-11-69, "bullying or harassing behavior" is any pattern of gestures or written, electronic or verbal communications, or any physical act or any threatening communication, or any act reasonably perceived as being motivated by any actual or perceived differentiating characteristic, that takes place on school property, at any school-sponsored function, or on a school bus, and that:

(a) Places a student or school employee in actual and reasonable fear of harm to his or her person or damage to his or her property; or

(b) Creates or is certain to create a hostile environment by substantially interfering with or impairing a student's educational performance, opportunities or benefits. For purposes of this section, "hostile environment" means that the victim subjectively views the conduct as bullying or harassing behavior and the conduct is objectively severe or pervasive enough that a reasonable person would agree that it is bullying or harassing behavior.

(2) No student or school employee shall be subjected to bullying or harassing behavior by school employees or students.

(3) No person shall engage in any act of reprisal or retaliation against a victim, witness or a person with reliable information about an act of bullying or harassing behavior.

(4) A school employee who has witnessed or has reliable information that a student or school employee has been subject to any act of bullying or harassing behavior shall report the incident to the appropriate school official.

(5) A student or volunteer who has witnessed or has reliable information that a student or school employee has been subject to any act of bullying or harassing behavior should report the incident to the appropriate school official.

§ 37-11-69. Personnel and discipline policies and code of student conduct to include prohibition against bullying or harassing behavior

Before December 31, 2010, each local school district shall include in its personnel policies, discipline policies and code of student conduct a prohibition against bullying or harassing behavior and adopt procedures for reporting, investigating and addressing such behavior. The policies must recognize the fundamental right of every student to take reasonable actions as may be necessary to defend himself or herself from an attack by another student who has evidenced menacing or threatening behavior through bullying or harassing.

Other special infractions or conditions

No relevant statutes found.

Prevention and Behavioral Interventions (Non-Punitive)

Prevention

STATUTES

37-11-54. State Board of Education to develop list of conflict resolution and peer mediation materials, models, and curricula from evidence-based practices and positive behavioral intervention supports

The State Board of Education shall develop a list of recommended conflict resolution and mediation materials, models and curricula that are developed from evidence-based practices and positive behavioral intervention supports to address responsible decision making, the causes and effects of school violence and harassment, cultural diversity, and nonviolent methods for resolving conflict, including peer mediation, and shall make the list available to local school administrative units and school buildings before the beginning of the 2007-2008 school year. In addition, local school boards shall incorporate evidence-based practices and positive behavioral intervention supports into individual school district policies and Codes of Conduct. In developing this list, the board shall emphasize materials, models and curricula that currently are being used in Mississippi and that the board determines to be effective. The board shall include at least one (1) model that includes instruction and guidance for the voluntary implementation of peer mediation programs and one (1) model that provides instruction and guidance for teachers concerning the integration of conflict resolution and mediation lessons into the existing classroom curriculum.

§ 37-14-3. Office of Healthy Schools of state department of education to administer school nurse program; transfer of School Nurse Intervention Program to Office of Healthy Schools; responsibilities of program nurses; duties of Office of Healthy Schools

(4) The nurses in the Mary Kirkpatrick Haskell-Mary Sprayberry Public School Nurse Program shall have the following specific responsibilities:

(c) Implement activities to promote health and prevent tobacco, alcohol and substance use and abuse;

Behavioral interventions and student support services

STATUTES

§ 37-11-18.1. Expulsion of habitually disruptive students aged 13 years or older upon third occurrence of disruptive behavior within school year

(1) For the purposes of this section:

(a) The term "disruptive behavior" means conduct of a student that is so unruly, disruptive or abusive that it seriously interferes with a school teacher's or school administrator's ability to communicate with the students in a classroom, with a student's ability to learn, or with the operation of a school or school-related activity, and which is not covered by other laws related to violence or possession of weapons or controlled substances on school property, school vehicles or at school-related activities. Such behaviors include, but are not limited to: foul, profane, obscene, threatening, defiant or abusive language or action toward teachers or other school employees; defiance, ridicule or verbal attack of a teacher; and willful, deliberate and overt acts of disobedience of the directions of a teacher; and

(b) The term "habitually disruptive" refers to such actions of a student which cause disruption in a classroom, on school property or vehicles or at a school-related activity on more than two (2) occasions during a school year, and to disruptive behavior that was initiated, willful and overt on the part of the student and which required the attention of school personnel to deal with the disruption. However, no student shall be considered to be habitually disruptive before the development of a behavior modification plan for the student in accordance with the code of student conduct and discipline plans of the school district.

(2) Every behavior modification plan written pursuant to this section must be developed by utilizing evidence-based practices and positive behavioral intervention supports. The plan must be implemented no later than two (2) weeks after the occurrence of the disruptive behavior.

(3) Any student who is thirteen (13) years of age or older for whom a behavior modification plan is developed by the school principal, reporting teacher and student's parent and which student does not comply with the plan shall be deemed habitually disruptive and subject to expulsion on the occurrence of the third act of disruptive behavior during a school year. After the second act of disruptive behavior during a school year by a student, a psychological evaluation shall be performed upon the child.

§ 37-11-54. State Board of Education to develop list of conflict resolution and peer mediation materials, models, and curricula from evidence-based practices and positive behavioral intervention supports

The State Board of Education shall develop a list of recommended conflict resolution and mediation materials, models and curricula that are developed from evidence-based practices and positive behavioral intervention supports to address responsible decision making, the causes and effects of school violence and harassment, cultural diversity, and nonviolent methods for resolving conflict, including peer mediation, and shall make the list available to local school administrative units and school buildings before the beginning of the 2007-2008 school year. In addition, local school boards shall incorporate evidence-based practices and positive behavioral intervention supports into individual school district policies and Codes of Conduct. In developing this list, the board shall emphasize materials, models and curricula that currently are being used in Mississippi and that the board determines to be effective. The board shall include at least one (1) model that includes instruction and guidance for the voluntary implementation of peer mediation programs and one (1) model that provides instruction and guidance for teachers concerning the integration of conflict resolution and mediation lessons into the existing classroom curriculum.

Professional development

STATUTES

§ 37-3-89. School discipline and classroom management courses; requirement; approval

The State Board of Education, acting through the Commission on Teacher and Administrator Education, Certification and Licensure and Development, shall require each educator preparation program in the state, as a condition for approval, to include a course or courses on school discipline or classroom management as a required part of the teacher education program. All school discipline or classroom management courses offered by a teacher education program shall be approved by the Educator License Commission.

§ 37-3-91. Regional behavioral institutes; discipline and classroom management strategies; participation

(1) Subject to the availability of funds appropriated for such purpose, the State Department of Education may establish regional behavioral institutes for the purpose of providing state-of-the-art training to teachers and administrators in discipline and classroom management strategies.

(2) Any school district may volunteer to participate in a regional behavioral institute. However, the State Department of Education may require a school district to participate in a regional behavioral institute if the department determines that such participation is in the best interest of the school district based upon:

(a) Complaints received and determined by the department to be valid which relate to disciplinary problems in the school district;

(b) Any visit to the school by representatives of the department which indicates disciplinary problems in the school district; or

(c) A review of reports submitted by a school district to the department which indicates disciplinary problems in the school district.

Monitoring and Accountability

Formal incident reporting of conduct violations

STATUTES

§ 37-11-29. Reporting of unlawful activity or violent act on educational property or during school related activity; authority of law enforcement officers; reporting of disposition of charges against student; liability of school personnel participating in reporting

(1) Any principal, teacher or other school employee who has knowledge of any unlawful activity which occurred on educational property or during a school related activity or which may have occurred shall report such activity to the superintendent of the school district or his designee who shall notify the appropriate law enforcement officials as required by this section. In the event of an emergency or if the superintendent or his designee is unavailable, any principal may make a report required under this subsection.

§ 37-11-67. Bullying or harassing behavior in public schools prohibited

(4) A school employee who has witnessed or has reliable information that a student or school employee has been subject to any act of bullying or harassing behavior shall report the incident to the appropriate school official.

(5) A student or volunteer who has witnessed or has reliable information that a student or school employee has been subject to any act of bullying or harassing behavior should report the incident to the appropriate school official.

§ 37-13-91. Compulsory school attendance requirements generally; enforcement of law

(6) If a compulsory-school-age child has not been enrolled in a school within fifteen (15) calendar days after the first day of the school year of the school which the child is eligible to attend or the child has accumulated five (5) unlawful absences during the school year of the public school in which the child is enrolled, the school district superintendent or his designee shall report, within two (2) school days or within five (5) calendar days, whichever is less, the absences to the school attendance officer. The State Department of Education shall prescribe a uniform method for schools to utilize in reporting the unlawful absences to the school attendance officer. The superintendent, or his designee, also shall report any student suspensions or student expulsions to the school attendance officer when they occur.

§ 37-15-6. Central reporting system for information concerning expulsions from public schools; access to information

For the purpose of providing notice to public and private school officials, both within and outside the boundaries of the state, of the expulsion of any public school student, the State Department of Education may develop a central reporting system for maintaining information concerning each expulsion from a public school. In establishing and maintaining the reporting system, the department may require each school district to report, within a certain period of time after an expulsion, as established by the department, information such as the following:

(a) The name of the student expelled;

(b) The date the student was expelled;

(c) The age of the student at the time of the expulsion;

(d) The school from which the student was expelled;

(e) The reason for the expulsion, including a detailed description of the student's act or acts;

(f) The duration of the period of expulsion, if not indefinite; and

(g) Any other information that the department deems necessary for school officials in a public or private school, where a student is seeking enrollment, to determine whether or not a student should be denied enrollment based upon a previous expulsion.

Any information maintained by the department under the authority of this section shall be strictly confidential. The information shall be available to school officials at a public or private school only upon their request and only when a student seeks enrollment or admission to that school. In no case shall the information be available to the general public.

Parental notification

STATUTES

§ 37-13-89. School attendance officers; qualifications; duties; salaries

(4) It shall be the duty of each school attendance officer to:

(f) Contact the home or place of residence of a compulsory-school-age child and any other place in which the officer is likely to find any compulsory-school-age child when the child is absent from school during school hours without a valid written excuse from school officials, and when the child is found, the officer shall notify the parents and school officials as to where the child was physically located;

(g) Contact promptly the home of each compulsory-school-age child in the school district within the officer's jurisdiction who is not enrolled in school or is not in attendance at public school and is without a valid written excuse from school officials; if no valid reason is found for the nonenrollment or absence from the school, the school attendance officer shall give written notice to the parent, guardian or custodian of the requirement for the child's enrollment or attendance;

§ 37-13-92. Alternative school program for compulsory-school-age students; placement of children in alternative school; transportation of students; expenses; annual report

(2) The principal or program administrator of any such alternative school program shall require verification from the appropriate guidance counselor of any such child referred to the alternative school program regarding the suitability of such child for attendance at the alternative school program. Before a student may be removed to an alternative school education program, the superintendent of the student's school district must determine that the written and distributed disciplinary policy of the local district is being followed. The policy shall include standards for:

(c) The notification of parents or guardians, and their appropriate inclusion in the removal and evaluation process, as defined in the district policy. Nothing in this paragraph should be defined in a manner to circumvent the principal's or the superintendent's authority to remove a student to alternative education.

Reporting and referrals between schools and law enforcement

STATUTES

§ 37-11-29. Reporting of unlawful activity or violent act on educational property or during school related activity; authority of law enforcement officers; reporting of disposition of charges against student; liability of school personnel participating in reporting

(1) Any principal, teacher or other school employee who has knowledge of any unlawful activity which occurred on educational property or during a school related activity or which may have occurred shall report such activity to the superintendent of the school district or his designee who shall notify the

appropriate law enforcement officials as required by this section. In the event of an emergency or if the superintendent or his designee is unavailable, any principal may make a report required under this subsection.

(2) Whenever any person who shall be an enrolled student in any school or educational institution in this state supported in whole or in part by public funds, or who shall be an enrolled student in any private school or educational institution, is arrested for, and lawfully charged with, the commission of any crime and convicted upon the charge for which he was arrested, or convicted of any crime charged against him after his arrest and before trial, the office or law enforcement department of which the arresting officer is a member, and the justice court judge and any circuit judge or court before whom such student is tried upon said charge or charges, shall make or cause to be made a report thereof to the superintendent or the president or chancellor, as the case may be, of the school district or other educational institution in which such student is enrolled.

If the charge upon which such student was arrested, or any other charges preferred against him are dismissed or nol prossed, or if upon trial he is either convicted or acquitted of such charge or charges, same shall be reported to said respective superintendent or president, or chancellor, as the case may be. A copy of said report shall be sent to the Secretary of the Board of Trustees of State Institutions of Higher Learning of the State of Mississippi, at Jackson, Mississippi.

Said report shall be made within one (1) week after the arrest of such student and within one (1) week after any charge placed against him is dismissed or nol prossed, and within one (1) week after he shall have pled guilty, been convicted, or have been acquitted by trial upon any charge placed against him. This section shall not apply to ordinary traffic violations involving a penalty of less than Fifty Dollars ($ 50.00) and costs.

(3) When the superintendent or his designee has a reasonable belief that an act has occurred on educational property or during a school related activity involving any of the offenses set forth in subsection (6) of this section, the superintendent or his designee shall immediately report the act to the appropriate local law enforcement agency. For purposes of this subsection, "school property" shall include any public school building, bus, public school campus, grounds, recreational area or athletic field in the charge of the superintendent. The State Board of Education shall prescribe a form for making reports required under this subsection. Any superintendent or his designee who fails to make a report required by this section shall be subject to the penalties provided in Section 37-11-35.

(4) The law enforcement authority shall immediately dispatch an officer to the educational institution and with probable cause the officer is authorized to make an arrest if necessary as provided in Section 99-3-7.

(5) Any superintendent, principal, teacher or other school personnel participating in the making of a required report pursuant to this section or participating in any judicial proceeding resulting therefrom shall be presumed to be acting in good faith. Any person reporting in good faith shall be immune from any civil liability that might otherwise be incurred or imposed.

(6) For purposes of this section, "unlawful activity" means any of the following:

(a) Possession or use of a deadly weapon, as defined in Section 97-37-1;

(b) Possession, sale or use of any controlled substance;

(c) Aggravated assault, as defined in Section 97-3-7;

(d) Simple assault, as defined in Section 97-3-7, upon any school employee;

(e) Rape, as defined under Mississippi law;

(f) Sexual battery, as defined under Mississippi law;

(g) Murder, as defined under Mississippi law;

(h) Kidnapping, as defined under Mississippi law; or

(i) Fondling, touching, handling, etc., a child for lustful purposes, as defined in Section 97-5-23.

§ 37-13-91. Compulsory school attendance requirements generally; enforcement of law

(7) When a school attendance officer has made all attempts to secure enrollment and/or attendance of a compulsory-school-age child and is unable to effect the enrollment and/or attendance, the attendance officer shall file a petition with the youth court under Section 43-21-451 or shall file a petition in a court of competent jurisdiction as it pertains to parent or child. Sheriffs, deputy sheriffs and municipal law enforcement officers shall be fully authorized to investigate all cases of nonattendance and unlawful absences by compulsory-school-age children, and shall be authorized to file a petition with the youth court under Section 43-21-451 or file a petition or information in the court of competent jurisdiction as it pertains to parent or child for violation of this section. The youth court shall expedite a hearing to make an appropriate adjudication and a disposition to ensure compliance with the Compulsory School Attendance Law, and may order the child to enroll or re-enroll in school. The superintendent of the school district to which the child is ordered may assign, in his discretion, the child to the alternative school program of the school established pursuant to Section 37-13-92.

Disclosure of school records

STATUTES

§ 37-15-6. Central reporting system for information concerning expulsions from public schools; access to information

For the purpose of providing notice to public and private school officials, both within and outside the boundaries of the state, of the expulsion of any public school student, the State Department of Education may develop a central reporting system for maintaining information concerning each expulsion from a public school. In establishing and maintaining the reporting system, the department may require each school district to report, within a certain period of time after an expulsion, as established by the department, information such as the following:

(a) The name of the student expelled;

(b) The date the student was expelled;

(c) The age of the student at the time of the expulsion;

(d) The school from which the student was expelled;

(e) The reason for the expulsion, including a detailed description of the student's act or acts;

(f) The duration of the period of expulsion, if not indefinite; and

(g) Any other information that the department deems necessary for school officials in a public or private school, where a student is seeking enrollment, to determine whether or not a student should be denied enrollment based upon a previous expulsion.

Any information maintained by the department under the authority of this section shall be strictly confidential. The information shall be available to school officials at a public or private school only upon their request and only when a student seeks enrollment or admission to that school. In no case shall the information be available to the general public.

Data collection, review, and reporting of disciplinary policies and actions

STATUTES

§ 37-3-91. Regional behavioral institutes; discipline and classroom management strategies; participation

(2) Any school district may volunteer to participate in a regional behavioral institute. However, the State Department of Education may require a school district to participate in a regional behavioral institute if the department determines that such participation is in the best interest of the school district based upon:

(c) A review of reports submitted by a school district to the department which indicates disciplinary problems in the school district.

§ 37-11-53. School district discipline plans; appearance by parents, guardians or custodians at discipline conferences; recovery from parents for damage or destruction of school property; parent allowed to accompany child to school as alternative to child's suspension

(1) […] The school board shall have its official discipline plan and code of student conduct legally audited on an annual basis to insure that its policies and procedures are currently in compliance with applicable statutes, case law and state and federal constitutional provisions. As part of the first legal audit occurring after July 1, 2001, the provisions of this section, Section 37-11-55 and Section 37-11-18.1, shall be fully incorporated into the school district's discipline plan and code of student conduct.

§ 37-13-92. Alternative school program for compulsory-school-age students; placement of children in alternative school; transportation of students; expenses; annual report

(11) Each school district having an alternative school program shall submit a report annually to the State Department of Education describing the results of its annual alternative school program review and evaluation undertaken pursuant to subsection (7)(k). The report shall include a detailed account of any actions taken by the school district during the previous year to comply with substantive guidelines promulgated by the State Board of Education under subsection (7)(a) through (j).

School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers

Authority and power to implement school arrest

STATUTES

§ 37-7-321. Employment and designation of peace officers; minimum level of basic law enforcement training required; operation of radio broadcasting and transmission station; interlocal agreements with other law enforcement entities for provision of certain equipment or services

(1) The school board of any school district within the State of Mississippi, in its discretion, may employ one or more persons as security personnel and may designate such persons as peace officers in or on any property operated for school purposes by such board upon their taking such oath and making such bond as required of a constable of the county in which the school district is situated.

(4) If a law enforcement officer is duly appointed to be a peace officer by a school district under this section, the local school board may enter into an interlocal agreement with other law enforcement entities for the provision of equipment or traffic control duties, however, the duty to enforce traffic regulations and to enforce the laws of the state or municipality off of school property lies with the local police or sheriff's department which cannot withhold its services solely because of the lack of such an agreement.

§ 37-13-85. Powers and duties

The Office of Compulsory School Attendance Enforcement shall have the following powers and duties, in addition to all others imposed or granted by law:

(a) To establish any policies or guidelines concerning the employment of school attendance officers which serve to effectuate a uniform system of enforcement under the Mississippi Compulsory School Attendance Law throughout the state, and to designate the number of school attendance officers which shall be employed to serve in each school district area;

§ 37-13-89. School attendance officers; qualifications; duties; salaries

(1) In each school district within the state, there shall be employed the number of school attendance officers determined by the Office of Compulsory School Attendance Enforcement to be necessary to adequately enforce the provisions of the Mississippi Compulsory School Attendance Law; however, this number shall not exceed one hundred fifty-three (153) school attendance officers at any time. From and after July 1, 1998, all school attendance officers employed pursuant to this section shall be employees of the State Department of Education. The State Department of Education shall employ all persons employed as school attendance officers by district attorneys before July 1, 1998, and shall assign them to school attendance responsibilities in the school district in which they were employed before July 1, 1998. The first twelve (12) months of employment for each school attendance officer shall be the probationary period of state service.

(4) It shall be the duty of each school attendance officer to:

(a) Cooperate with any public agency to locate and identify all compulsory-school-age children who are not attending school;

(b) Cooperate with all courts of competent jurisdiction;

(c) Investigate all cases of nonattendance and unlawful absences by compulsory-school-age children not enrolled in a nonpublic school;

(d) Provide appropriate counseling to encourage all school-age children to attend school until they have completed high school;

(e) Attempt to secure the provision of social or welfare services that may be required to enable any child to attend school;

(f) Contact the home or place of residence of a compulsory-school-age child and any other place in which the officer is likely to find any compulsory-school-age child when the child is absent from school during school hours without a valid written excuse from school officials, and when the child is found, the officer shall notify the parents and school officials as to where the child was physically located;

(g) Contact promptly the home of each compulsory-school-age child in the school district within the officer's jurisdiction who is not enrolled in school or is not in attendance at public school and is without a valid written excuse from school officials; if no valid reason is found for the nonenrollment or absence from the school, the school attendance officer shall give written notice to the parent, guardian or custodian of the requirement for the child's enrollment or attendance;

(h) Collect and maintain information concerning absenteeism, dropouts and other attendance-related problems, as may be required by law or the Office of Compulsory School Attendance Enforcement; and

(i) Perform all other duties relating to compulsory school attendance established by the State Department of Education or district school attendance supervisor, or both.

(5) While engaged in the performance of his duties, each school attendance officer shall carry on his person a badge identifying him as a school attendance officer under the Office of Compulsory School Attendance Enforcement of the State Department of Education and an identification card designed by the State Superintendent of Public Education and issued by the school attendance officer supervisor. Neither the badge nor the identification card shall bear the name of any elected public official.

Certification or training

STATUTES

§ 37-7-321. Employment and designation of peace officers; minimum level of basic law enforcement training required; operation of radio broadcasting and transmission station; interlocal agreements with other law enforcement entities for provision of certain equipment or services

(2) Any person employed by a school board as a security guard or school resource officer or in any other position that has the powers of a peace officer must receive a minimum level of basic law enforcement training, as jointly determined and prescribed by the Board on Law Enforcement Officer Standards and Training and the State Board of Education, within two (2) years of the person's initial employment in such position. Upon the failure of any person employed in such position to receive the required training within the designated time, the person may not exercise the powers of a peace officer in or on the property of the school district.

§ 37-13-85. Powers and duties

The Office of Compulsory School Attendance Enforcement shall have the following powers and duties, in addition to all others imposed or granted by law:

(j) To provide for a course of training and education for school attendance officers, and to require successful completion of the course as a prerequisite to certification by the office as school attendance officers;

§ 37-13-89. School attendance officers; qualifications; duties; salaries

(2) (a) The State Department of Education shall obtain current criminal records background checks and current child abuse registry checks on all persons applying for the position of school attendance officer after July 2, 2002. The criminal records information and registry checks must be kept on file for any new hires. In order to determine an applicant's suitability for employment as a school attendance officer, the applicant must be fingerprinted. If no disqualifying record is identified at the state level, the Department of Public Safety shall forward the fingerprints to the Federal Bureau of Investigation (FBI) for a national criminal history record check. The applicant shall pay the fee, not to exceed Fifty Dollars ($ 50.00), for the fingerprinting and criminal records background check; however, the State Department of Education, in its discretion, may pay the fee for the fingerprinting and criminal records background check on behalf of any applicant. Under no circumstances may a member of the State Board of Education, employee of the State Department of Education or any person other than the subject of the criminal records background check disseminate information received through any such checks except insofar as required to fulfill the purposes of this subsection.

(b) If the fingerprinting or criminal records check discloses a felony conviction, guilty plea or plea of nolo contendere to a felony of possession or sale of drugs, murder, manslaughter, armed robbery, rape, sexual battery, sex offense listed in Section 45-33-23(g), child abuse, arson, grand larceny, burglary, gratification of lust or aggravated assault which has not been reversed on appeal or for which a pardon has not been granted, the applicant is not eligible to be employed as a school attendance officer. Any employment of an applicant pending the results of the fingerprinting and criminal records check is voidable if the new hire receives a disqualifying criminal records check. However, the State Board of Education, in its discretion, may allow an applicant aggrieved by an employment decision under this subsection to appear before the board, or before a hearing officer designated for that purpose, to show mitigating circumstances that may exist and allow the new hire to be employed as a school attendance officer. The State Board of Education may grant waivers for mitigating circumstances, which may include, but are not necessarily limited to: (i) age at which the crime was committed; (ii) circumstances surrounding the crime; (iii) length of time since the conviction and criminal history since the conviction; (iv) work history; (v) current employment and character references; and (vi) other evidence demonstrating the ability of the person to perform the responsibilities of a school attendance officer competently and that the person does not pose a threat to the health or safety of children.

(9) The State Department of Education shall provide all continuing education and training courses that school attendance officers are required to complete under state law or rules and regulations of the department.

§ 37-13-107. Training and education course for school attendance officers; effect of failure to receive certificate

(1) Every school attendance officer shall be required annually to attend and complete a comprehensive course of training and education which is provided or approved by the Office of Compulsory School Attendance Enforcement of the State Department of Education. Attendance shall be required beginning with the first training seminar conducted after the school attendance officer is employed as a school attendance officer.

(2) The Office of Compulsory School Attendance Enforcement shall provide or approve a course of training and education for school attendance officers of the state. The course shall consist of at least twelve (12) hours of training per year. The content of the course of training and when and where it is to be conducted shall be approved by the office. A certificate of completion shall be furnished by the State Department of Education to those school attendance officers who complete the course. Each certificate shall be made a permanent record of the school attendance officer supervisor's office where the school attendance officer is employed.

(3) Upon the failure of any person employed as a school attendance officer to receive the certificate of completion from the State Department of Education within the first year of his employment, the person shall not be allowed to carry out any of the duties of a school attendance officer and shall not be entitled to compensation for the period of time during which the certificate has not been obtained.

MOUs, authorization and/or funding

STATUTES

§ 37-7-321. Employment and designation of peace officers; minimum level of basic law enforcement training required; operation of radio broadcasting and transmission station; interlocal agreements with other law enforcement entities for provision of certain equipment or services

(4) If a law enforcement officer is duly appointed to be a peace officer by a school district under this section, the local school board may enter into an interlocal agreement with other law enforcement entities for the provision of equipment or traffic control duties, however, the duty to enforce traffic regulations and to enforce the laws of the state or municipality off of school property lies with the local police or sheriff's department which cannot withhold its services solely because of the lack of such an agreement.

State Education Agency Support

State model policies and implementation support

No relevant statutes found.

Funding appropriations

No relevant statutes found.

Other/Uncategorized

Professional immunity or liability

STATUTES

37-11-57. Immunity of school personnel from liability for carrying out action in enforcing rules regarding control, discipline, suspension and expulsion of students.

(1) Except in the case of excessive force or cruel and unusual punishment, a teacher, assistant teacher, principal, or an assistant principal acting within the course and scope of his employment shall not be liable for any action carried out in conformity with state or federal law or rules or regulations of the State Board of Education or the local school board regarding the control, discipline, suspension and expulsion of students. The local school board shall provide any necessary legal defense to a teacher, assistant teacher, principal, or assistant principal acting within the course and scope of his employment in any action which may be filed against such school personnel. A school district shall be entitled to reimbursement for legal fees and expenses from its employee if a court finds that the act of the employee was outside the course and scope of his employment, or that the employee was acting with criminal intent. Any action by a school district against its employee and any action by the employee against the school district for necessary legal fees and expenses shall be tried to the court in the same suit brought against the school employee.

(2) Corporal punishment administered in a reasonable manner, or any reasonable action to maintain control and discipline of students taken by a teacher, assistant teacher, principal or assistant principal acting within the scope of his employment or function and in accordance with any state or federal laws or rules or regulations of the State Board of Education or the local school board does not constitute negligence or child abuse. No teacher, assistant teacher, principal or assistant principal so acting shall be held liable in a suit for civil damages alleged to have been suffered by a student as a result of the administration of corporal punishment, or the taking of action to maintain control and discipline of a student, unless the court determines that the teacher, assistant teacher, principal or assistant principal acted in bad faith or with malicious purpose or in a manner exhibiting a wanton and willful disregard of human rights or safety. For the purposes of this subsection, "corporal punishment" means the reasonable use of physical force or physical contact by a teacher, assistant teacher, principal or assistant principal, as may be necessary to maintain discipline, to enforce a school rule, for self-protection or for the protection of other students from disruptive students.

99-3-28. Teachers or sworn law enforcement officers charged with committing crime while in the performance of duties; certain procedural requirements to be met prior to issuance of arrest warrant.

(1) (a) Except as provided in subsection (2) of this section, before an arrest warrant shall be issued against any teacher who is a licensed public school employee as defined in Section 37-9-1, a certified jail officer as defined in Section 45-4-9, a counselor at an adolescent offender program created under Section 43-27-201 et seq., or a sworn law enforcement officer within this state as defined in Section 45-6-3 for a criminal act, whether misdemeanor or felony, which is alleged to have occurred while the teacher, jail officer, counselor at an adolescent offender program or law enforcement officer was in the performance of official duties, a probable cause hearing shall be held before a circuit court judge. The purpose of the hearing shall be to determine if adequate probable cause exists for the issuance of a warrant. All parties testifying in these proceedings shall do so under oath. The accused shall have the

right to enter an appearance at the hearing, represented by legal counsel at his own expense, to hear the accusations and evidence against him; he may present evidence or testify in his own behalf.

(b) The authority receiving any such charge or complaint against a teacher, jail officer, counselor at an adolescent offender program or law enforcement officer shall immediately present same to the county prosecuting attorney having jurisdiction who shall immediately present the charge or complaint to a circuit judge in the judicial district where the action arose for disposition pursuant to this section.

(2) Nothing in this section shall prohibit the issuance of an arrest warrant by a circuit court judge upon presentation of probable cause, without the holding of a probable cause hearing, if adequate evidence is presented to satisfy the court that there is a significant risk that the accused will flee the court's jurisdiction or that the accused poses a threat to the safety or wellbeing of the public.

STATUTES

§ 37-18-5. School improvement plan; assistance team; community-based prekindergarten through higher education council

(1) Based on the findings of the evaluation report and the results of the public meeting, the State Department of Education and the evaluation team leader shall assist the school principal and other local school officials in the development of a school improvement plan to improve its deficiencies.

(2) The school improvement plan shall be developed and approved by the principal of the School At-Risk, the superintendent of the local school district, the local school board and a majority of the teachers of the school, within a time period to be determined by the evaluation team. If the plan is not approved, the State Board of Education may approve and implement the plan in the school.

(3) The State Department of Education shall provide technical assistance and shall assist in identifying funding to the School At-Risk in the implementation of the school improvement plan, including the implementation of any recommended professional development plan, and the department may contract with the institutions of higher learning to provide such technical assistance. The assistance team shall collaborate with school and school district employees in the implementation and monitoring of the school improvement plan and the State Department of Education shall ensure that a report is issued monthly to the local school board and the local community-based advisory council.

(4) A school district that has been designated as failing as defined by the State Board of Education or a district with a School At-Risk shall also establish a community-based prekindergarten through higher education council comprised of a broad spectrum of the community, including economic developers, elected officials, civic leaders, business leaders, faith-based leaders, social services, nonprofit organizations, school attendance officers, law enforcement officials, health department officials, day care providers, librarians, parents and others with the knowledge and resources that can be leveraged to build strong communities. The State Board of Education shall develop procedures for appointments to the council, which shall not be appointed solely by the school board. The council will serve as a community-led group that is inclusive, accountable and required to publicly report progress to the community as a whole.

Community input or involvement

STATUTES

§ 37-18-5. School improvement plan; assistance team; community-based prekindergarten through higher education council

(1) Based on the findings of the evaluation report and the results of the public meeting, the State Department of Education and the evaluation team leader shall assist the school principal and other local school officials in the development of a school improvement plan to improve its deficiencies.

(2) The school improvement plan shall be developed and approved by the principal of the School At-Risk, the superintendent of the local school district, the local school board and a majority of the teachers of the school, within a time period to be determined by the evaluation team. If the plan is not approved, the State Board of Education may approve and implement the plan in the school.

(3) The State Department of Education shall provide technical assistance and shall assist in identifying funding to the School At-Risk in the implementation of the school improvement plan, including the implementation of any recommended professional development plan, and the department may contract with the institutions of higher learning to provide such technical assistance. The assistance team shall collaborate with school and school district employees in the implementation and monitoring of the school improvement plan and the State Department of Education shall ensure that a report is issued monthly to the local school board and the local community-based advisory council.

(4) A school district that has been designated as failing as defined by the State Board of Education or a district with a School At-Risk shall also establish a community-based prekindergarten through higher education council comprised of a broad spectrum of the community, including economic developers, elected officials, civic leaders, business leaders, faith-based leaders, social services, nonprofit organizations, school attendance officers, law enforcement officials, health department officials, day care providers, librarians, parents and others with the knowledge and resources that can be leveraged to build strong communities. The State Board of Education shall develop procedures for appointments to the council, which shall not be appointed solely by the school board. The council will serve as a community-led group that is inclusive, accountable and required to publicly report progress to the community as a whole.

Other/uncategorized

No relevant statutes found.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by Mississippi provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
Website		
Mississippi Department of Education Safe and Orderly Schools	Information and resources from the Office of Safe and Orderly Schools	http://www.mde.k12.ms.us/safe-and-orderly-schools/school-safety
Documents		
Mississippi School Safety Manual	Manual of school safety and relevant laws	http://www.healthyschoolsms.org/healthy_school_environment/documents/SchoolSafetyManual20082.pdf
Other Resources		
No relevant resources found		

Missouri Compilation of School Discipline Laws and Regulations

Prepared: August 12, 2013

Introduction

This compilation presents school discipline-related state statutes, school discipline-related regulations, and, where available, links to state-sponsored websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSLE). For example, one major category encompasses all state laws or regulations mandating specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of state legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in each state.

Discipline categories were not mutually exclusive. Statutes and regulations often appeared across multiple categories. For states with more extensive statutes covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. State laws, ordered by chapter and section number, appear first within each category followed by state regulations. All statutes and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists statutes by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to state-sponsored websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of May 2013, with the exception of the state laws related to seclusion and restraint, which are complete and current as of December 2012. Readers should also note that the information in this document was compiled from individual state sources that are created by each state and which are maintained and updated with varying frequencies. Readers should consult the source information provided for each state directly in order to check for updates to this state's laws and regulations or conduct further research.

For further information, including definitions of the different policy categories, please refer to the Discipline Laws and Regulations Compendium posted on the Center's website.

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Safe Supportive Learning
Engagement | Safety | Environment

Table of Contents

Missouri State Codes Cited **1**

General Provisions **3**

Authority to develop and establish rules of conduct 3
Scope 5
Communication of policy 5

In-School Discipline **7**

Use of multi-tiered discipline approaches 7
Teacher authority to remove students from classrooms 7
Alternatives to suspension 7
Use of corporal punishment 7
Use of student and locker searches 8
Other in-school disciplinary approaches 8

Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements **9**

Grounds for possible suspension or expulsion 9
Grounds for mandatory suspension or expulsion 9
Limitations, conditions or exclusions for use of suspension and expulsion 10
Administrative procedures related to suspension and expulsion 10
In-school suspension 13
Return to school following removal 13
Use of restraint and seclusion 14
Alternative placements 14

Disciplinary Approaches Addressing Specific Infractions and Conditions **16**

Firearms (as required by the Guns-Free Schools Act) 16
Other weapons 16
Students with chronic disciplinary issues 17
Attendance and truancy 17
Substance use 18
Bullying, harassment, or hazing 18
Other special infractions or conditions 19

Prevention and Behavioral Interventions (Non-Punitive) **20**

Prevention 20
Behavioral interventions and student support services 20
Professional development 21

Monitoring and Accountability **22**

Formal incident reporting of conduct violations 22
Parental notification 22
Reporting and referrals between schools and law enforcement 23
Disclosure of school records 26
Data collection, review, and reporting of disciplinary policies and actions 26

School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers 27
Authority and power to implement school arrest 27
Certification or training 27
MOUs, authorization, and/or funding 27
State Education Agency Support 28
State model policies and implementation support 28
Funding appropriations 28
Other/Uncategorized 30
Professional immunity or liability 30
Community input or involvement 30
Other/Uncategorized 30
State-Sponsored, Publicly Available Websites or Other Resources on School Discipline 31

Missouri State Codes Cited

Missouri Revised Statutes

Title XI. Education and Libraries

Chapter 160. Schools – General Provisions

160.069.	Policy on consequences of possession or drinking alcohol at school or during extracurricular activities
160.261.	Discipline, written policy established by local boards of education--contents--reporting requirements--additional restrictions for certain suspensions--weapons offense, mandatory suspension or expulsion--no civil liability for authorized personnel--spanking not child abuse, when--investigation procedure--officials falsifying reports, penalty
160.263.	Confinement of a student prohibited, when--policy on restrictive behavioral interventions required--model policy to be developed
160.660.	School safety provisions--rules
160.775.	Antibullying policy required--definition--requirements

Chapter 161. State Department of Elementary and Secondary Education

161.203.	Videotape to be produced on prison conditions and the young offender--rules for distribution to all districts--viewing required for all students and status offenders, exceptions
161.209.	Rules and policies, department has affirmative duty to seek comment on--review of existing rules and policies, procedure--no penalty for failure to meet resource standards, when
161.210.	State board may modify or waive rules, when
161.650.	Department to identify and adopt violence prevention program, district to administer--state board to adopt violence prevention program--duties--administered how--funding

Chapter 167. Pupils and Special Services

167.022.	Request for records, placed pupils
167.023.	Affidavit of expulsion for certain offenses required for student admission--false statements, penalty
167.026.	Expungement of disciplinary records, exception
167.034.	Absences in St. Louis City reported to division of family services, children's division, when, notification requirements--duties of children's division
167.071.	School attendance officers in seven-director districts, powers and duties--powers of police officers in certain areas
167.091.	Truant or parental schools, establishment--attendance may be compelled--neglected children, attendance--support payments
167.111.	Officials to enforce compulsory attendance law
167.115.	Juvenile officer or other law enforcement authority to report to superintendent, when, how--superintendent to report certain acts, to whom--notice of suspension or expulsion to court--superintendent to consult
167.117.	Principal, teachers, school employees to report certain acts, to whom, exceptions--limit on liability--penalty
167.122.	Placed pupils, notification of district, distribution of information

167.161. Suspension or expulsion of pupil--notice--hearing--felony violation, grounds for suspension
167.164. Suspension or expulsion not to relieve duty to educate--district to pay costs of alternative education--voucher--district may contract for alternative education services
167.166. Prohibition on strip searches, exceptions--strip search defined--violation, penalty--prohibition on removal of certain items not deemed disruptive
167.171. Summary suspension of pupil--appeal--grounds for suspension--procedure--conference required, when--statewide suspension, when
167.280. Support services for students at high risk--application, elements--priority applications, elements--use of funds--allowable costs
167.335. Alternative education grants--qualifications--joint applications

Chapter 171. School Operations

171.011. School board may adopt rules and regulations
171.141. Fraternities and sororities may be barred--enforcement

Title XXXVIII. Crimes and Punishment; Peace Officers and Public Defenders

Chapter 563. Defense of Justification

563.061. Use of force by persons with responsibility for care, discipline or safety of others

Missouri Administrative Code

No relevant regulations found.

General Provisions

Authority to develop and establish rules of conduct

STATUTES

§ 160.069 R.S.Mo. Policy on consequences of possession or drinking alcohol at school or during extracurricular activities

Every school district shall develop a policy by June 30, 2006, detailing the consequences that will result for a student at school if the student is found to be in possession or drinking alcohol either on school property or while representing the school at extracurricular activities.

§ 160.261 R.S.Mo. Discipline, written policy established by local boards of education--contents--reporting requirements--additional restrictions for certain suspensions--weapons offense, mandatory suspension or expulsion--no civil liability for authorized personnel--spanking not child abuse, when--investigation procedure--officials falsifying reports, penalty

1. The local board of education of each school district shall clearly establish a written policy of discipline, including the district's determination on the use of corporal punishment and the procedures in which punishment will be applied. A written copy of the district's discipline policy and corporal punishment procedures, if applicable, shall be provided to the pupil and parent or legal guardian of every pupil enrolled in the district at the beginning of each school year and also made available in the office of the superintendent of such district, during normal business hours, for public inspection. All employees of the district shall annually receive instruction related to the specific contents of the policy of discipline and any interpretations necessary to implement the provisions of the policy in the course of their duties, including but not limited to approved methods of dealing with acts of school violence, disciplining students with disabilities and instruction in the necessity and requirements for confidentiality.

2. The policy shall also contain the consequences of failure to obey standards of conduct set by the local board of education, and the importance of the standards to the maintenance of an atmosphere where orderly learning is possible and encouraged.

9. Each school board shall define in its discipline policy acts of violence and any other acts that constitute a serious violation of that policy. "Acts of violence" as defined by school boards shall include but not be limited to exertion of physical force by a student with the intent to do serious bodily harm to another person while on school property, including a school bus in service on behalf of the district, or while involved in school activities. School districts shall for each student enrolled in the school district compile and maintain records of any serious violation of the district's discipline policy. Such records shall be made available to teachers and other school district employees with a need to know while acting within the scope of their assigned duties, and shall be provided as required in section 167.020 to any school district in which the student subsequently attempts to enroll.

§ 160.263 R.S.Mo. Confinement of a student prohibited, when--policy on restrictive behavioral interventions required--model policy to be developed

2. By July 1, 2011, the local board of education of each school district shall adopt a written policy that comprehensively addresses the use of restrictive behavioral interventions as a form of discipline or behavior management technique. The policy shall be consistent with professionally accepted practices and standards of student discipline, behavior management, health and safety, including the safe schools act. The policy shall include but not be limited to:

(1) Definitions of restraint, seclusion, and time-out and any other terminology necessary to describe the continuum of restrictive behavioral interventions available for use or prohibited in the district;

(2) Description of circumstances under which a restrictive behavioral intervention is allowed and prohibited and any unique application requirements for specific groups of students such as differences based on age, disability, or environment in which the educational services are provided;

(3) Specific implementation requirements associated with a restrictive behavioral intervention such as time limits, facility specifications, training requirements or supervision requirements; and

(4) Documentation, notice and permission requirements associated with use of a restrictive behavioral intervention.

§ 160.660 R.S.Mo. School safety provisions—rules

1. On or before July 1, 2001, the state board of education shall add to any school facilities and safety criteria developed for the Missouri school improvement program provisions that require:

(1) Each school district's designated safety coordinator to have a thorough knowledge of all federal, state and local school violence prevention programs and resources available to students, teachers or staff in the district; and

(2) Each school district to fully utilize all such programs and resources that the local school board or its designee determines are necessary and cost-effective for the school district.

§ 160.775 R.S.Mo. Antibullying policy required--definition—requirements

1. Every district shall adopt an antibullying policy by September 1, 2007.

§ 161.209 R.S.Mo. (2013) Rules and policies, department has affirmative duty to seek comment on--review of existing rules and policies, procedure--no penalty for failure to meet resource standards, when

1. The department of elementary and secondary education has an affirmative duty to seek comment on its rules, regulations, and policies after their final approval or implementation. The department shall undertake such review on existing rules, regulations, and policies on an ad hoc, periodic basis with a priority given to such rules, regulations, and policies that could successfully be revised without affecting student achievement to accommodate periods when there is no increase in the appropriation for basic state aid funding pursuant to section 163.031 from one fiscal year to the next or when withholdings of appropriated funds result in a situation equivalent to no increase in such appropriation.

§ 161.210 R.S.Mo. (2013) State board may modify or waive rules, when

State board may modify or waive rules, when

1. Notwithstanding any provision of law to the contrary, the state board of education is hereby granted authority to waive or modify any administrative rule adopted by the state board or policy implemented by the department of elementary and secondary education. School districts may submit applications for a waiver or modification authorized pursuant to this section. Each application shall include a written request by the school district or school districts and shall demonstrate that the intent of the rule or policy can be addressed in a more effective, efficient or economical manner or that the waiver or modification is necessary to implement a specific plan for improved student performance and school improvement. Prior to an application for waiver, the school district shall hold a public hearing regarding such waiver.

2. The state board of education may grant waivers or modifications for a school district or school districts that successfully demonstrate the ability to address the intent of the rule or policy in a more effective, efficient or economical manner or when the waivers or modifications are demonstrated to be necessary to stimulate innovation or improve student performance, provided that the waiver or modification is based

upon sound educational practices, does not endanger the health and safety of students or staff, and does not compromise equal opportunity for learning. Approved waivers or modifications shall remain in effect for a period not to exceed three school years and may be renewed by the state board of education upon application by the school district or school districts.

§ 171.011 R.S.Mo. School board may adopt rules and regulations

The school board of each school district in the state may make all needful rules and regulations for the organization, grading and government in the school district. The rules shall take effect when a copy of the rules, duly signed by order of the board, is deposited with the district clerk. The district clerk shall transmit forthwith a copy of the rules to the teachers employed in the schools. The rules may be amended or repealed in like manner.

Scope

STATUTES

§ 160.261 R.S.Mo. Discipline, written policy established by local boards of education--contents--reporting requirements--additional restrictions for certain suspensions--weapons offense, mandatory suspension or expulsion--no civil liability for authorized personnel--spanking not child abuse, when--investigation procedure--officials falsifying reports, penalty

2. […] As used in this section, the phrase "act of school violence" or "violent behavior" means the exertion of physical force by a student with the intent to do serious physical injury as defined in subdivision (6) of section 565.002 to another person while on school property, including a school bus in service on behalf of the district, or while involved in school activities.

7. All school district personnel responsible for the care and supervision of students are authorized to hold every pupil strictly accountable for any disorderly conduct in school or on any property of the school, on any school bus going to or returning from school, during school-sponsored activities, or during intermission or recess periods.

9. Each school board shall define in its discipline policy acts of violence and any other acts that constitute a serious violation of that policy. "Acts of violence" as defined by school boards shall include but not be limited to exertion of physical force by a student with the intent to do serious bodily harm to another person while on school property, including a school bus in service on behalf of the district, or while involved in school activities. […]

Communication of policy

STATUTES

§ 160.261 R.S.Mo. Discipline, written policy established by local boards of education--contents--reporting requirements--additional restrictions for certain suspensions--weapons offense, mandatory suspension or expulsion--no civil liability for authorized personnel--spanking not child abuse, when--investigation procedure--officials falsifying reports, penalty

1. […] A written copy of the district's discipline policy and corporal punishment procedures, if applicable, shall be provided to the pupil and parent or legal guardian of every pupil enrolled in the district at the beginning of each school year and also made available in the office of the superintendent of such district, during normal business hours, for public inspection. All employees of the district shall annually receive instruction related to the specific contents of the policy of discipline and any interpretations necessary to implement the provisions of the policy in the course of their duties, including but not limited to approved

methods of dealing with acts of school violence, disciplining students with disabilities and instruction in the necessity and requirements for confidentiality.

In-School Discipline

Use of multi-tiered discipline approaches

No relevant statutes found.

Teacher authority to remove students from classrooms

No relevant statutes found.

Alternatives to suspension

STATUTES

§ 167.164 R.S.Mo. (2013) Suspension or expulsion not to relieve duty to educate--district to pay costs of alternative education--voucher--district may contract for alternative education services

1. Any suspension issued pursuant to section 167.161, or this section, or expulsion pursuant to section 167.161, shall not relieve the state or the suspended student's parents or guardians of their responsibilities to educate the student. School districts are encouraged to provide an in-school suspension system and to search for other acceptable discipline alternatives prior to using suspensions of more than ten days or expelling a student from the school.

Use of corporal punishment

STATUTES

§ 160.261 R.S.Mo. Discipline, written policy established by local boards of education--contents--reporting requirements--additional restrictions for certain suspensions--weapons offense, mandatory suspension or expulsion--no civil liability for authorized personnel--spanking not child abuse, when--investigation procedure--officials falsifying reports, penalty

1. The local board of education of each school district shall clearly establish a written policy of discipline, including the district's determination on the use of corporal punishment and the procedures in which punishment will be applied. A written copy of the district's discipline policy and corporal punishment procedures, if applicable, shall be provided to the pupil and parent or legal guardian of every pupil enrolled in the district at the beginning of each school year and also made available in the office of the superintendent of such district, during normal business hours, for public inspection. All employees of the district shall annually receive instruction related to the specific contents of the policy of discipline and any interpretations necessary to implement the provisions of the policy in the course of their duties, including but not limited to approved methods of dealing with acts of school violence, disciplining students with disabilities and instruction in the necessity and requirements for confidentiality.

10. Spanking, when administered by certificated personnel and in the presence of a witness who is an employee of the school district, or the use of reasonable force to protect persons or property, when administered by personnel of a school district in a reasonable manner in accordance with the local board of education's written policy of discipline, is not abuse within the meaning of chapter 210. The provisions of sections 210.110 to 210.165 notwithstanding, the children's division shall not have jurisdiction over or investigate any report of alleged child abuse arising out of or related to the use of reasonable force to protect persons or property when administered by personnel of a school district or any spanking administered in a reasonable manner by any certificated school personnel in the presence of a witness

who is an employee of the school district pursuant to a written policy of discipline established by the board of education of the school district, as long as no allegation of sexual misconduct arises from the spanking or use of force.

§ 563.061 R.S.Mo. Use of force by persons with responsibility for care, discipline or safety of others

The use of physical force by an actor upon another person is justifiable when the actor is a parent, guardian or other person entrusted with the care and supervision of a minor or an incompetent person or when the actor is a teacher or other person entrusted with the care and supervision of a minor for a special purpose; and

(1) The actor reasonably believes that the force used is necessary to promote the welfare of a minor or incompetent person, or, if the actor's responsibility for the minor is for special purposes, to further that special purpose or to maintain reasonable discipline in a school, class or other group; and

(2) The force used is not designed to cause or believed to create a substantial risk of causing death, serious physical injury, disfigurement, extreme pain or extreme emotional distress.

Use of student and locker searches

STATUTES

§ 167.166 R.S.Mo. Prohibition on strip searches, exceptions--strip search defined--violation, penalty--prohibition on removal of certain items not deemed disruptive

1. Except as provided in subsections 2 and 3 of this section, no employee of or volunteer at any public school or charter school within this state shall perform a strip search, as that term is defined in section 544.193, of any student of any such school. However, strip searches may be conducted by, or under the authority of, a commissioned law enforcement officer.

2. A student may be strip searched by a school employee only if a commissioned law enforcement officer is not immediately available and if the school employee reasonably believes that a student possesses a weapon, explosive, or substance that poses an imminent threat of physical harm to himself or herself or another person.

3. For the purposes of this section, the term "strip search" shall not include the removal of clothing in order to investigate the potential abuse or neglect of a student; give medical attention to a student; provide health services to a student; or screen a student for medical conditions.

4. If a student is strip searched by an employee of a school or a commissioned law enforcement officer, the district will attempt to notify the student's parent or guardian as soon as possible.

Other in-school disciplinary approaches

No relevant statutes found.

Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements

Grounds for possible suspension or expulsion

STATUTES

§ 167.161 R.S.Mo. Suspension or expulsion of pupil--notice--hearing--felony violation, grounds for suspension

1. The school board of any district, after notice to parents or others having custodial care and a hearing upon charges preferred, may suspend or expel a pupil for conduct which is prejudicial to good order and discipline in the schools or which tends to impair the morale or good conduct of the pupils. In addition to the authority granted in section 167.171, a school board may authorize, by general rule, the immediate removal of a pupil upon a finding by the principal, superintendent, or school board that the pupil poses a threat of harm to such pupil or others, as evidenced by the prior conduct of such pupil. […]

2. The school board of any district, after notice to parents or others having custodial care and a hearing upon the matter, may suspend a pupil upon a finding that the pupil has been charged, convicted or pled guilty in a court of general jurisdiction for the commission of a felony criminal violation of state or federal law. At a hearing required by this subsection, the board shall consider statements that the parties present. The board may provide for the procedure and conduct of such hearings.

§ 171.141 R.S.Mo. Fraternities and sororities may be barred—enforcement

3. Upon the adoption of the rule authorized by subsection 2, the school board may suspend, discipline and expel from the schools under its control, any pupil who remains a member of, who joins or promises to join, or who becomes pledged to become a member, or who solicits any other person to join, promise to join or be pledged or to become a member of a school fraternity or sorority. Upon direction of the board, by rule or otherwise, the superintendent of schools may suspend and discipline any person who violates the rule authorized by subsection 2 until the time that the matter is considered by the board.

For definitions see § 171.141 R.S.Mo. (2013) (1).

Grounds for mandatory suspension or expulsion

STATUTES

§ 160.261 R.S.Mo. Discipline, written policy established by local boards of education--contents--reporting requirements--additional restrictions for certain suspensions--weapons offense, mandatory suspension or expulsion--no civil liability for authorized personnel--spanking not child abuse, when--investigation procedure--officials falsifying reports, penalty

5. The policy shall provide for a suspension for a period of not less than one year, or expulsion, for a student who is determined to have brought a weapon to school, including but not limited to the school playground or the school parking lot, brought a weapon on a school bus or brought a weapon to a school activity whether on or off of the school property in violation of district policy, except that:

(1) The superintendent or, in a school district with no high school, the principal of the school which such child attends may modify such suspension on a case-by-case basis; and

(2) This section shall not prevent the school district from providing educational services in an alternative setting to a student suspended under the provisions of this section.

Limitations, conditions or exclusions for use of suspension and expulsion

STATUTES

§ 160.261 R.S.Mo. Discipline, written policy established by local boards of education--contents--reporting requirements--additional restrictions for certain suspensions--weapons offense, mandatory suspension or expulsion--no civil liability for authorized personnel--spanking not child abuse, when--investigation procedure--officials falsifying reports, penalty

5. The policy shall provide for a suspension for a period of not less than one year, or expulsion, for a student who is determined to have brought a weapon to school, including but not limited to the school playground or the school parking lot, brought a weapon on a school bus or brought a weapon to a school activity whether on or off of the school property in violation of district policy, except that:

(1) The superintendent or, in a school district with no high school, the principal of the school which such child attends may modify such suspension on a case-by-case basis; and

(2) This section shall not prevent the school district from providing educational services in an alternative setting to a student suspended under the provisions of this section.

§ 167.171 R.S.Mo. Summary suspension of pupil--appeal--grounds for suspension--procedure--conference required, when--statewide suspension, when

1. The school board in any district, by general rule and for the causes provided in section 167.161, may authorize the summary suspension of pupils by principals of schools for a period not to exceed ten school days and by the superintendent of schools for a period not to exceed one hundred and eighty school days.

Administrative procedures related to suspension and expulsion

STATUTES

§ 160.261 R.S.Mo. Discipline, written policy established by local boards of education--contents--reporting requirements--additional restrictions for certain suspensions--weapons offense, mandatory suspension or expulsion--no civil liability for authorized personnel--spanking not child abuse, when--investigation procedure--officials falsifying reports, penalty

3. The policy shall provide that any student who is on suspension for any of the offenses listed in subsection 2 of this section or any act of violence or drug-related activity defined by school district policy as a serious violation of school discipline pursuant to subsection 9 of this section shall have as a condition of his or her suspension the requirement that such student is not allowed, while on such suspension, to be within one thousand feet of any school property in the school district where such student attended school or any activity of that district, regardless of whether or not the activity takes place on district property unless:

(1) Such student is under the direct supervision of the student's parent, legal guardian, or custodian and the superintendent or the superintendent's designee has authorized the student to be on school property;

(2) Such student is under the direct supervision of another adult designated by the student's parent, legal guardian, or custodian, in advance, in writing, to the principal of the school which suspended the student and the superintendent or the superintendent's designee has authorized the student to be on school property;

(3) Such student is enrolled in and attending an alternative school that is located within one thousand feet of a public school in the school district where such student attended school; or

(4) Such student resides within one thousand feet of any public school in the school district where such student attended school in which case such student may be on the property of his or her residence without direct adult supervision.

4. Any student who violates the condition of suspension required pursuant to subsection 3 of this section may be subject to expulsion or further suspension pursuant to the provisions of sections 167.161, 167.164, and 167.171. In making this determination consideration shall be given to whether the student poses a threat to the safety of any child or school employee and whether such student's unsupervised presence within one thousand feet of the school is disruptive to the educational process or undermines the effectiveness of the school's disciplinary policy. Removal of any pupil who is a student with a disability is subject to state and federal procedural rights. This section shall not limit a school district's ability to:

(1) Prohibit all students who are suspended from being on school property or attending an activity while on suspension;

(2) Discipline students for off-campus conduct that negatively affects the educational environment to the extent allowed by law.

5. The policy shall provide for a suspension for a period of not less than one year, or expulsion, for a student who is determined to have brought a weapon to school, including but not limited to the school playground or the school parking lot, brought a weapon on a school bus or brought a weapon to a school activity whether on or off of the school property in violation of district policy, except that:

(1) The superintendent or, in a school district with no high school, the principal of the school which such child attends may modify such suspension on a case-by-case basis; and

(2) This section shall not prevent the school district from providing educational services in an alternative setting to a student suspended under the provisions of this section.

§ 167.023 R.S.Mo. Affidavit of expulsion for certain offenses required for student admission--false statements, penalty

Prior to admission to any public school, a school board may require the parent, guardian, or other person having control or charge of a child of school age to provide, upon enrollment, a sworn statement or affirmation indicating whether the student has been expelled from school attendance at any school, public or private, in this state or in any other state for an offense in violation of school board policies relating to weapons, alcohol or drugs, or for the willful infliction of injury to another person. Any person making a materially false statement or affirmation shall be guilty upon conviction of a class B misdemeanor. The registration document shall be maintained as a part of the student's scholastic record.

§ 167.161 R.S.Mo. Suspension or expulsion of pupil--notice--hearing--felony violation, grounds for suspension

1. The school board of any district, after notice to parents or others having custodial care and a hearing upon charges preferred, may suspend or expel a pupil for conduct which is prejudicial to good order and discipline in the schools or which tends to impair the morale or good conduct of the pupils. In addition to the authority granted in section 167.171, a school board may authorize, by general rule, the immediate removal of a pupil upon a finding by the principal, superintendent, or school board that the pupil poses a threat of harm to such pupil or others, as evidenced by the prior conduct of such pupil. Prior disciplinary actions shall not be used as the sole basis for removal, suspension or expulsion of a pupil. Removal of any pupil who is a student with a disability is subject to state and federal procedural rights. At the hearing upon any such removal, suspension or expulsion, the board shall consider the evidence and statements that the parties present and may consider records of past disciplinary actions, criminal court records or

juvenile court records consistent with other provisions of the law, or the actions of the pupil which would constitute a criminal offense. The board may provide by general rule not inconsistent with this section for the procedure and conduct of such hearings. After meeting with the superintendent or his designee to discuss the expulsion, the parent, custodian or the student, if at least eighteen years of age, may, in writing, waive any right to a hearing before the board of education.

3. The school board shall make a good-faith effort to have the parents or others having custodial care present at any such hearing. Notwithstanding any other provision of law to the contrary, student discipline hearings or proceedings related to the rights of students to attend school or to receive academic credit shall not be required to comply with the requirements applicable to contested case hearings as provided in chapter 536, provided that appropriate due process procedures shall be observed which shall include the right for a trial de novo by the circuit court.

4. If a pupil is attempting to enroll in a school district during a suspension or expulsion from another in-state or out-of-state school district including a private, charter or parochial school or school district, a conference with the superintendent or the superintendent's designee may be held at the request of the parent, court-appointed legal guardian, someone acting as a parent as defined by rule in the case of a special education student, or the pupil to consider if the conduct of the pupil would have resulted in a suspension or expulsion in the district in which the pupil is enrolling. Upon a determination by the superintendent or the superintendent's designee that such conduct would have resulted in a suspension or expulsion in the district in which the pupil is enrolling or attempting to enroll, the school district may make such suspension or expulsion from another school or district effective in the district in which the pupil is enrolling or attempting to enroll. Upon a determination by the superintendent or the superintendent's designee that such conduct would not have resulted in a suspension or expulsion in the district in which the student is enrolling or attempting to enroll, the school district shall not make such suspension or expulsion effective in its district in which the student is enrolling or attempting to enroll.

§ 167.171 R.S.Mo. Summary suspension of pupil--appeal--grounds for suspension--procedure--conference required, when--statewide suspension, when

1. In case of a suspension by the superintendent for more than ten school days, the pupil, the pupil's parents or others having such pupil's custodial care may appeal the decision of the superintendent to the board or to a committee of board members appointed by the president of the board which shall have full authority to act in lieu of the board. Any suspension by a principal shall be immediately reported to the superintendent who may revoke the suspension at any time. In event of an appeal to the board, the superintendent shall promptly transmit to it a full report in writing of the facts relating to the suspension, the action taken by the superintendent and the reasons therefor and the board, upon request, shall grant a hearing to the appealing party to be conducted as provided in section 167.161.

2. No pupil shall be suspended unless:

(1) The pupil shall be given oral or written notice of the charges against such pupil;

(2) If the pupil denies the charges, such pupil shall be given an oral or written explanation of the facts which form the basis of the proposed suspension;

(3) The pupil shall be given an opportunity to present such pupil's version of the incident; and

(4) In the event of a suspension for more than ten school days, where the pupil gives notice that such pupil wishes to appeal the suspension to the board, the suspension shall be stayed until the board renders its decision, unless in the judgment of the superintendent of schools, or of the district superintendent, the pupil's presence poses a continuing danger to persons or property or an ongoing threat of disrupting the academic process, in which case the pupil may be immediately removed from school, and the notice and hearing shall follow as soon as practicable.

In-school suspension

No relevant statutes found.

Return to school following removal

STATUTES

§ 167.171 R.S.Mo. Summary suspension of pupil--appeal--grounds for suspension--procedure--conference required, when--statewide suspension, when

3. No school board shall readmit or enroll a pupil properly suspended for more than ten consecutive school days for an act of school violence as defined in subsection 2 of section 160.261 regardless of whether or not such act was committed at a public school or at a private school in this state, provided that such act shall have resulted in the suspension or expulsion of such pupil in the case of a private school, or otherwise permit such pupil to attend school without first holding a conference to review the conduct that resulted in the expulsion or suspension and any remedial actions needed to prevent any future occurrences of such or related conduct. The conference shall include the appropriate school officials including any teacher employed in that school or district directly involved with the conduct that resulted in the suspension or expulsion, the pupil, the parent or guardian of the pupil or any agency having legal jurisdiction, care, custody or control of the pupil. The school board shall notify in writing the parents or guardians and all other parties of the time, place, and agenda of any such conference. Failure of any party to attend this conference shall not preclude holding the conference. Notwithstanding any provision of this subsection to the contrary, no pupil shall be readmitted or enrolled to a regular program of instruction if:

(1) Such pupil has been convicted of; or

(2) An indictment or information has been filed alleging that the pupil has committed one of the acts enumerated in subdivision (4) of this subsection to which there has been no final judgment; or

(3) A petition has been filed pursuant to section 211.091 alleging that the pupil has committed one of the acts enumerated in subdivision (4) of this subsection to which there has been no final judgment; or

(4) The pupil has been adjudicated to have committed an act which if committed by an adult would be one of the following:

(a) First degree murder under section 565.020;

(b) Second degree murder under section 565.021;

(c) First degree assault under section 565.050;

(d) Forcible rape under section 566.030;

(e) Forcible sodomy under section 566.060;

(f) Statutory rape under section 566.032;

(g) Statutory sodomy under section 566.062;

(h) Robbery in the first degree under section 569.020;

(i) Distribution of drugs to a minor under section 195.212;

(j) Arson in the first degree under section 569.040;

(k) Kidnapping, when classified as a class A felony under section 565.110.

Nothing in this subsection shall prohibit the readmittance or enrollment of any pupil if a petition has been dismissed, or when a pupil has been acquitted or adjudicated not to have committed any of the above acts. This subsection shall not apply to a student with a disability, as identified under state eligibility

criteria, who is convicted or adjudicated guilty as a result of an action related to the student's disability. Nothing in this subsection shall be construed to prohibit a school district which provides an alternative education program from enrolling a pupil in an alternative education program if the district determines such enrollment is appropriate.

Use of restraint and seclusion

STATUTES

§ 160.263 R.S.Mo. Confinement of a student prohibited, when--policy on restrictive behavioral interventions required--model policy to be developed

1. The school discipline policy under section 160.261 shall prohibit confining a student in an unattended, locked space except for an emergency situation while awaiting the arrival of law enforcement personnel.

2. By July 1, 2011, the local board of education of each school district shall adopt a written policy that comprehensively addresses the use of restrictive behavioral interventions as a form of discipline or behavior management technique. The policy shall be consistent with professionally accepted practices and standards of student discipline, behavior management, health and safety, including the safe schools act. The policy shall include but not be limited to:

(1) Definitions of restraint, seclusion, and time-out and any other terminology necessary to describe the continuum of restrictive behavioral interventions available for use or prohibited in the district;

(2) Description of circumstances under which a restrictive behavioral intervention is allowed and prohibited and any unique application requirements for specific groups of students such as differences based on age, disability, or environment in which the educational services are provided;

(3) Specific implementation requirements associated with a restrictive behavioral intervention such as time limits, facility specifications, training requirements or supervision requirements; and

(4) Documentation, notice and permission requirements associated with use of a restrictive behavioral intervention.

3. The department of elementary and secondary education shall, in cooperation with appropriate associations, organizations, agencies and individuals with specialized expertise in behavior management, develop a model policy that satisfies the requirements of subsection 2 of this section by July 1, 2010.

Alternative placements

STATUTES

§ 167.164 R.S.Mo. Suspension or expulsion not to relieve duty to educate--district to pay costs of alternative education--voucher--district may contract for alternative education services

1. Each school district or special school district constituting the domicile of any child for whom alternative education programs are provided or procured under this section shall pay toward the per pupil costs for alternative education programs for such child. A school district which is not a special school district shall pay an amount equal to the average sum produced per child by the local tax effort of the district of domicile. A special school district shall pay an amount not to exceed the average sum produced per child by the local tax efforts of the domiciliary districts. When educational services have been provided by the school district or special school district in which a child actually resides, other than the district of domicile, the amounts as provided in subsection 2 of this section* for which the domiciliary school district or special school district is responsible shall be paid by such district directly to the serving district. The school district, or special school district, as the case may be, shall send a written voucher for payment to the

regular or special district constituting the domicile of the child served and the domiciliary school district or special school district receiving such voucher shall pay the district providing or procuring the services an amount not to exceed the average sum produced per child by the local tax efforts of the domiciliary districts. In the event the responsible district fails to pay the appropriate amount to the district within ninety days after a voucher is submitted, the state department of elementary and secondary education shall deduct the appropriate amount due from the next payments of any state financial aid due that district and shall pay the same to the appropriate district.

2. A school district may contract with other political subdivisions, public agencies, not-for-profit organizations, or private agencies for the provision of alternative education services for students whose demonstrated disruptive behavior indicates that they cannot be adequately served in the traditional classroom setting. Such contracting may be included as part of a grant application pursuant to section 167.335 or conducted independent of the provisions of section 167.335.

§ 167.091 R.S.Mo. Truant or parental schools, establishment--attendance may be compelled--neglected children, attendance--support payments

1. The school board of any district which has ten thousand inhabitants or more, may establish and maintain from the public school funds one or more special truant or parental day schools in the city or district for children who are either habitual truants from any school in which they are enrolled as pupils, or who, while in attendance at any school are incorrigible, vicious or immoral, or who habitually wander or loiter about the streets or roads or other public places without lawful employment, or who, in the opinion of the board or of its superintendent of instruction, require special attention and instruction. The school board, through its officers, may assign, require and compel all such children to attend the special truant or parental school or any department of the graded schools that the board directs.

2. The board may also establish and maintain from the public school funds, either within or without its district, a parental school for the care and education of any child resident of the school district and committed to it by a juvenile court under the provisions of section 211.181. For every child committed to the school there shall be paid to the board of education out of the treasury of the city or county the sum of ten dollars per month for the support, maintenance, clothing and other expenses of the child from the time of its entrance into the school until its discharge therefrom.

Disciplinary Approaches Addressing Specific Infractions and Conditions

Firearms (as required by the Guns-Free Schools Act)

STATUTES

§ 160.261 R.S.Mo. Discipline, written policy established by local boards of education--contents--reporting requirements--additional restrictions for certain suspensions--weapons offense, mandatory suspension or expulsion--no civil liability for authorized personnel--spanking not child abuse, when--investigation procedure--officials falsifying reports, penalty

5. The policy shall provide for a suspension for a period of not less than one year, or expulsion, for a student who is determined to have brought a weapon to school, including but not limited to the school playground or the school parking lot, brought a weapon on a school bus or brought a weapon to a school activity whether on or off of the school property in violation of district policy, except that:

(1) The superintendent or, in a school district with no high school, the principal of the school which such child attends may modify such suspension on a case-by-case basis; and

(2) This section shall not prevent the school district from providing educational services in an alternative setting to a student suspended under the provisions of this section.

6. For the purpose of this section, the term "weapon" shall mean a firearm as defined under 18 U.S.C. 921 and the following items, as defined in section 571.010: a blackjack, a concealable firearm, an explosive weapon, a firearm, a firearm silencer, a gas gun, a knife, knuckles, a machine gun, a projectile weapon, a rifle, a shotgun, a spring gun or a switchblade knife; except that this section shall not be construed to prohibit a school board from adopting a policy to allow a Civil War reenactor to carry a Civil War era weapon on school property for educational purposes so long as the firearm is unloaded. The local board of education shall define weapon in the discipline policy. Such definition shall include the weapons defined in this subsection but may also include other weapons.

Other weapons

STATUTES

§ 160.261 R.S.Mo. Discipline, written policy established by local boards of education--contents--reporting requirements--additional restrictions for certain suspensions--weapons offense, mandatory suspension or expulsion--no civil liability for authorized personnel--spanking not child abuse, when--investigation procedure--officials falsifying reports, penalty

5. The policy shall provide for a suspension for a period of not less than one year, or expulsion, for a student who is determined to have brought a weapon to school, including but not limited to the school playground or the school parking lot, brought a weapon on a school bus or brought a weapon to a school activity whether on or off of the school property in violation of district policy, except that:

(1) The superintendent or, in a school district with no high school, the principal of the school which such child attends may modify such suspension on a case-by-case basis; and

(2) This section shall not prevent the school district from providing educational services in an alternative setting to a student suspended under the provisions of this section.

6. For the purpose of this section, the term "weapon" shall mean a firearm as defined under 18 U.S.C. 921 and the following items, as defined in section 571.010: a blackjack, a concealable firearm, an explosive weapon, a firearm, a firearm silencer, a gas gun, a knife, knuckles, a machine gun, a projectile weapon, a rifle, a shotgun, a spring gun or a switchblade knife; except that this section shall not be construed to prohibit a school board from adopting a policy to allow a Civil War reenactor to carry a Civil War era weapon on school property for educational purposes so long as the firearm is unloaded. The local board of education shall define weapon in the discipline policy. Such definition shall include the weapons defined in this subsection but may also include other weapons.

Students with chronic disciplinary issues

No relevant statutes found.

Attendance and truancy

STATUTES

§ 167.111 R.S.Mo. Officials to enforce compulsory attendance law

The state commissioner of education, superintendents of schools, school boards, county superintendents of public welfare, and every school attendance and probation officer shall enforce all laws relating to compulsory school attendance.

§ 167.091 R.S.Mo. Truant or parental schools, establishment--attendance may be compelled--neglected children, attendance--support payments

1. The school board of any district which has ten thousand inhabitants or more, may establish and maintain from the public school funds one or more special truant or parental day schools in the city or district for children who are either habitual truants from any school in which they are enrolled as pupils, or who, while in attendance at any school are incorrigible, vicious or immoral, or who habitually wander or loiter about the streets or roads or other public places without lawful employment, or who, in the opinion of the board or of its superintendent of instruction, require special attention and instruction. The school board, through its officers, may assign, require and compel all such children to attend the special truant or parental school or any department of the graded schools that the board directs.

2. The board may also establish and maintain from the public school funds, either within or without its district, a parental school for the care and education of any child resident of the school district and committed to it by a juvenile court under the provisions of section 211.181. For every child committed to the school there shall be paid to the board of education out of the treasury of the city or county the sum of ten dollars per month for the support, maintenance, clothing and other expenses of the child from the time of its entrance into the school until its discharge therefrom.

§ 167.071 R.S.Mo. School attendance officers in seven-director districts, powers and duties--powers of police officers in certain areas

1. In school districts having seven or more directors the school board may appoint and remove at pleasure one or more school attendance officers and shall pay them from the public school funds.

2. Each attendance officer has the powers of a deputy sheriff in the performance of his duties. He shall investigate the claims of children for exemptions under section 167.031, and report his findings to the person authorized by that section to grant the exemption sought. He shall refer all cases involving an alleged violation of section 167.031 involving a public school to the superintendent of the public school of the district where the child legally resides and all cases involving an alleged violation of section 167.031 involving a private, parochial, parish or home school to the prosecuting attorney of the county wherein the

child legally resides. When reasonable doubt exists as to the age of any such child he may require a properly attested birth certificate or an affidavit stating the child's age, date of birth, physical characteristics and bearing the signature of the child. He may visit and enter any mine, office, factory, workshop, business house, place of amusement, or other place in which children are employed or engaged in any kind of service, or any place or building in which children loiter or idle during school hours; may require a properly attested certificate of the attendance of any child at school; may arrest, without warrant, any truant, or nonattendants or other juvenile disorderly persons, and place them in some school or take them to their homes, or take them to any place of detention provided for neglected children in the county or school district. He shall serve in the cases which he prosecutes without additional fee or compensation. Each attendance officer appointed by a school board shall carry into effect the regulations lawfully prescribed by the board by which he was appointed.

§ 167.034 R.S.Mo. Absences in St. Louis City reported to division of family services, children's division, when, notification requirements--duties of children's division

1. In any city not within a county where a child under the age of seventeen required to attend school under section 167.031 accumulates fifteen or more absences during any one school year, the child's school district shall report such absences to the division of family services, children's division, within ten business days of the fifteenth day of absence. Such notification, which shall be in written form and retained in the student's school records, shall include:

(1) The student's full name and parents' or guardians' full names;

(2) The addresses and phone numbers of the student and parents or guardians;

(3) The student's date of birth and age;

(4) The student's current school and grade level;

(5) The student's current grades for all classes in which the student is enrolled; and

(6) The total number of days missed and specific days missed from school.

2. Upon receipt of a report of the absences of a child under this section, the children's division shall notify the child's parent or guardian that the child has accumulated fifteen or more absences and such report may be subject to the educational neglect provisions under section 210.145. The notification required under this section is required regardless of whether a student's parent or guardian contacted the school and approved of the absences.

Substance use

STATUTES

§ 160.069 R.S.Mo. Policy on consequences of possession or drinking alcohol at school or during extracurricular activities

Every school district shall develop a policy by June 30, 2006, detailing the consequences that will result for a student at school if the student is found to be in possession or drinking alcohol either on school property or while representing the school at extracurricular activities.

Bullying, harassment, or hazing

STATUTES

§ 160.775 R.S.Mo. Antibullying policy required--definition—requirements

1. Every district shall adopt an antibullying policy by September 1, 2007.

2. "Bullying" means intimidation or harassment that causes a reasonable student to fear for his or her physical safety or property. Bullying may consist of physical actions, including gestures, or oral, cyberbullying, electronic, or written communication, and any threat of retaliation for reporting of such acts.

3. Each district's antibullying policy shall be founded on the assumption that all students need a safe learning environment. Policies shall treat students equally and shall not contain specific lists of protected classes of students who are to receive special treatment. Policies may include age-appropriate differences for schools based on the grade levels at the school. Each such policy shall contain a statement of the consequences of bullying.

4. Each district's antibullying policy shall require district employees to report any instance of bullying of which the employee has firsthand knowledge. The district policy shall address training of employees in the requirements of the district policy.

Other special infractions or conditions

No relevant statutes found.

Prevention and Behavioral Interventions (Non-Punitive)

Prevention

STATUTES

§ 161.203 R.S.Mo. Videotape to be produced on prison conditions and the young offender--rules for distribution to all districts--viewing required for all students and status offenders, exceptions

1. The department of corrections, in cooperation with the department of elementary and secondary education, shall prepare a film or videotape which relates to Missouri prisons and which specifically addresses prison conditions, young offenders and the liberties that are lost as a result of imprisonment. Funding for the film may be made from appropriations requested by the department of elementary and secondary education and approved by the Missouri general assembly from funding received from federal or private grants or donations received from private individuals or groups. No funding shall come from general revenue.

2. The department of elementary and secondary education shall promulgate rules and regulations to provide for the viewing of the film, prepared pursuant to subsection 1 of this section. Such rules and regulations shall attempt to make available such video or film to all districts requesting it, and require viewing by all status offenders or students convicted of misdemeanors, excluding traffic violations.

§ 161.650 R.S.Mo. Department to identify and adopt violence prevention program, district to administer--state board to adopt violence prevention program--duties--administered how—funding

1. The department of elementary and secondary education shall identify and adopt an existing program or programs of educational instruction regarding violence prevention to be administered by public school districts pursuant to subsection 2 of this section, and which shall include, but shall not be limited to, instructing students of the negative consequences, both to the individual and to society at large, of membership in or association with criminal street gangs or participation in criminal street gang activity, as those phrases are defined in section 578.421, and shall include related training for school district employees directly responsible for the education of students concerning violence prevention and early identification of and intervention in violent behavior. The state board of education shall adopt such program or programs by rule as approved for use in Missouri public schools. The program or programs of instruction shall encourage nonviolent conflict resolution of problems facing youth; present alternative constructive activities for the students; encourage community participation in program instruction, including but not limited to parents and law enforcement officials; and shall be administered as appropriate for different grade levels and shall not be offered for academic credit.

Behavioral interventions and student support services

No relevant statutes found.

Professional development

STATUTES

§ 160.261 R.S.Mo. Discipline, written policy established by local boards of education--contents--reporting requirements--additional restrictions for certain suspensions--weapons offense, mandatory suspension or expulsion--no civil liability for authorized personnel--spanking not child abuse, when--investigation procedure--officials falsifying reports, penalty

1. All employees of the district shall annually receive instruction related to the specific contents of the policy of discipline and any interpretations necessary to implement the provisions of the policy in the course of their duties, including but not limited to approved methods of dealing with acts of school violence, disciplining students with disabilities and instruction in the necessity and requirements for confidentiality. […]

Monitoring and Accountability

Formal incident reporting of conduct violations

STATUTES

§ 160.261 R.S.Mo. Discipline, written policy established by local boards of education--contents--reporting requirements--additional restrictions for certain suspensions--weapons offense, mandatory suspension or expulsion--no civil liability for authorized personnel--spanking not child abuse, when--investigation procedure--officials falsifying reports, penalty

2. The policy shall require school administrators to report acts of school violence to all teachers at the attendance center and, in addition, to other school district employees with a need to know. For the purposes of this chapter or chapter 167, "need to know" is defined as school personnel who are directly responsible for the student's education or who otherwise interact with the student on a professional basis while acting within the scope of their assigned duties. As used in this section, the phrase "act of school violence" or "violent behavior" means the exertion of physical force by a student with the intent to do serious physical injury as defined in subdivision (6) of section 565.002 to another person while on school property, including a school bus in service on behalf of the district, or while involved in school activities. […] The policy shall require that any portion of a student's individualized education program that is related to demonstrated or potentially violent behavior shall be provided to any teacher and other school district employees who are directly responsible for the student's education or who otherwise interact with the student on an educational basis while acting within the scope of their assigned duties.

9. […] School districts shall for each student enrolled in the school district compile and maintain records of any serious violation of the district's discipline policy. Such records shall be made available to teachers and other school district employees with a need to know while acting within the scope of their assigned duties, and shall be provided as required in section 167.020 to any school district in which the student subsequently attempts to enroll.

§ 167.026 R.S.Mo. Expungement of disciplinary records, exception

1. The state board of education shall adopt a policy relating to the expungement of disciplinary records of pupils who have graduated or reached the age of twenty-one years.

2. Any school district may adopt a policy consistent with the policy adopted pursuant to subsection 1 of this section.

3. No such policy shall allow the expungement of any act listed in subsection 1 of section 167.115 unless the petition regarding the act was dismissed or the pupil has been acquitted or adjudicated not to have committed the act.

Parental notification

STATUTES

§ 167.034 R.S.Mo. Absences in St. Louis City reported to division of family services, children's division, when, notification requirements--duties of children's division

1. In any city not within a county where a child under the age of seventeen required to attend school under section 167.031 accumulates fifteen or more absences during any one school year, the child's school district shall report such absences to the division of family services, children's division, within ten

business days of the fifteenth day of absence. Such notification, which shall be in written form and retained in the student's school records, shall include:

(1) The student's full name and parents' or guardians' full names;

(2) The addresses and phone numbers of the student and parents or guardians;

(3) The student's date of birth and age;

(4) The student's current school and grade level;

(5) The student's current grades for all classes in which the student is enrolled; and

(6) The total number of days missed and specific days missed from school.

2. Upon receipt of a report of the absences of a child under this section, the children's division shall notify the child's parent or guardian that the child has accumulated fifteen or more absences and such report may be subject to the educational neglect provisions under section 210.145. The notification required under this section is required regardless of whether a student's parent or guardian contacted the school and approved of the absences.

Reporting and referrals between schools and law enforcement

STATUTES

§ 160.261 R.S.Mo. Discipline, written policy established by local boards of education--contents--reporting requirements--additional restrictions for certain suspensions--weapons offense, mandatory suspension or expulsion--no civil liability for authorized personnel--spanking not child abuse, when--investigation procedure--officials falsifying reports, penalty

2. The policy shall at a minimum require school administrators to report, as soon as reasonably practical, to the appropriate law enforcement agency any of the following crimes, or any act which if committed by an adult would be one of the following crimes:

(1) First degree murder under section 565.020;

(2) Second degree murder under section 565.021;

(3) Kidnapping under section 565.110;

(4) First degree assault under section 565.050;

(5) Forcible rape under section 566.030;

(6) Forcible sodomy under section 566.060;

(7) Burglary in the first degree under section 569.160;

(8) Burglary in the second degree under section 569.170;

(9) Robbery in the first degree under section 569.020;

(10) Distribution of drugs under section 195.211;

(11) Distribution of drugs to a minor under section 195.212;

(12) Arson in the first degree under section 569.040;

(13) Voluntary manslaughter under section 565.023;

(14) Involuntary manslaughter under section 565.024;

(15) Second degree assault under section 565.060;

(16) Sexual assault under section 566.040;

(17) Felonious restraint under section 565.120;

(18) Property damage in the first degree under section 569.100;

(19) The possession of a weapon under chapter 571;

(20) Child molestation in the first degree pursuant to section 566.067;

(21) Deviate sexual assault pursuant to section 566.070;

(22) Sexual misconduct involving a child pursuant to section 566.083;

(23) Sexual abuse pursuant to section 566.100;

(24) Harassment under section 565.090; or

(25) Stalking under section 565.225; committed on school property, including but not limited to actions on any school bus in service on behalf of the district or while involved in school activities.

§ 167.115 R.S.Mo. Juvenile officer or other law enforcement authority to report to superintendent, when, how--superintendent to report certain acts, to whom--notice of suspension or expulsion to court--superintendent to consult

1. Notwithstanding any provision of chapter 211 or chapter 610 to the contrary, the juvenile officer, sheriff, chief of police or other appropriate law enforcement authority shall, as soon as reasonably practical, notify the superintendent, or the superintendent's designee, of the school district in which the pupil is enrolled when a petition is filed pursuant to subsection 1 of section 211.031 alleging that the pupil has committed one of the following acts:

(1) First degree murder under section 565.020;

(2) Second degree murder under section 565.021;

(3) Kidnapping under section 565.110;

(4) First degree assault under section 565.050;

(5) Forcible rape under section 566.030;

(6) Forcible sodomy under section 566.060;

(7) Burglary in the first degree under section 569.160;

(8) Robbery in the first degree under section 569.020;

(9) Distribution of drugs under section 195.211;

(10) Distribution of drugs to a minor under section 195.212;

(11) Arson in the first degree under section 569.040;

(12) Voluntary manslaughter under section 565.023;

(13) Involuntary manslaughter under section 565.024;

(14) Second degree assault under section 565.060;

(15) Sexual assault under section 566.040;

(16) Felonious restraint under section 565.120;

(17) Property damage in the first degree under section 569.100;

(18) The possession of a weapon under chapter 571;

(19) Child molestation in the first degree pursuant to section 566.067;

(20) Deviate sexual assault pursuant to section 566.070;

(21) Sexual misconduct involving a child pursuant to section 566.083; or

(22) Sexual abuse pursuant to section 566.100.

2. The notification shall be made orally or in writing, in a timely manner, no later than five days following the filing of the petition. If the report is made orally, written notice shall follow in a timely manner. The notification shall include a complete description of the conduct the pupil is alleged to have committed and

the dates the conduct occurred but shall not include the name of any victim. Upon the disposition of any such case, the juvenile office or prosecuting attorney or their designee shall send a second notification to the superintendent providing the disposition of the case, including a brief summary of the relevant finding of facts, no later than five days following the disposition of the case.

3. The superintendent or the designee of the superintendent shall report such information to teachers and other school district employees with a need to know while acting within the scope of their assigned duties. Any information received by school district officials pursuant to this section shall be received in confidence and used for the limited purpose of assuring that good order and discipline is maintained in the school. This information shall not be used as the sole basis for not providing educational services to a public school pupil.

4. The superintendent shall notify the appropriate division of the juvenile or family court upon any pupil's suspension for more than ten days or expulsion of any pupil that the school district is aware is under the jurisdiction of the court.

6. Upon the transfer of any pupil described in this section to any other school district in this state, the superintendent or the superintendent's designee shall forward the written notification given to the superintendent pursuant to subsection 2 of this section to the superintendent of the new school district in which the pupil has enrolled. Such written notification shall be required again in the event of any subsequent transfer by the pupil.

§ 167.117 R.S.Mo. Principal, teachers, school employees to report certain acts, to whom, exceptions--limit on liability—penalty

1. In any instance when any person is believed to have committed an act which if committed by an adult would be assault in the first, second or third degree, sexual assault, or deviate sexual assault against a pupil or school employee, while on school property, including a school bus in service on behalf of the district, or while involved in school activities, the principal shall immediately report such incident to the appropriate local law enforcement agency and to the superintendent, except in any instance when any person is believed to have committed an act which if committed by an adult would be assault in the third degree and a written agreement as to the procedure for the reporting of such incidents of third degree assault has been executed between the superintendent of the school district and the appropriate local law enforcement agency, the principal shall report such incident to the appropriate local law enforcement agency in accordance with such agreement.

2. In any instance when a pupil is discovered to have on or about such pupil's person, or among such pupil's possessions, or placed elsewhere on the school premises, including but not limited to the school playground or the school parking lot, on a school bus or at a school activity whether on or off of school property any controlled substance as defined in section 195.010 or any weapon as defined in subsection 6 of section 160.261 in violation of school policy, the principal shall immediately report such incident to the appropriate local law enforcement agency and to the superintendent.

3. In any instance when a teacher becomes aware of an assault as set forth in subsection 1 of this section or finds a pupil in possession of a weapon or controlled substances as set forth in subsection 2 of this section, the teacher shall immediately report such incident to the principal.

§ 167.122 R.S.Mo. Placed pupils, notification of district, distribution of information

1. Notwithstanding any provisions of chapter 211 or chapter 610 to the contrary the juvenile officer or an employee of the division of family services shall notify the school district that a child under judicial custody pursuant to subsection 3 of section 211.031 is being enrolled in that district or that a child already enrolled has been taken into judicial custody.

2. The notification shall be given to the superintendent of schools or a designee, either orally or in writing, at the time of enrollment or no later than five days following the court taking custody of the child under subsection 3 of section 211.031. If the report is made orally, written notice shall follow in a timely manner. The notification shall describe any conduct that involved physical force with the intent to do serious bodily harm to another person but shall not include the name of any victim other than the child.

3. The superintendent or a designee is authorized to share this information with teachers and other school district employees with a need to know while acting within the scope of their assigned duties pursuant to subsection 2 of section 160.261. Any information received by school district officials pursuant to this section shall be received in confidence and used for the limited purposes of assuring that good order and discipline is maintained in the school, or for intervention and counseling purposes for the benefit of the child. The information shall not be part of the child's permanent record. The information shall not be used as the sole basis for denying educational services to a pupil.

Disclosure of school records

STATUTES

§ 167.022 R.S.Mo. Request for records, placed pupils

Consistent with the provisions of section 167.020, within forty-eight hours of enrolling a nonresident pupil placed pursuant to sections 210.481 to 210.536, the school official enrolling a pupil, including any special education pupil, shall request those records required by district policy for student transfer and those discipline records required by subsection 7 of section 160.261 from all schools and other facilities previously attended by the pupil and from other state agencies as enumerated in section 210.518 and any entities involved with the placement of the student within the last twenty-four months. Any request for records under this section shall include, if applicable to the student, any records relating to an act of violence as defined under subsection 7 of section 160.262.

Data collection, review, and reporting of disciplinary policies and actions

No relevant statutes found.

School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers

Authority and power to implement school arrest

STATUTES

§ 162.215. School officers may be commissioned to enforce certain criminal laws (City of Blue Springs)

1. The school board of a district with its administrative headquarters located within a home rule city with more than forty-eight thousand but fewer than forty-nine thousand inhabitants may authorize and commission school officers to enforce laws relating to crimes committed on school premises, at school activities, and on school buses operating within the school district only upon the execution of a memorandum of understanding with each municipal law enforcement agency and county sheriff's office which has law enforcement jurisdiction over the school district's premises and location of school activities, provided that the memorandum shall not grant statewide arrest authority. School officers shall be licensed peace officers, as defined in section 590.010, and shall comply with the provisions of chapter 590. The powers and duties of a peace officer shall continue throughout the employee's tenure as a school officer.

2. School officers shall abide by district school board policies, all terms and conditions defined within the executed memorandum of understanding with each municipal law enforcement agency and county sheriff's office which has law enforcement jurisdiction over the school district's premises and location of school activities, and shall consult with and coordinate activities through the school superintendent or the superintendent's designee. School officers' authority shall be limited to crimes committed on school premises, at school activities, and on school buses operating within the jurisdiction of the executed memorandum of understanding. All crimes involving any sexual offense or any felony involving the threat or use of force shall remain under the authority of the local jurisdiction where the crime occurred. School officers may conduct any justified stop on school property and enforce any local violation that occurs on school grounds. School officers shall have the authority to stop, detain, and arrest for crimes committed on school property, at school activities, and on school buses.

Certification or training

STATUTES

§ 162.215. School officers may be commissioned to enforce certain criminal laws (City of Blue Springs)

1. [...] School officers shall be licensed peace officers, as defined in section 590.010, and shall comply with the provisions of chapter 590. The powers and duties of a peace officer shall continue throughout the employee's tenure as a school officer.

MOUs, authorization, and/or funding

No relevant statutes found.

State Education Agency Support

State model policies and implementation support

STATUTES

§ 160.263 R.S.Mo. Confinement of a student prohibited, when--policy on restrictive behavioral interventions required--model policy to be developed

3. The department of elementary and secondary education shall, in cooperation with appropriate associations, organizations, agencies and individuals with specialized expertise in behavior management, develop a model policy that satisfies the requirements of subsection 2 of this section by July 1, 2010.

Funding appropriations

STATUTES

§ 161.650 R.S.Mo. Department to identify and adopt violence prevention program, district to administer--state board to adopt violence prevention program--duties--administered how—funding

3. Any district adopting and providing a program of instruction pursuant to this section [about violence prevention] shall be entitled to receive state aid pursuant to section 163.031. If such aid is determined by the department to be insufficient to implement any program or programs adopted by a district pursuant to this section:

(1) The department may fund the program or programs adopted pursuant to this section or pursuant to subsection 2 of section 160.530, or both, after securing any funding available from alternative sources; and

(2) School districts may fund the program or programs from funds received pursuant to subsection 1 of section 160.530.

§ 167.335 R.S.Mo. Alternative education grants--qualifications--joint applications

1. The state board of education shall establish a program to award grants to school districts that apply for assistance in providing alternative educational opportunities for students whose demonstrated disruptive behavior indicates that they cannot be adequately served in the traditional classroom setting. The board shall solicit applications from school districts and shall make grants from funds appropriated for that purpose in such amounts and on such terms as it determines best encourages the development of alternative education programs throughout the state. The board shall give preference to applications that demonstrate a need for alternative education services and stress:

(1) A comprehensive, kindergarten through grade twelve approach to preventing problems that result in the need for alternative education services;

(2) Rigorous instruction in core academic disciplines;

(3) Activities designed to enable the student to better perform in the regular classroom and to transition students back to the regular classroom when merited by their performance;

(4) A student-centered approach whereby activities are designed to meet the particular needs of individual students; and

(5) Collaboration with existing community-based service providers, such as cooperative education programs, school to work programs, parents-as-teachers programs, programs developed by the department of economic development and programs developed by local service delivery agencies, and

other governmental and private agencies to address student needs beyond those traditionally addressed by schools.

§ 167.280 R.S.Mo. Support services for students at high risk--application, elements--priority applications, elements--use of funds--allowable costs

1. Within the amounts appropriated therefor, the state board of education shall award funds for the purpose of providing support services to pupils enrolled in public and nonpublic schools who are identified as having a high risk of dropping out of school. Such awards shall be made on a competitive basis to public institutions of higher education or consortia of public institutions in cooperation with school districts and not-for-profit community-based organizations. In areas of the state where public institutions of higher education are unable to provide appropriate services to high school pupils, the state board may award funds to not-for-profit community-based organizations in cooperation with school districts.

Other/Uncategorized

Professional immunity or liability

STATUTES

§ 160.261 R.S.Mo. Discipline, written policy established by local boards of education--contents--reporting requirements--additional restrictions for certain suspensions--weapons offense, mandatory suspension or expulsion--no civil liability for authorized personnel--spanking not child abuse, when--investigation procedure--officials falsifying reports, penalty

8. Teachers and other authorized district personnel in public schools responsible for the care, supervision, and discipline of schoolchildren, including volunteers selected with reasonable care by the school district, shall not be civilly liable when acting in conformity with the established policies developed by each board, including but not limited to policies of student discipline or when reporting to his or her supervisor or other person as mandated by state law acts of school violence or threatened acts of school violence, within the course and scope of the duties of the teacher, authorized district personnel or volunteer, when such individual is acting in conformity with the established policies developed by the board. Nothing in this section shall be construed to create a new cause of action against such school district, or to relieve the school district from liability for the negligent acts of such persons.

§ 167.115 R.S.Mo. Juvenile officer or other law enforcement authority to report to superintendent, when, how--superintendent to report certain acts, to whom--notice of suspension or expulsion to court--superintendent to consult

8. The superintendent or the designee of the superintendent or other school employee who, in good faith, reports information in accordance with the terms of this section and section 160.261 shall not be civilly liable for providing such information.

§ 167.117 R.S.Mo. Principal, teachers, school employees to report certain acts, to whom, exceptions--limit on liability—penalty

4. A school employee, superintendent or such person's designee who in good faith provides information to law enforcement or juvenile authorities pursuant to this section or section 160.261 shall not be civilly liable for providing such information.

Community input or involvement

No relevant statutes found.

Other/Uncategorized

No relevant statutes found.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by Missouri provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
Website		
No relevant resources found		
Documents		
Department of Elementary and Secondary Education model policy	Provides a model policy developed by the Department of Elementary and Secondary Education on the use of seclusion and restraint, as well as other responses to emergency or crisis situations, in which student and/or educator safety is at risk.	http://dese.mo.gov/schoollaw/documents/seclusionpolicy.pdf
Other Resources		
Missouri Center for Education Safety	CES is public-private partnership of the Missouri Department of Public Safety, Missouri Office of Homeland Security, and the Missouri School Boards' Association (MSBA) dedicated to enhancing various aspects of emergency planning, preparedness, and safety and security in public and nonpublic education—pre-K, K-12, and post-secondary	http://moces.org/index.php

Montana
Compilation of School Discipline Laws and Regulations

Prepared: August 12, 2013

Introduction

This compilation presents school discipline-related state statutes, school discipline-related regulations, and, where available, links to state-sponsored websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSLE). For example, one major category encompasses all state laws or regulations mandating specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of state legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in each state.

Discipline categories were not mutually exclusive. Statutes and regulations often appeared across multiple categories. For states with more extensive statutes covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. State laws, ordered by chapter and section number, appear first within each category followed by state regulations. All statutes and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists statutes by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to state-sponsored websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of May 2013, with the exception of the state laws related to seclusion and restraint, which are complete and current as of December 2012. Readers should also note that the information in this document was compiled from individual state sources that are created by each state and which are maintained and updated with varying frequencies. Readers should consult the source information provided for each state directly in order to check for updates to this state's laws and regulations or conduct further research.

Note: Per state review, Montana is a "local control" state, meaning that many public education decisions are made by school district administrations and school boards.

For further information, including definitions of the different policy categories, please refer to the Discipline Laws and Regulations Compendium posted on the Center's website.

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Safe Supportive Learning
Engagement | Safety | Environment

Table of Contents

Montana State Codes Cited **1**

General Provisions **3**

Authority to develop and establish rules of conduct 3
Scope 3
Communication of policy 3

In-School Discipline **5**

Use of multi-tiered discipline approaches 5
Teacher authority to remove students from classrooms 5
Alternatives to suspension 5
Use of corporal punishment 5
Use of student and locker searches 5
Other in-school disciplinary approaches 6

Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements **7**

Grounds for possible suspension or expulsion 7
Grounds for mandatory suspension or expulsion 7
Limitations, conditions or exclusions for use of suspension and expulsion 7
Administrative procedures related to suspension and expulsion 8
In-school suspension 8
Return to school following removal 8
Use of restraint and seclusion 8
Alternative placements 10

Disciplinary Approaches Addressing Specific Infractions and Conditions **11**

Firearms (as required by the Guns-Free Schools Act) 11
Other weapons 12
Students with chronic disciplinary issues 12
Attendance and truancy 12
Substance use 13
Bullying, harassment, or hazing 14
Other special infractions or conditions 14

Prevention and Behavioral Interventions (Non-Punitive) **15**

Prevention 15
Behavioral interventions and student support services 15
Professional development 15

Monitoring and Accountability **16**

Formal incident reporting of conduct violations 16
Parental notification 16
Reporting and referrals between schools and law enforcement 17
Disclosure of school records 17
Data collection, review, and reporting of disciplinary policies and actions 19

School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers 20
Authority and power to implement school arrest 20
Certification or training 21
MOUs, authorization, and/or funding 21
State Education Agency Support 22
State model policies and implementation support 22
Funding appropriations 22
Other/Uncategorized 23
Professional immunity or liability 23
Community input or involvement 23
Other/Uncategorized 23
State-Sponsored, Publicly Available Websites or Other Resources on School Discipline 24

Montana State Codes Cited

Montana Revised Statutes

Title 20. Education

Chapter 1. General Provisions

Part 2. Miscellaneous Provisions

20-1-213. Transfer of school records
20-1-220. Use of tobacco product in public school building or on public school property prohibited.

Chapter 4. Teachers, Superintendents, and Principals

Part 3. Teachers' Powers, Duties, and Privileges

20-4-302. Discipline and punishment of pupils -- definition of corporal punishment -- penalty – defense

Chapter 5. Pupils

Part 1. Attendance

20-5-104. Attendance officer
20-5-105. Attendance officer – powers and duties
20-5-106. Truancy
20-5-107. Incapacitated and indigent child attendance

Part 2. Duties – Suspension and Expulsion

20-5-201. Duties and sanctions
20-5-202. Suspension and expulsion
20-5-203. Secret organizations prohibited

Part 5. Enrollment of Pupil by Caretaker Relative

20-5-502. Enrollment by caretaker relative – residency – affidavit

Title 45. Crimes

Chapter 8. Offenses Against Public Order

Part 3. Weapons

45-8-361. Possession or allowing possession of weapon in school building -- exceptions -- penalties -- seizure and forfeiture or return authorized -- definitions

Montana Administrative Code

10. Education

Chapter 16. Special Education

Subchapter 33. Services

10.16.3346. Aversive treatment procedures

Chapter 55. Standards of accreditation

Subchapter 7. School leadership

10.55.701. Board of trustees

Subchapter 8. Educational opportunity

10.55.801. School climate

General Provisions

Authority to develop and establish rules of conduct

STATUTES

20-5-202. Suspension and expulsion.

(1) […] The trustees of the district shall adopt a policy defining the authority and procedure to be used by a teacher, superintendent, or principal in the suspension of a pupil and in defining the circumstances and procedures by which the trustees may expel a pupil.

(2) The trustees of a district shall adopt a policy for the expulsion of a student who is determined to have brought a firearm, as defined in 18 U.S.C. 921, to school and for referring the matter to the appropriate local law enforcement agency. […]

ADMINISTRATIVE CODE

10.55.801 School climate.

(1)The local board of trustees shall:

(a) develop policies, procedures, and rules that respect the rights of all learners, and promote an awareness of and concern for the well-being of others, and address bullying, intimidation, and harassment of students and school personnel;

Scope

STATUTES

20-4-302. Discipline and punishment of pupils -- definition of corporal punishment -- penalty -- defense.

(1) A teacher or principal has the authority to hold a pupil to a strict accountability for disorderly conduct in school, on the way to or from school, or during intermission or recess.

20-5-201. Duties and sanctions.

(1) A pupil:

(a) shall comply with the policies of the trustees and the rules of the school that the pupil attends;

(b) shall pursue the required course of instruction;

(c) shall submit to the authority of the teachers, principal, and district superintendent of the district; and

(d) is subject to the control and authority of the teachers, principal, and district superintendent while the pupil is in school or on school premises, on the way to and from school, or during intermission or recess.

Communication of policy

ADMINISTRATIVE CODE

10.55.701 Board of Trustees.

(2) Each school district shall make available to the staff and public:

(f) policies addressing bullying, hazing, intimidation, and harassment of students and meeting the requirements in ARM 10.55.719;

In-School Discipline

Use of multi-tiered discipline approaches

No relevant statutes found.

Teacher authority to remove students from classrooms

No relevant statutes found.

Alternatives to suspension

No relevant statutes found.

Use of corporal punishment

STATUTES

20-4-302. Discipline and punishment of pupils -- definition of corporal punishment -- penalty -- defense.

(2) For the purposes of this section, "corporal punishment" means knowingly and purposely inflicting physical pain on a pupil as a disciplinary measure.

(3) A person who is employed or engaged by a school district may not inflict or cause to be inflicted corporal punishment on a pupil.

(4) (a) A person who is employed or engaged by a school district may use physical restraint, defined as the placing of hands on a pupil in a manner that is reasonable and necessary to:

(i) quell a disturbance;

(ii) provide self-protection;

(iii) protect the pupil or others from physical injury;

(iv) obtain possession of a weapon or other dangerous object on the person of the pupil or within control of the pupil;

(v) maintain the orderly conduct of a pupil including but not limited to relocating a pupil in a waiting line, classroom, lunchroom, principal's office, or other on-campus facility; or

(vi) protect property from serious harm.

(b) Physical pain resulting from the use of physical restraint as defined in subsection (4)(a) does not constitute corporal punishment as long as the restraint is reasonable and necessary.

(7) If a person who is employed or engaged by a school district uses corporal punishment or more physical restraint than is reasonable or necessary, the person is guilty of a misdemeanor and, upon conviction of the misdemeanor by a court of competent jurisdiction, shall be fined not less than $25 or more than $500.

Use of student and locker searches

No relevant statutes found.

Other in-school disciplinary approaches

STATUTES

20-5-201. Duties and sanctions.

(4) (a) A school district may withhold the grades, diploma, or transcripts of a pupil who is responsible for the cost of school materials or the loss or damage of school property until the pupil or the pupil's parent or guardian satisfies the obligation.

(b) A school district that decides to withhold a pupil's grades, diploma, or transcripts from the pupil and the pupil's parent or guardian pursuant to subsection (4)(a) shall:

(i) upon receiving notice that the pupil has transferred to another school district in the state, notify the pupil's parent or guardian in writing that the school district to which the pupil has transferred will be requested to withhold the pupil's grades, diploma, or transcripts until any obligation has been satisfied;

(ii) forward appropriate grades or transcripts to the school to which the pupil has transferred;

(iii) at the same time, notify the school district of any financial obligation of the pupil and request the withholding of the pupil's grades, diploma, or transcripts until any obligations are met;

(iv) when the pupil or the pupil's parent or guardian satisfies the obligation, inform the school district to which the pupil has transferred; and

(v) adopt a policy regarding a process for a pupil or the pupil's parent or guardian to appeal the school district's decision to request that another school district withhold a pupil's grades, diploma, or transcripts.

20-5-202. Suspension and expulsion.

(4) Nothing in this section prevents a school district from:

(a) offering instructional activities related to firearms or allowing a firearm to be brought to school for instructional activities sanctioned by the district; or

(b) providing educational services in an alternative setting to a student who has been expelled from the student's regular school setting.

Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements

Grounds for possible suspension or expulsion

STATUTES

20-4-302. Discipline and punishment of pupils -- definition of corporal punishment -- penalty -- defense.

(2) A pupil who disobeys the provisions of this section, shows open defiance of the authority vested in school personnel by this section, defaces or damages any school building, school grounds, furniture, equipment, or book belonging to the district, harms or threatens to harm another person or the person's property, or otherwise violates district policy regarding pupil conduct is subject to punishment, suspension, or expulsion under the provisions of this title. When a pupil defaces or damages school property, the pupil's parent or guardian is liable for the cost of repair or replacement upon the complaint of the teacher, principal, superintendent, or any trustee and the proof of any damage.

20-5-202. Suspension and expulsion.

(1) As provided in 20-4-302, 20-4-402, and 20-4-403, a pupil may be suspended by a teacher, superintendent, or principal. The trustees of the district shall adopt a policy defining the authority and procedure to be used by a teacher, superintendent, or principal in the suspension of a pupil and in defining the circumstances and procedures by which the trustees may expel a pupil.

Grounds for mandatory suspension or expulsion

STATUTES

20-5-202. Suspension and expulsion.

(2) […] A student who is determined to have brought a firearm to school under this subsection must be expelled from school for a period of not less than 1 year, except that the trustees may authorize the school administration to modify the requirement for expulsion of a student on a case-by-case basis. A decision to change the placement of a student with a disability who has been expelled pursuant to this section must be made in accordance with the Individuals With Disabilities Education Act.
(3) In accordance with 20-4-302, 20-4-402, 20-4-403, and subsection (1) of this section, a teacher, a superintendent, or a principal shall suspend immediately for good cause a student who is determined to have brought a firearm to school.

Limitations, conditions or exclusions for use of suspension and expulsion

STATUTES

20-4-302. Discipline and punishment of pupils -- definition of corporal punishment -- penalty -- defense.

(5) A teacher in a district employing neither a district superintendent nor a principal at the school where the teacher is assigned has the authority to suspend a pupil for good cause. When either a district superintendent or a school principal is employed, only the superintendent or principal has the authority to

suspend a pupil for good cause. Whenever a teacher suspends a pupil, the teacher shall notify the trustees and the county superintendent immediately of the action.

20-5-202. Suspension and expulsion.

[...] A pupil may be suspended from school for an initial period not to exceed 10 school days. Upon a finding by a school administrator that the immediate return to school by a pupil would be detrimental to the health, welfare, or safety of others or would be disruptive of the educational process, a pupil may be suspended for one additional period not to exceed 10 school days if the pupil is granted an informal hearing with the school administrator prior to the additional suspension and if the decision to impose the additional suspension does not violate the Individuals With Disabilities Education Act, 20 U.S.C. 1400, et seq.

Administrative procedures related to suspension and expulsion

STATUTES

20-4-302. Discipline and punishment of pupils -- definition of corporal punishment -- penalty -- defense.

(5) A teacher in a district employing neither a district superintendent nor a principal at the school where the teacher is assigned has the authority to suspend a pupil for good cause. When either a district superintendent or a school principal is employed, only the superintendent or principal has the authority to suspend a pupil for good cause. Whenever a teacher suspends a pupil, the teacher shall notify the trustees and the county superintendent immediately of the action.

In-school suspension

No relevant statutes found.

Return to school following removal

No relevant statutes found.

Use of restraint and seclusion

STATUTES

20-4-302. Discipline and punishment of pupils -- definition of corporal punishment -- penalty -- defense.

(4) (a) A person who is employed or engaged by a school district may use physical restraint, defined as the placing of hands on a pupil in a manner that is reasonable and necessary to:

(i) quell a disturbance;

(ii) provide self-protection;

(iii) protect the pupil or others from physical injury;

(iv) obtain possession of a weapon or other dangerous object on the person of the pupil or within control of the pupil;

(v) maintain the orderly conduct of a pupil including but not limited to relocating a pupil in a waiting line, classroom, lunchroom, principal's office, or other on-campus facility; or

(vi) protect property from serious harm.

(b) Physical pain resulting from the use of physical restraint as defined in subsection (4)(a) does not constitute corporal punishment as long as the restraint is reasonable and necessary.

(7) If a person who is employed or engaged by a school district uses corporal punishment or more physical restraint than is reasonable or necessary, the person is guilty of a misdemeanor and, upon conviction of the misdemeanor by a court of competent jurisdiction, shall be fined not less than $25 or more than $500.

(8) A person named as a defendant in an action brought under this section may assert as an affirmative defense that the use of physical restraint was reasonable or necessary. If that defense is denied by the person bringing the charge, the issue of whether the restraint used was reasonable or necessary must be determined by the trier of fact.

ADMINISTRATIVE CODE

10.16.3346. Special Education. Aversive treatment procedures.

(1) Positive behavioral interventions based on the results of a functional behavioral assessment shall serve as the foundation for any program utilizing aversive procedures to address the behavioral needs of students. Aversive treatment procedures may be appropriate for an individual student who exhibits behaviors which pose a risk of physical harm to the student or others, or a risk of significant damage to property, or significantly disruptive or dangerous behaviors which cannot be modified solely through the use of positive behavioral interventions. Aversive treatment procedures must be designed to address the behavioral needs of an individual student, be approved by the IEP team, and may not be used as punishment, for the convenience of staff, or as a substitute for positive behavioral interventions.

(2) Aversive treatment procedures are defined as:

(a) physical restraint, other than as provided in 20-4-302, MCA, when the IEP team has determined that the frequency, intensity or duration of the restraint warrants an aversive treatment procedure; and

(b) isolation time-out which results in the removal of a student to an isolation room under the following conditions:

(i) the student is alone in the isolation room during the period of isolation;

(ii) the student is prevented from exiting the isolation room during the period of isolation;

(iii) the door to the isolation room remains closed during the period of isolation; and

(iv) the student is prohibited from participating in activities occurring outside the isolation room and from interacting with other students during the period of isolation.

(3) Any student in isolation time-out must be under the direct constant visual observation of a designated staff person throughout the entire period of isolation.

(4) The following procedures are prohibited:

(a) any procedure solely intended to cause physical pain;

(b) isolation in a locked room or mechanical restraint, except in residential treatment facilities and psychiatric hospitals as defined in 20-7-436, MCA, when prescribed by a physician as part of a treatment plan and when implemented in compliance with relevant federal and state law;

(c) the withholding of a meal for a period of greater than one hour from its scheduled starting time;

(d) aversive mists, noxious odors, and unpleasant tastes applied by spray or other means to cause an aversive physical sensation; and

(e) mechanical restraint that physically restricts a student's movement through the use upon the student of any mechanical or restrictive device which is not intended for medical reasons.

(5) Exclusion time-out is not considered an aversive treatment procedure. Exclusion time-out is defined as any removal of a student from a regularly scheduled activity for disciplinary purposes that does not result in placing the student in an isolation room under all of the conditions described in (2)(b).

(6) IEPs may include the use of aversive treatment procedures only when:

(a) subsequent to a functional behavioral assessment, a series of no less than two written positive behavioral intervention strategies, which were designed to target the behavior to be changed, were previously implemented;

(b) the IEP team includes a person trained and knowledgeable about best practices in the application of positive behavioral interventions, aversive treatment procedures and nonaversive alternatives for de-escalation of behaviors; and

(c) a written behavioral intervention plan using aversive treatment procedures is developed and incorporated as a part of the IEP.

Alternative placements

STATUTES

20-5-202. Suspension and expulsion.

(4) Nothing in this section prevents a school district from: [...]

(b) providing educational services in an alternative setting to a student who has been expelled from the student's regular school setting.

Disciplinary Approaches Addressing Specific Infractions and Conditions

Firearms (as required by the Guns-Free Schools Act)

STATUTES

20-5-202. Suspension and expulsion.

(2) The trustees of a district shall adopt a policy for the expulsion of a student who is determined to have brought a firearm, as defined in 18 U.S.C. 921, to school and for referring the matter to the appropriate local law enforcement agency. A student who is determined to have brought a firearm to school under this subsection must be expelled from school for a period of not less than 1 year, except that the trustees may authorize the school administration to modify the requirement for expulsion of a student on a case-by-case basis. A decision to change the placement of a student with a disability who has been expelled pursuant to this section must be made in accordance with the Individuals With Disabilities Education Act.

(3) In accordance with 20-4-302, 20-4-402, 20-4-403, and subsection (1) of this section, a teacher, a superintendent, or a principal shall suspend immediately for good cause a student who is determined to have brought a firearm to school.

(4) Nothing in this section prevents a school district from:

(a) offering instructional activities related to firearms or allowing a firearm to be brought to school for instructional activities sanctioned by the district;

45-8-361. Possession or allowing possession of weapon in school building -- exceptions -- penalties -- seizure and forfeiture or return authorized -- definitions.

(1) A person commits the offense of possession of a weapon in a school building if the person purposely and knowingly possesses, carries, or stores a weapon in a school building.

(2) A parent or guardian of a minor commits the offense of allowing possession of a weapon in a school building if the parent or guardian purposely and knowingly permits the minor to possess, carry, or store a weapon in a school building.

(3) (a) Subsection (1) does not apply to law enforcement personnel.

(b) The trustees of a district may grant persons and entities advance permission to possess, carry, or store a weapon in a school building.

(4) (a) A person convicted under this section shall be fined an amount not to exceed $500, imprisoned in the county jail for a term not to exceed 6 months, or both. The court shall consider alternatives to incarceration that are available in the community.

(b) (i) A weapon in violation of this section may be seized and, upon conviction of the person possessing or permitting possession of the weapon, may be forfeited to the state or returned to the lawful owner.

(ii) If a weapon seized under the provisions of this section is subsequently determined to have been stolen or otherwise taken from the owner's possession without permission, the weapon must be returned to the lawful owner.

(5) As used in this section:

(a) "school building" means all buildings owned or leased by a local school district that are used for instruction or for student activities. The term does not include a home school provided for in 20-5-109.

(b) "weapon" means any type of firearm, a knife with a blade 4 or more inches in length, a sword, a straight razor, a throwing star, nun-chucks, or brass or other metal knuckles. The term also includes any other article or instrument possessed with the purpose to commit a criminal offense.

Other weapons

STATUTES

45-8-361. Possession or allowing possession of weapon in school building -- exceptions -- penalties -- seizure and forfeiture or return authorized -- definitions.

(1) A person commits the offense of possession of a weapon in a school building if the person purposely and knowingly possesses, carries, or stores a weapon in a school building.

(2) A parent or guardian of a minor commits the offense of allowing possession of a weapon in a school building if the parent or guardian purposely and knowingly permits the minor to possess, carry, or store a weapon in a school building.

(3) (a) Subsection (1) does not apply to law enforcement personnel.

(b) The trustees of a district may grant persons and entities advance permission to possess, carry, or store a weapon in a school building.

(4) (a) A person convicted under this section shall be fined an amount not to exceed $500, imprisoned in the county jail for a term not to exceed 6 months, or both. The court shall consider alternatives to incarceration that are available in the community.

(b) (i) A weapon in violation of this section may be seized and, upon conviction of the person possessing or permitting possession of the weapon, may be forfeited to the state or returned to the lawful owner.

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(a) "school building" means all buildings owned or leased by a local school district that are used for instruction or for student activities. The term does not include a home school provided for in 20-5-109.

(b) "weapon" means any type of firearm, a knife with a blade 4 or more inches in length, a sword, a straight razor, a throwing star, nun-chucks, or brass or other metal knuckles. The term also includes any other article or instrument possessed with the purpose to commit a criminal offense.

Students with chronic disciplinary issues

No relevant statutes found.

Attendance and truancy

STATUTES

20-5-105. Attendance officer -- powers and duties.

The attendance officer of a district:

(1) must be vested with police powers, the authority to serve warrants, and the authority to enter places of employment of children in order to enforce the compulsory attendance provisions of this title;

(2) shall take into custody any child subject to compulsory attendance who is not excused under the provisions of this title and conduct the child to the school in which the child is or should be enrolled;

(3) shall do whatever else is required to investigate and enforce the compulsory attendance provisions of this title and the pupil attendance policies of the trustees;

(4) shall institute proceedings against any parent, guardian, or other person violating the compulsory attendance provisions of this title;

(5) shall keep a record of transactions for the inspection and information of the trustees and make reports in the manner and to whomever the trustees designate; and

(6) shall perform any other duties prescribed by the trustees to preserve the morals and secure good conduct of the pupils of the district.

20-5-106. Truancy.

(1) Whenever the attendance officer discovers a child truant from school or a child subject to compulsory attendance who is not enrolled in a school providing the required instruction and has not been excused under the provisions of this title, the officer shall notify in writing the parent, guardian, or other person responsible for the care of the child that the continued truancy or nonenrollment of the child will result in the person's prosecution under the provisions of this section. If the child is not enrolled and in attendance at a school or excused from school within 2 days after the receipt of the notice, the attendance officer shall file a complaint against the person in a court of competent jurisdiction.

(2) If convicted, the person shall be fined not less than $5 or more than $20. In the alternative, the person may be required to give bond in the penal sum of $100, with sureties, conditioned upon the person's agreement to cause the enrollment of the child within 2 days in a school providing the courses of instruction required by this title and to cause the child to attend that school for the remainder of the current school term. If a person refuses to pay a fine and costs or to give a bond as ordered by the court, the person shall be imprisoned in the county jail for a term of not less than 10 days or more than 30 days.

20-5-107. Incapacitated and indigent child attendance.

In lieu of the provisions of 20-5-106 and when an attendance officer is satisfied that a pupil or a child subject to compulsory attendance is not able to attend school because the child does not have the physical capacity or the child is absolutely required to work at home or elsewhere in order to provide support for the child or the child's family, the attendance officer shall report the case to the authorities charged with the relief of the poor. The welfare authorities shall offer relief that will enable the child to attend school. If the parent, guardian, or other person who is responsible for the care of the child denies or neglects the assistance offered to enable the child to attend school, the child must be committed to a state institution, at the discretion of the court.

Substance use

STATUTES

20-1-220. Use of tobacco product in public school building or on public school property prohibited.

(1) An individual may not use a tobacco product in a public school building or on public school property.

(2) Subsection (1) does not apply to the use of a tobacco product in a classroom or on other school property as part of a lecture, demonstration, or educational forum sanctioned by a school administrator or faculty member concerning the risks associated with use of a tobacco product.

(3) The principal of an elementary or secondary school, or the principal's designee, may enforce this section.

(4) A violation of this section is subject to the penalties provided in 50-40-115.

(5) For the purposes of this section, the following definitions apply:

(a) "Public school building" or "public school property":

(i) means public land, fixtures, buildings, or other property owned or occupied by an institution for the teaching of minor children that is established and maintained under the laws of the state of Montana at public expense; and

(ii) includes school playgrounds, school steps, parking lots, administration buildings, athletic facilities, gymnasiums, locker rooms, and school buses.

(b) "Tobacco product" means a substance intended for human consumption that contains tobacco, including cigarettes, cigars, snuff, smoking tobacco, and smokeless tobacco.

Bullying, harassment, or hazing

STATUTES

No relevant statutes found.

Other special infractions or conditions

STATUTES

20-5-203. Secret organization prohibited.

(1) It shall be unlawful for any pupil to participate in or be a member of any secret fraternity or other secret organization that is in any degree a school organization. It also shall be unlawful for any pupil or other person to solicit any pupil to join any such prohibited secret fraternity or other secret organization.

(2) Any person violating the provisions of this section shall be guilty of a misdemeanor and, if convicted by a court of competent jurisdiction, shall be fined not less than $5 or more than $25 for each violation.

Prevention and Behavioral Interventions (Non-Punitive)

Prevention

No relevant statutes found.

Behavioral interventions and student support services

No relevant statutes found.

Professional development

No relevant statutes found.

Monitoring and Accountability

Formal incident reporting of conduct violations

STATUTES

20-4-302. Discipline and punishment of pupils -- definition of corporal punishment -- penalty -- defense.

(5) […] Whenever a teacher suspends a pupil, the teacher shall notify the trustees and the county superintendent immediately of the action.

(6) A teacher has the duty to report the truancy or incorrigibility of a pupil to the district superintendent, the principal, the trustees, or the county superintendent, whichever is applicable.

20-5-105. Attendance officer -- powers and duties.

The attendance officer of a district:

(5) shall keep a record of transactions for the inspection and information of the trustees and make reports in the manner and to whomever the trustees designate;

Parental notification

STATUTES

20-1-213. Transfer of school records.

(8) (a) By November 1 and March 1 of each school fiscal year, a local educational agency shall prepare a report to be provided to the director of the Montana youth challenge program subject to subsections (8)(b) and (8)(c) containing the name, last-known address, and dates of attendance of a student who:

(i) is at least 16 years of age but less than 19 years of age;

(ii) was enrolled but is no longer enrolled in a school in the district;

(iii) has not provided school transfer or graduation information to a school in the district; and

(iv) has not received a high school diploma or general educational development certificate.

(b) After preparing the report in accordance with subsection (8)(a), a local educational agency shall provide written notice to the parent or guardian of the student or to the student if the student is at least 18 years of age or is under 18 years of age and emancipated that the agency intends to provide the report to the director of the Montana youth challenge program. The parent or guardian or the student must be given the opportunity to object to the planned disclosure of the information. If the parent or guardian or the student fails to respond to the notice within 30 days, the local educational agency shall forward the report to the director of the Montana youth challenge program.

20-5-106. Truancy.

(1) Whenever the attendance officer discovers a child truant from school or a child subject to compulsory attendance who is not enrolled in a school providing the required instruction and has not been excused under the provisions of this title, the officer shall notify in writing the parent, guardian, or other person responsible for the care of the child that the continued truancy or nonenrollment of the child will result in the person's prosecution under the provisions of this section. If the child is not enrolled and in attendance at a school or excused from school within 2 days after the receipt of the notice, the attendance officer

shall file a complaint against the person in a court of competent jurisdiction.
20-5-201. Duties and sanctions.

(4) (b) A school district that decides to withhold a pupil's grades, diploma, or transcripts from the pupil and the pupil's parent or guardian pursuant to subsection (4)(a) shall:

(i) upon receiving notice that the pupil has transferred to another school district in the state, notify the pupil's parent or guardian in writing that the school district to which the pupil has transferred will be requested to withhold the pupil's grades, diploma, or transcripts until any obligation has been satisfied;

ADMINISTRATIVE CODE

10.16.3346. Special Education. Aversive treatment procedures.

(8) When an aversive treatment plan is incorporated in the IEP, the parents must be informed that their consent to the IEP includes consent for the aversive treatment plan. Failure to obtain consent is subject to due process proceedings under ARM 10.16.3507 through 10.16.3523.

(9) Parents must be informed as soon as possible, but no less than 24 hours after the procedure is used, in writing, or orally if in writing is not possible, in their native language each time an aversive procedure is implemented on their child.

Reporting and referrals between schools and law enforcement

No relevant statutes found.

Disclosure of school records

STATUTES

20-1-213. Transfer of school records.

(1) Subject to the provisions of the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. 1232g, as amended, and its implementing regulations at 34 CFR, part 99, and to the provisions of the Individuals With Disabilities Education Act, 20 U.S.C. 1411 through 1420, and its implementing regulations at 34 CFR, part 300, local educational agencies and accredited schools shall adopt a policy that a certified copy of the permanent file, as defined by the board of public education, and the file containing special education records of a student will be forwarded by mail or electronically to a local educational agency or accredited school in which the student seeks or intends to enroll within 5 working days after a receipt of a written or electronic request.

(2) If records cannot be forwarded within 5 days, the local educational agency or accredited school shall notify the requestor in writing or electronically providing the reasons why the local educational agency or accredited school is unable to comply within the 5-day timeframe and the local educational agency or accredited school shall provide the date by which the requested records will be transferred.

(3) A local educational agency or accredited school may not refuse to transfer files because a student owes fines or fees.

(4) The files that are forwarded must include education records in the permanent file, special education records, and any disciplinary actions taken against the student that are educationally related.

(5) A local educational agency or accredited school may release student information to the juvenile justice system to assist the system's ability to effectively serve, prior to adjudication, the student whose records are released under provisions of 20 U.S.C. 1232g(B)(1)(E) of the Family Educational Rights and Privacy

Act of 1974, as amended. The official to whom the records are disclosed shall certify in writing to the sending official that the information will not, except as provided by law, be disclosed to any other party without prior written consent of the parent of the student.

(6) The superintendent of public instruction is encouraged to contact other states or provinces and may enter into reciprocal records transfer agreements with the superintendent of public instruction or a department of education of any state or province. The superintendent of public instruction shall supply a copy of any reciprocal records transfer agreement that is executed to the county superintendent of each county that may be affected by the agreement.

(7) Upon request, the local educational agency or accredited school shall transfer by mail or electronically a copy of the permanent file to a nonpublic school or facility.

(8) (a) By November 1 and March 1 of each school fiscal year, a local educational agency shall prepare a report to be provided to the director of the Montana youth challenge program subject to subsections (8)(b) and (8)(c) containing the name, last-known address, and dates of attendance of a student who:

(i) is at least 16 years of age but less than 19 years of age;

(ii) was enrolled but is no longer enrolled in a school in the district;

(iii) has not provided school transfer or graduation information to a school in the district; and

(iv) has not received a high school diploma or general educational development certificate.

(b) After preparing the report in accordance with subsection (8)(a), a local educational agency shall provide written notice to the parent or guardian of the student or to the student if the student is at least 18 years of age or is under 18 years of age and emancipated that the agency intends to provide the report to the director of the Montana youth challenge program. The parent or guardian or the student must be given the opportunity to object to the planned disclosure of the information. If the parent or guardian or the student fails to respond to the notice within 30 days, the local educational agency shall forward the report to the director of the Montana youth challenge program.

(c) The report provided by the local educational agency may not include a student who:

(i) is receiving medical care or treatment that prohibits school attendance;

(ii) is enrolled in a foreign exchange program;

(iii) is enrolled in an early admissions college program;

(iv) is participating in a job corps program, an adult basic education program, or an accredited apprenticeship program; or

(v) is excused from school for a reason determined acceptable by the local educational agency.

(d) The official to whom the information in subsection (8)(a) is provided shall certify in writing to the local educational agency that is providing the information that the information will not be disclosed to any other party except as necessary to recruit and retain students.

(9) As used in this section, "local educational agency" means a public school district or a state-funded school.

20-5-201. Duties and sanctions.

(4) (b) A school district that decides to withhold a pupil's grades, diploma, or transcripts from the pupil and the pupil's parent or guardian pursuant to subsection (4)(a) shall:

(i) upon receiving notice that the pupil has transferred to another school district in the state, notify the pupil's parent or guardian in writing that the school district to which the pupil has transferred will be requested to withhold the pupil's grades, diploma, or transcripts until any obligation has been satisfied;

(ii) forward appropriate grades or transcripts to the school to which the pupil has transferred;

(iii) at the same time, notify the school district of any financial obligation of the pupil and request the withholding of the pupil's grades, diploma, or transcripts until any obligations are met;

(iv) when the pupil or the pupil's parent or guardian satisfies the obligation, inform the school district to which the pupil has transferred; and

(v) adopt a policy regarding a process for a pupil or the pupil's parent or guardian to appeal the school district's decision to request that another school district withhold a pupil's grades, diploma, or transcripts.

Data collection, review, and reporting of disciplinary policies and actions

No relevant statutes found.

School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers

Authority and power to implement school arrest

STATUTES

20-5-104. Attendance officer.

In order to enforce the compulsory attendance provisions of this title, each district shall have at least one person serving as an attendance officer according to the following requirements:

(1) districts of the first and second class shall employ and appoint one or more attendance officers;

(2) districts of the third class may employ and appoint an attendance officer or may appoint a constable or other peace officer as an attendance officer; or

(3) the county superintendent shall be the attendance officer in third-class districts that do not appoint an attendance officer.

20-5-105. Attendance officer -- powers and duties.

The attendance officer of a district:

(1) must be vested with police powers, the authority to serve warrants, and the authority to enter places of employment of children in order to enforce the compulsory attendance provisions of this title;

(2) shall take into custody any child subject to compulsory attendance who is not excused under the provisions of this title and conduct the child to the school in which the child is or should be enrolled;

(3) shall do whatever else is required to investigate and enforce the compulsory attendance provisions of this title and the pupil attendance policies of the trustees;

(4) shall institute proceedings against any parent, guardian, or other person violating the compulsory attendance provisions of this title;

(5) shall keep a record of transactions for the inspection and information of the trustees and make reports in the manner and to whomever the trustees designate; and

(6) shall perform any other duties prescribed by the trustees to preserve the morals and secure good conduct of the pupils of the district.

20-5-106. Truancy.

(1) Whenever the attendance officer discovers a child truant from school or a child subject to compulsory attendance who is not enrolled in a school providing the required instruction and has not been excused under the provisions of this title, the officer shall notify in writing the parent, guardian, or other person responsible for the care of the child that the continued truancy or nonenrollment of the child will result in the person's prosecution under the provisions of this section. If the child is not enrolled and in attendance at a school or excused from school within 2 days after the receipt of the notice, the attendance officer shall file a complaint against the person in a court of competent jurisdiction.

(2) If convicted, the person shall be fined not less than $5 or more than $20. In the alternative, the person may be required to give bond in the penal sum of $100, with sureties, conditioned upon the person's agreement to cause the enrollment of the child within 2 days in a school providing the courses of instruction required by this title and to cause the child to attend that school for the remainder of the current school term. If a person refuses to pay a fine and costs or to give a bond as ordered by the court, the person shall be imprisoned in the county jail for a term of not less than 10 days or more than 30 days.

20-5-107. Incapacitated and indigent child attendance.

In lieu of the provisions of 20-5-106 and when an attendance officer is satisfied that a pupil or a child subject to compulsory attendance is not able to attend school because the child does not have the physical capacity or the child is absolutely required to work at home or elsewhere in order to provide support for the child or the child's family, the attendance officer shall report the case to the authorities charged with the relief of the poor. The welfare authorities shall offer relief that will enable the child to attend school. If the parent, guardian, or other person who is responsible for the care of the child denies or neglects the assistance offered to enable the child to attend school, the child must be committed to a state institution, at the discretion of the court.

Certification or training

No relevant statutes found.

MOUs, authorization, and/or funding

No relevant statutes found.

State Education Agency Support

State model policies and implementation support

No relevant statutes found.

Funding appropriations

No relevant statutes found.

Other/Uncategorized

Professional immunity or liability

STATUTES

20-4-302. Discipline and punishment of pupils -- definition of corporal punishment -- penalty -- defense.

(7) If a person who is employed or engaged by a school district uses corporal punishment or more physical restraint than is reasonable or necessary, the person is guilty of a misdemeanor and, upon conviction of the misdemeanor by a court of competent jurisdiction, shall be fined not less than $25 or more than $500.

(8) A person named as a defendant in an action brought under this section may assert as an affirmative defense that the use of physical restraint was reasonable or necessary. If that defense is denied by the person bringing the charge, the issue of whether the restraint used was reasonable or necessary must be determined by the trier of fact.

Community input or involvement

No relevant statutes found.

Other/Uncategorized

STATUTES

20-5-502. Enrollment by caretaker relative -- residency -- affidavit.

(3) If the child was subject to formal disciplinary action, including suspension or expulsion, at the child's previous school, the school district in which the caretaker relative seeks to enroll the child may either implement the previous school district's disciplinary action without further due process or hold a hearing and determine whether the student's conduct in the previous school district merits denial of enrollment. If the district decides to enroll the child, then the school district may require the child to comply with a behavior contract as a condition of enrollment.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by Montana provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
Website		
No relevant resources found		
Documents		
Bullying, Intimidation, and Harassment Prevention School Policy	Provides background and discussion regarding the need for school policy and procedures to prevent bullying, intimidation and harassment in schools.	http://opi.mt.gov/pdf/safeschools/BullyingPolicy.pdf
Model policy for School Districts on Harassment, Intimidation, and Bullying	For all schools to use to help them revise and edit their current policies.	http://www.opi.mt.gov/pdf/safeschools/ModelBullyingPolicy.pdf
Other Resources		
No relevant resources found		

Nebraska Compilation of School Discipline Laws and Regulations

Prepared: August 12, 2013

Introduction

This compilation presents school discipline-related state statutes, school discipline-related regulations, and, where available, links to state-sponsored websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSLE). For example, one major category encompasses all state laws or regulations mandating specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of state legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in each state.

Discipline categories were not mutually exclusive. Statutes and regulations often appeared across multiple categories. For states with more extensive statutes covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. State laws, ordered by chapter and section number, appear first within each category followed by state regulations. All statutes and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists statutes by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to state-sponsored websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of May 2013, with the exception of the state laws related to seclusion and restraint, which are complete and current as of December 2012. Readers should also note that the information in this document was compiled from individual state sources that are created by each state and which are maintained and updated with varying frequencies. Readers should consult the source information provided for each state directly in order to check for updates to this state's laws and regulations or conduct further research.

For further information, including definitions of the different policy categories, please refer to the Discipline Laws and Regulations Compendium posted on the Center's website.

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Safe Supportive Learning
Engagement | Safety | Environment

Table of Contents

Nebraska State Codes Cited **1**

General Provisions **3**

Authority to develop and establish rules of conduct 3
Scope 4
Communication of policy 5

In-School Discipline **6**

Use of multi-tiered discipline approaches 6
Teacher authority to remove students from classrooms 6
Alternatives to suspension 6
Use of corporal punishment 6
Use of student and locker searches 6
Other in-school disciplinary approaches 6

Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements **7**

Grounds for possible suspension or expulsion 7
Grounds for mandatory suspension or expulsion 8
Limitations, conditions or exclusions for use of suspension and expulsion 8
Administrative procedures related to suspension and expulsion 10
In-school suspension 16
Return to school following removal 16
Use of restraint and seclusion 17
Alternative placements 17

Disciplinary Approaches Addressing Specific Infractions and Conditions **19**

Firearms (as required by the Guns-Free Schools Act) 19
Other weapons 19
Students with chronic disciplinary issues 20
Attendance and truancy 20
Substance use 25
Bullying, harassment, or hazing 26
Other special infractions or conditions 27

Prevention and Behavioral Interventions (Non-Punitive) **28**

Prevention 28
Behavioral interventions and student support services 28
Professional development 28

Monitoring and Accountability **29**

Formal incident reporting of conduct violations 29
Parental notification 30
Reporting and referrals between schools and law enforcement 31
Disclosure of school records 32
Data collection, review, and reporting of disciplinary policies and actions 32

School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers 34
Authority and power to implement school arrest 34
Certification or training 34
MOUs, authorization, and/or funding 34
State Education Agency Support 35
State model policies and implementation support 35
Funding appropriations 35
Other/Uncategorized 36
Professional immunity or liability 36
Community input or involvement 36
Other/Uncategorized 36
State-Sponsored, Publicly Available Websites or Other Resources on School Discipline 37

Nebraska State Codes Cited

Nebraska Revised Statutes

Chapter 28. Crimes and Punishments

28-401. Terms, defined

Chapter 53. Liquors

53-103.02. Alcoholic liquor, defined

Chapter 79. Schools

79-201. Compulsory education; attendance required; exceptions; reports required
79-202. Compulsory attendance; withdrawal of child from school; exempt from mandatory attendance; exit interview; withdrawal form; validity; child at least sixteen years of age; other enrollment options; later enrollment; effect; Commissioner of Education; duties
79-203. Compulsory attendance; necessarily employed children; permit
79-204. Compulsory attendance; necessarily employed children; continuation schools; attendance required
79-205. Compulsory attendance; record of attendance; annual attendance reports; made where
79-206. Compulsory attendance; nonattendance lists; transmission to enforcement officers
79-207. Compulsory attendance; entry or withdrawal of student; teachers' attendance reports
79-208. Compulsory attendance; attendance officers; powers and duties; compensation
79-209. Compulsory attendance; nonattendance; school district; duties; remedial services; enforcement
79-210. Violations; penalty
79-257. School board or board of education; emergency disciplinary actions; authorized
79-258. Administrative and teaching personnel; authorized actions
79-259. Student suspension, expulsion, or exclusion; not a violation of compulsory attendance; compliance with other laws required
79-260. Notice; when given
79-261. School board or board of education; powers; delegation of authority
79-262. School board or board of education; rules and standards; establish; distribute and post
79-263. School district; policy regarding firearms; requirements
79-264. Student; exclusion; circumstances; emergency exclusion; procedure
79-265. Principal; suspend student; grounds; procedure; written statement; conference; guidelines for completion of classwork
79-266. Pre-expulsion procedures; when; expelled student; alternative assignments; suspension of enforcement; agreement between school boards; reinstatement; when; expungement
79-266.01. Expelled student; enrollment in public school; when
79-267. Student conduct constituting grounds for long-term suspension, expulsion, or mandatory reassignment; enumerated; alternatives for truant or tardy students
79-268. Long-term suspension, expulsion, or mandatory reassignment; procedures; enumerated
79-269. Long-term suspension, expulsion, or mandatory reassignment; hearing; procedure; hearing examiner; how designated; examination of records
79-270. Hearing examiner; duties
79-271. Hearing; not requested within five days; recommended punishment; effect
79-272. Hearing; requested within thirty days; effect

79-273.	Hearing; by whom attended; witnesses; student excluded; when
79-275.	Hearing; student; testimony
79-276.	Hearing; evidence on student's conduct and records
79-277.	Hearing; rules of evidence or courtroom procedures; not applicable
79-278.	Hearing; witnesses; testimony; cross-examination
79-279.	Hearing; witnesses; immunity
79-280.	Hearing; recorded; how paid
79-281.	Hearing; joint hearing; separate hearings; when
79-282.	Hearing; hearing examiner; report; contents; review; final disposition; how determined
79-283.	Hearing; final disposition; written notice; effect; period of expulsion; review; when; procedure; readmittance
79-284.	Case record; contents
79-285.	Hearing; appeal to school board or board of education; procedure
79-286.	Hearing; appeal; school board or board of education; powers and duties
79-287.	Hearing; appeal; board; final action
79-288.	Final decision; judicial review; appeal to district court; other relief
79-289.	Judicial review; procedure
79-290.	Judicial review; transcript of record and proceedings; responsive pleading not required
79-291.	Judicial review; conducted without a jury; grounds for judicial action
79-292.	Appeal
79-293.	Nebraska criminal code violation; principal or principal's designee; notify law enforcement authorities; immunity
79-295.	Corporal punishment; prohibited
79-296.	Anabolic steroids; additional sanction
79-2101.	Public schools; membership in secret organizations, prohibited
79-2102.	Public schools; secret organizations; denial of school privileges; expulsion
79-2103.	Public schools; outside organizations; rushing prohibited; violation; penalty
79-2104.	Access to school files or records; limitation; fees; disciplinary material; removed and destroyed; when
79-2105.	School files or records; provided upon student's transfer
79-2137.	School district; development and adoption of bullying prevention and education policy; review
79-2141.	Model dating violence policy; department; school district; duties; publication; staff training; redress under other law

Nebraska Administrative Code

Title 92. Nebraska Department of Education

Chapter 17. Approval of Alternative Schools, Classes, or Programs for Expelled Students

General Provisions

Authority to develop and establish rules of conduct

STATUTES

R.R.S. Neb. § 79-257. School board or board of education; emergency disciplinary actions; authorized.

The school board or board of education may authorize the emergency exclusion, short-term or long-term suspension, expulsion, or mandatory reassignment of any pupil from school for conduct prohibited by the board's rules or standards established pursuant to the Student Discipline Act if such emergency exclusion, short-term or long-term suspension, expulsion, or mandatory reassignment complies with the procedures required by the act.

R.R.S. Neb. § 79-258. Administrative and teaching personnel; authorized actions.

Administrative and teaching personnel may take actions regarding student behavior, other than those specifically provided in the Student Discipline Act, which are reasonably necessary to aid the student, further school purposes, or prevent interference with the educational process. Such actions may include, but need not be limited to, counseling of students, parent conferences, rearrangement of schedules, requirements that a student remain in school after regular hours to do additional work, restriction of extracurricular activity, or requirements that a student receive counseling, psychological evaluation, or psychiatric evaluation upon the written consent of a parent or guardian to such counseling or evaluation.

R.R.S. Neb. § 79-261. School board or board of education; powers; delegation of authority.

(1) The school board or board of education may by rule amplify, supplement, or extend the procedures provided in the Student Discipline Act if such actions are not inconsistent with the act.

(2) Any action taken by the school board or board of education or by its employees or agents in a material violation of the act shall be considered null, void, and of no effect.

(3) The school board or board of education may authorize the delegation to other school officials of responsibilities directed to the principal or superintendent by the act.

R.R.S. Neb. § 79-262. School board or board of education; rules and standards; establish; distribute and post.

(1) The school board or board of education shall establish and promulgate rules and standards concerning student conduct which are reasonably necessary to carry out or to prevent interference with carrying out any educational function, if such rules and standards are clear and definite so as to provide clear notice to the student and his or her parent or guardian as to the conduct prescribed, prohibited, or required under the rules and standards. Notwithstanding any other provisions contained in the Student Discipline Act, the school board or board of education may by rule specify a particular action as a sanction for particular conduct. Any such action must be otherwise authorized by section 79-258, 79-265, or 79-267. Any such rule shall be binding on all students, school officials, board members, and hearing examiners. Expulsion may be specified as a sanction for particular conduct only if the school board or board of education finds that the type of conduct for which expulsion is specified has the potential to seriously affect the health, safety, or welfare of the student, other students, staff members, or any other person or to otherwise seriously interfere with the educational process.

(2) All rules and standards established by school officials, other than the board, applicable to students shall not conflict with rules and standards adopted by the board. The board may change any rule or standard in accordance with policies which it may from time to time adopt.

R.R.S. Neb. § 79-263. School district; policy regarding firearms; requirements.

(1) Each school district shall adopt a policy requiring the expulsion from school for a period of not less than one year of any student who is determined to have knowingly and intentionally possessed, used, or transmitted a firearm on school grounds, in a vehicle owned, leased, or contracted by a school being used for a school purpose or in a vehicle being driven for a school purpose by a school employee or his or her designee, or at a school-sponsored activity or athletic event. For purposes of this section, firearm means a firearm as defined in 18 U.S.C. 921. The policy shall authorize the superintendent or the school board or board of education to modify the expulsion requirement on an individual basis.

(2) Each school district shall provide annually to the State Department of Education:

(a) An assurance that the school district has in effect the policy required by subsection (1) of this section; and

(b) A description of the circumstances surrounding any expulsions imposed under the policy required by subsection (1) of this section, including:

(i) The name of the school concerned;

(ii) The number of students expelled from the school; and

(iii) The types of weapons concerned.

R.R.S. Neb. § 79-2,137. School district; development and adoption of bullying prevention and education policy; review.

(3) On or before July 1, 2009, each school district as defined in section 79-101 shall develop and adopt a policy concerning bullying prevention and education for all students.

(4) The school district shall review the policy annually.

R.R.S. Neb. § 79-2,141. Model dating violence policy; department; school district; duties; publication; staff training; redress under other law.

(1) On or before March 1, 2010, the department shall develop and adopt a model dating violence policy to assist school districts in developing policies for dating violence.

(2) On or before July 1, 2010, each school district shall develop and adopt a specific policy to address incidents of dating violence involving students at school, which shall be made a part of the requirements for accreditation in accordance with section 79-703. Such policy shall include a statement that dating violence will not be tolerated. […]

Scope

STATUTES

R.R.S. Neb. § 79-267. Student conduct constituting grounds for long-term suspension, expulsion, or mandatory reassignment; enumerated; alternatives for truant or tardy students.

[...] student conduct shall constitute grounds for long-term suspension, expulsion, or mandatory reassignment, subject to the procedural provisions of the Student Discipline Act, when such activity occurs on school grounds, in a vehicle owned, leased, or contracted by a school being used for a school purpose or in a vehicle being driven for a school purpose by a school employee or by his or her designee, or at a school-sponsored activity or athletic event [...]

Communication of policy

STATUTES

R.R.S. Neb. § 79-260. Notice; when given.

Any statement, notice, recommendation, determination, or similar action specified in the Student Discipline Act shall be effectively given at the time written evidence thereof is delivered personally to or upon receipt of certified or registered mail or upon actual knowledge by a student or his or her parent or guardian.

R.R.S. Neb. § 79-262. School board or board of education; rules and standards; establish; distribute and post.

(1) The school board or board of education shall establish and promulgate rules and standards concerning student conduct which are reasonably necessary to carry out or to prevent interference with carrying out any educational function, if such rules and standards are clear and definite so as to provide clear notice to the student and his or her parent or guardian as to the conduct prescribed, prohibited, or required under the rules and standards.[...]

(3) Rules or standards which form the basis for discipline shall be distributed to each student and his or her parent or guardian at the beginning of each school year, or at the time of enrollment if during the school year, and shall be posted in conspicuous places in each school during the school year. Changes in rules and standards shall not take effect until reasonable effort has been made to distribute such changes to each student and his or her parent or guardian.

R.R.S. Neb. § 79-2,141. Model dating violence policy; department; school district; duties; publication; staff training; redress under other law.

(3) To ensure notice of a school district's dating violence policy, the policy shall be published in any school district handbook, manual, or similar publication that sets forth the comprehensive rules, procedures, and standards of conduct for students at school.

(5) Each school district shall inform the students' parents or legal guardians of the school district's dating violence policy. If requested, the school district shall provide the parents or legal guardians a copy of the school district's dating violence policy and relevant information.

In-School Discipline

Use of multi-tiered discipline approaches

No relevant statutes found.

Teacher authority to remove students from classrooms

No relevant statutes found.

Alternatives to suspension

STATUTES

R.R.S. Neb. § 79-267. Student conduct constituting grounds for long-term suspension, expulsion, or mandatory reassignment; enumerated; alternatives for truant or tardy students.

(1) It is the intent of the Legislature that alternatives to suspension or expulsion be imposed against a student who is truant, tardy, or otherwise absent from required school activities.

Use of corporal punishment

STATUTES

R.R.S. Neb. § 79-295. Corporal punishment; prohibited.

Corporal punishment shall be prohibited in public schools.

Use of student and locker searches

No relevant statutes found.

Other in-school disciplinary approaches

No relevant statutes found.

Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements

Grounds for possible suspension or expulsion

STATUTES

R.R.S. Neb. § 79-264. Student; exclusion; circumstances; emergency exclusion; procedure.

(1) Any student may be excluded from school in the following circumstances, subject to the procedural provisions of section 79-265, and, if longer than five school days, subject to the provisions of subsection (3) of this section:

(a) If the student has a dangerous communicable disease transmissible through normal school contacts and poses an imminent threat to the health or safety of the school community; or

(b) If the student's conduct presents a clear threat to the physical safety of himself, herself, or others, or is so extremely disruptive as to make temporary removal necessary to preserve the rights of other students to pursue an education.

R.R.S. Neb. § 79-265. Principal; suspend student; grounds; procedure; written statement; conference; guidelines for completion of classwork.

(1) The principal may deny any student the right to attend school or to take part in any school function for a period of up to five school days on the following grounds:

(a) Conduct constituting grounds for expulsion as set out in the Student Discipline Act; or

(b) Any other violation of rules and standards of behavior adopted under the act.

R.R.S. Neb. § 79-267. Student conduct constituting grounds for long-term suspension, expulsion, or mandatory reassignment; enumerated; alternatives for truant or tardy students.

The following student conduct shall constitute grounds for long-term suspension, expulsion, or mandatory reassignment, subject to the procedural provisions of the Student Discipline Act, when such activity occurs on school grounds, in a vehicle owned, leased, or contracted by a school being used for a school purpose or in a vehicle being driven for a school purpose by a school employee or by his or her designee, or at a school-sponsored activity or athletic event:

(1) Use of violence, force, coercion, threat, intimidation, or similar conduct in a manner that constitutes a substantial interference with school purposes;

(2) Willfully causing or attempting to cause substantial damage to property, stealing or attempting to steal property of substantial value, or repeated damage or theft involving property;

(3) Causing or attempting to cause personal injury to a school employee, to a school volunteer, or to any student. Personal injury caused by accident, self-defense, or other action undertaken on the reasonable belief that it was necessary to protect some other person shall not constitute a violation of this subdivision;

(4) Threatening or intimidating any student for the purpose of or with the intent of obtaining money or anything of value from such student;

(5) Knowingly possessing, handling, or transmitting any object or material that is ordinarily or generally considered a weapon;

(6) Engaging in the unlawful possession, selling, dispensing, or use of a controlled substance or an imitation controlled substance, as defined in section 28-401, a substance represented to be a controlled substance, or alcoholic liquor as defined in section 53-103.02 or being under the influence of a controlled substance or alcoholic liquor;

(7) Public indecency as defined in section 28-806, except that this subdivision shall apply only to students at least twelve years of age but less than nineteen years of age;

(8) Engaging in bullying as defined in section 79-2,137;

(9) Sexually assaulting or attempting to sexually assault any person if a complaint has been filed by a prosecutor in a court of competent jurisdiction alleging that the student has sexually assaulted or attempted to sexually assault any person, including sexual assaults or attempted sexual assaults which occur off school grounds not at a school function, activity, or event. For purposes of this subdivision, sexual assault means sexual assault in the first degree as defined in section 28-319, sexual assault in the second degree as defined in section 28-320, sexual assault of a child in the second or third degree as defined in section 28-320.01, or sexual assault of a child in the first degree as defined in section 28-319.01, as such sections now provide or may hereafter from time to time be amended;

(10) Engaging in any other activity forbidden by the laws of the State of Nebraska which activity constitutes a danger to other students or interferes with school purposes; or

(11) A repeated violation of any rules and standards validly established pursuant to section 79-262 if such violations constitute a substantial interference with school purposes.

Grounds for mandatory suspension or expulsion

STATUTES

R.R.S. Neb. § 79-263. School district; policy regarding firearms; requirements.

(1) Each school district shall adopt a policy requiring the expulsion from school for a period of not less than one year of any student who is determined to have knowingly and intentionally possessed, used, or transmitted a firearm on school grounds, in a vehicle owned, leased, or contracted by a school being used for a school purpose or in a vehicle being driven for a school purpose by a school employee or his or her designee, or at a school-sponsored activity or athletic event. For purposes of this section, firearm means a firearm as defined in 18 U.S.C. 921. The policy shall authorize the superintendent or the school board or board of education to modify the expulsion requirement on an individual basis.

Limitations, conditions or exclusions for use of suspension and expulsion

STATUTES

R.R.S. Neb. § 79-259. Student suspension, expulsion, or exclusion; not a violation of compulsory attendance; compliance with other laws required.

If a student is suspended, expelled, or excluded from school or from any educational function pursuant to the Student Discipline Act, such absence from school shall not be deemed a violation on the part of any person under any compulsory school attendance statutes. Any suspension or expulsion under the act shall comply with the requirements of the Special Education Act and the requirements of the federal Individuals with Disabilities Education Act, 20 U.S.C. 1401 et seq.

R.R.S. Neb. § 79-262. School board or board of education; rules and standards; establish; distribute and post.

(1) [...] Expulsion may be specified as a sanction for particular conduct only if the school board or board of education finds that the type of conduct for which expulsion is specified has the potential to seriously affect the health, safety, or welfare of the student, other students, staff members, or any other person or to otherwise seriously interfere with the educational process.

R.R.S. Neb. § 79-264. Student; exclusion; circumstances; emergency exclusion; procedure.

(2) Any emergency exclusion shall be based upon a clear factual situation warranting it and shall last not longer than is necessary to avoid the dangers described in subsection (1) of this section.

R.R.S. Neb. § 79-265. Principal; suspend student; grounds; procedure; written statement; conference; guidelines for completion of classwork.

(2) Such short-term suspension shall be made only after the principal has made an investigation of the alleged conduct or violation and has determined that such suspension is necessary to help any student, to further school purposes, or to prevent an interference with school purposes.

R.R.S. Neb. § 79-266. Pre-expulsion procedures; when; expelled student; alternative assignments; suspension of enforcement; agreement between school boards; reinstatement; when; expungement.

(3) A school district that has expelled a student may suspend the enforcement of such expulsion unless the expulsion was required by subsection (4) of section 79-283. The suspension may be for a period not to exceed the length of the expulsion. As a condition of such suspended action, the school district may require participation in a plan pursuant to subsection (2) of this section or assign the student to a school, class, or educational program which the school district deems appropriate.

At the conclusion of such suspension period, the school district shall (a) reinstate any student who has satisfactorily participated in a plan pursuant to subsection (2) of this section or the school, class, or educational program to which such student has been assigned and permit the student to return to the school of former attendance or to attend other programs offered by the district or (b) if the student's conduct has been unsatisfactory, enforce the remainder of the expulsion action.

If the student is reinstated, the district may also take action to expunge the record of the expulsion action.

R.R.S. Neb. § 79-283. Hearing; final disposition; written notice; effect; period of expulsion; review; when; procedure; readmittance.

(2) Except as provided in subsections (3) and (4) of this section, the expulsion of a student shall be for a period not to exceed the remainder of the semester in which it took effect unless the misconduct occurred

(a) within ten school days prior to the end of the first semester, in which case the expulsion shall remain in effect through the second semester, or

(b) within ten school days prior to the end of the second semester, in which case the expulsion shall remain in effect for summer school and the first semester of the following school year subject to the provisions of subsection (5) of this section.

Such action may be modified or terminated by the school district at any time during the expulsion period.

(3) The expulsion of a student for

(a) the knowing and intentional use of force in causing or attempting to cause personal injury to a school employee, school volunteer, or student except as provided in subdivision (3) of section 79-267 or

(b) the knowing and intentional possession, use, or transmission of a dangerous weapon, other than a firearm,

shall be for a period not to exceed the remainder of the school year in which it took effect if the misconduct occurs during the first semester. If the expulsion takes place during the second semester, the expulsion shall remain in effect for summer school and may remain in effect for the first semester of the following school year.

Such action may be modified or terminated by the school district at any time during the expulsion period.

Administrative procedures related to suspension and expulsion

STATUTES

R.R.S. Neb. § 79-264. Student; exclusion; circumstances; emergency exclusion; procedure.

(3) If the superintendent or his or her designee determines that such emergency exclusion shall extend beyond five days, the school board shall adopt a procedure for a hearing to be held and a final determination made within ten school days after the initial date of exclusion. Such procedure shall substantially comply with the provisions of sections 79-266 to 79-287, and such provisions shall be modified only to the extent necessary to accomplish the hearing and determination within this shorter time period.

R.R.S. Neb. § 79-265. Principal; suspend student; grounds; procedure; written statement; conference; guidelines for completion of classwork.

(3) Before such short-term suspension takes effect, the student shall be given oral or written notice of the charges against him or her, an explanation of the evidence the authorities have, and an opportunity to present his or her version.

(4) Within twenty-four hours or such additional time as is reasonably necessary following such suspension, the principal shall send a written statement to the student and his or her parent or guardian describing the student's conduct, misconduct, or violation of the rule or standard and the reasons for the action taken. The principal shall make a reasonable effort to hold a conference with the parent or guardian before or at the time the student returns to school.

(5) Any student who is suspended pursuant to this section may be given an opportunity to complete any class work, including, but not limited to, examinations, missed during the period of suspension. Each public school district shall develop and adopt guidelines stating the criteria school officials shall use in determining whether and to what extent such opportunity for completion will be granted to suspended students. The guidelines shall be provided to the student and parent or guardian at the time of suspension.

R.R.S. Neb. § 79-268. Long-term suspension, expulsion, or mandatory reassignment; procedures; enumerated.

If a principal makes a decision to discipline a student by long-term suspension, expulsion, or mandatory reassignment, the following procedures shall be followed:

(1) On the date of the decision, a written charge and a summary of the evidence supporting such charge shall be filed with the superintendent. The school shall, within two school days after the decision, send written notice by registered or certified mail to the student and his or her parent or guardian informing them of the rights established under the Student Discipline Act;

(2) Such written notice shall include the following:

(a) The rule or standard of conduct allegedly violated and the acts of the student alleged to constitute a cause for long-term suspension, expulsion, or mandatory reassignment, including a summary of the evidence to be presented against the student;

(b) The penalty, if any, which the principal has recommended in the charge and any other penalty to which the student may be subject;

(c) A statement that, before long-term suspension, expulsion, or mandatory reassignment for disciplinary purposes can be invoked, the student has a right to a hearing, upon request, on the specified charges;

(d) A description of the hearing procedures provided by the act, along with procedures for appealing any decision rendered at the hearing;

(e) A statement that the principal, legal counsel for the school, the student, the student's parent, or the student's representative or guardian has the right (i) to examine the student's academic and disciplinary records and any affidavits to be used at the hearing concerning the alleged misconduct and (ii) to know the identity of the witnesses to appear at the hearing and the substance of their testimony; and

(f) A form on which the student, the student's parent, or the student's guardian may request a hearing, to be signed by such parties and delivered to the principal or superintendent in person or by registered or certified mail as prescribed in sections 79-271 and 79-272; and

(3) When a notice of intent to discipline a student by long-term suspension, expulsion, or mandatory reassignment is filed with the superintendent, the student may be suspended by the principal until the date the long-term suspension, expulsion, or mandatory reassignment takes effect if no hearing is requested or, if a hearing is requested, the date the hearing examiner makes the report of his or her findings and a recommendation of the action to be taken to the superintendent, if the principal determines that the student must be suspended immediately to prevent or substantially reduce the risk of (a) interference with an educational function or school purpose or (b) a personal injury to the student himself or herself, other students, school employees, or school volunteers.

The Student Discipline Act does not preclude the student or the student's parent, guardian, or representative from discussing and settling the matter with appropriate school personnel prior to the hearing stage.

R.R.S. Neb. § 79-269. Long-term suspension, expulsion, or mandatory reassignment; hearing; procedure; hearing examiner; how designated; examination of records.

(1) If a hearing is requested within five school days after receipt of the notice as provided in section 79-268, the superintendent shall appoint a hearing examiner who shall, within two school days after being appointed, give written notice to the principal, the student, and the student's parent or guardian of the time and place for the hearing.

(2) The hearing examiner shall be any person designated by the school district's superintendent, school board or board of education, or counsel, if such person (a) has not brought the charges against the student, (b) shall not be a witness at the hearing, and (c) has no involvement in the charge.

(3) The hearing shall be scheduled within a period of five school days after it is requested, but such time may be changed by the hearing examiner for good cause. No hearing shall be held upon less than two school days' actual notice to the principal, the student, and the student's parent or guardian, except with the consent of all the parties.

(4) The principal or legal counsel for the school, the student, and the student's parent, guardian, or representative have the right to examine the records and written statements referred to in the Student Discipline Act as well as the statement of any witness in the possession of the school board or board of education at a reasonable time prior to the hearing.

R.R.S. Neb. § 79-270. Hearing examiner; duties.

In addition to the other duties provided in the Student Discipline Act, the hearing examiner shall remain impartial throughout all deliberations. The hearing examiner shall be available prior to any hearing held pursuant to the act to answer any questions the principal, the student, or the student's parent or guardian may have regarding the nature and conduct of the hearing.

R.R.S. Neb. § 79-271. Hearing; not requested within five days; recommended punishment; effect.

If a hearing is not requested under sections 79-268 and 79-269 by the student or the student's parent or guardian within five school days following receipt of the written notice, the punishment recommended in the charge by the principal or his or her designee shall automatically go into effect upon the fifth school day following receipt of the written notice by the student or his or her parent or guardian as required in section 79-268.

R.R.S. Neb. § 79-272. Hearing; requested within thirty days; effect.

If a hearing is requested under sections 79-268 and 79-269 more than five school days but not more than thirty calendar days following the actual receipt of written notice, the hearing shall be held but the imposed punishment shall continue in effect pending final determination.

R.R.S. Neb. § 79-273. Hearing; by whom attended; witnesses; student excluded; when.

Any hearing conducted pursuant to the Student Discipline Act shall be attended by the hearing examiner, the student, the student's parent or guardian, the student's representative, if any, and counsel for the school board or board of education, if the hearing examiner or the superintendent deems it advisable. Witnesses shall be present only when they are giving information at the hearing. The student may be excluded in the discretion of the hearing examiner at times when the student's psychological evaluation or emotional problems are being discussed. The student's representative may be an attorney. The hearing examiner may exclude anyone from the hearing when his or her actions substantially disrupt an orderly hearing.

R.R.S. Neb. § 79-275. Hearing; student; testimony.

At a hearing requested under sections 79-268 and 79-269, the student may speak in his or her own defense and may be questioned on his or her testimony, but he or she may choose not to testify and, in such case, shall not be threatened with punishment nor be later punished for refusal to testify.

R.R.S. Neb. § 79-276. Hearing; evidence on student's conduct and records.

At a hearing requested under sections 79-268 and 79-269, the principal shall present to the hearing examiner statements, in affidavit form, of any person having information about the student's conduct and the student's records but not unless such statements and records have been made available to the student or the student's parent, guardian, or representative prior to the hearing. The information contained in such records shall be explained and interpreted, prior to or at the hearing, to the student, parent, guardian, or representative, upon request, by appropriate school personnel.

R.R.S. Neb. § 79-277. Hearing; rules of evidence or courtroom procedures; not applicable.

In conducting the hearing requested under sections 79-268 and 79-269, the hearing examiner shall not be bound by the rules of evidence or any other courtroom procedure.

R.R.S. Neb. § 79-278. Hearing; witnesses; testimony; cross-examination.

(1) The student, the student's parent, guardian, or representative, the principal, or the hearing examiner may ask witnesses to testify at the hearing requested under sections 79-268 and 79-269. Such testimony shall be under oath, and the hearing examiner shall be authorized to administer the oath. The hearing

examiner shall make reasonable effort to assist the student or the student's parent, guardian, or representative in obtaining the attendance of witnesses.

(2) The student, the student's parent, guardian, or representative, the principal, or the hearing examiner has the right to question any witness giving information at the hearing.

R.R.S. Neb. § 79-279. Hearing; witnesses; immunity.

Any person giving evidence by written statement or in person at a hearing requested under sections 79-268 and 79-269 shall be given the same immunity from liability as a person testifying in a court case.

R.R.S. Neb. § 79-280. Hearing; recorded; how paid.

The proceedings of the hearing requested under sections 79-268 and 79-269 shall be recorded at the expense of the school district.

R.R.S. Neb. § 79-281. Hearing; joint hearing; separate hearings; when.

(1) When more than one student is charged with violating the same rule and having acted in concert and when the facts are substantially the same for all such students, a single hearing requested under sections 79-268 and 79-269 may be conducted for such students as a group if the hearing examiner believes that a single hearing is not likely to result in confusion and that no student shall have his or her interests substantially prejudiced by a single hearing.

(2) If during the conduct of the hearing the hearing examiner finds that a student's interests will be substantially prejudiced by a group hearing or that the hearing is resulting in confusion, the hearing examiner may order a separate hearing for any student.

R.R.S. Neb. § 79-282. Hearing; hearing examiner; report; contents; review; final disposition; how determined.

(1) After a hearing requested under sections 79-268 and 79-269, a report shall be made by the hearing examiner of his or her findings and a recommendation of the action to be taken, which report shall explain, in terms of the needs of both the student and the school board, the reasons for the particular action recommended. Such recommendation may range from no action, through the entire field of counseling, to long-term suspension, expulsion, mandatory reassignment, or an alternative educational placement under section 79-266.

(2) A review shall be made of the hearing examiner's report by the superintendent, who may change, revoke, or impose the sanction recommended by the hearing examiner but shall not impose a sanction more severe than that recommended by the hearing examiner.

(3) The findings and recommendations of the hearing examiner, the determination by the superintendent, and any determination on appeal to the governing body, shall be made solely on the basis of the evidence presented at the hearing or, in addition, on any evidence presented on appeal.

R.R.S. Neb. § 79-283. Hearing; final disposition; written notice; effect; period of expulsion; review; when; procedure; readmittance.

(1) Written notice of the findings and recommendations of the hearing examiner and the determination of the superintendent under section 79-282shall be made by certified or registered mail or by personal delivery to the student or the student's parent or guardian. Upon receipt of such written notice by the student, parent, or guardian, the determination of the superintendent shall take immediate effect.

(2) Except as provided in subsections (3) and (4) of this section, the expulsion of a student shall be for a period not to exceed the remainder of the semester in which it took effect unless the misconduct occurred (a) within ten school days prior to the end of the first semester, in which case the expulsion shall remain in effect through the second semester, or (b) within ten school days prior to the end of the second

semester, in which case the expulsion shall remain in effect for summer school and the first semester of the following school year subject to the provisions of subsection (5) of this section. Such action may be modified or terminated by the school district at any time during the expulsion period.

(3) The expulsion of a student for (a) the knowing and intentional use of force in causing or attempting to cause personal injury to a school employee, school volunteer, or student except as provided in subdivision (3) of section 79-267 or (b) the knowing and intentional possession, use, or transmission of a dangerous weapon, other than a firearm, shall be for a period not to exceed the remainder of the school year in which it took effect if the misconduct occurs during the first semester. If the expulsion takes place during the second semester, the expulsion shall remain in effect for summer school and may remain in effect for the first semester of the following school year. Such action may be modified or terminated by the school district at any time during the expulsion period.

(4) The expulsion of a student for the knowing and intentional possession, use, or transmission of a firearm, which for purposes of this section means a firearm as defined in 18 U.S.C. 921 as of January 1, 1995, shall be for a period as provided by the school district policy adopted pursuant to section79-263. This subsection shall not apply to (a) the issuance of firearms to or possession of firearms by members of the Reserve Officers Training Corps when training or (b) firearms which may lawfully be possessed by the person receiving instruction under the immediate supervision of an adult instructor who may lawfully possess firearms.

(5) Any expulsion that will remain in effect during the first semester of the following school year shall be automatically scheduled for review before the beginning of the school year. The review shall be conducted by the hearing examiner after the hearing examiner has given notice of the review to the student and the student's parent or guardian. This review shall be limited to newly discovered evidence or evidence of changes in the student's circumstances occurring since the original hearing. This review may lead to a recommendation by the hearing examiner that the student be readmitted for the upcoming school year. If the school board or board of education or a committee of such board took the final action to expel the student, the student may be readmitted only by action of the board. Otherwise the student may be readmitted by action of the superintendent.

R.R.S. Neb. § 79-284. Case record; contents.

The record in a case under the Student Discipline Act shall consist of the charge, the notice, the evidence presented, the hearing examiner's findings and recommendations, and the action of the superintendent. With respect to any appeal to a court or any subsequent appeal, the record shall consist, in addition, of any additional evidence taken and any additional action taken in the case.

R.R.S. Neb. § 79-285. Hearing; appeal to school board or board of education; procedure.

(1) The student or the student's parent or guardian may, within seven school days following receipt of the written notice of the determination of the superintendent under section 79-282, appeal the superintendent's determination to the school board or board of education by a written request which shall be filed with the secretary of the board or with the superintendent.

(2) A hearing shall be held before the school board or the board of education within a period of ten school days after it is requested, and such time for a hearing may be changed by mutual agreement of the student and superintendent, except that the hearing may be held before a committee of the school board or board of education of not less than three members. Such appeal shall be made on the record, except that new evidence may be admitted to avoid a substantial threat of unfairness and such new evidence shall be recorded as provided in section 79-280.

R.R.S. Neb. § 79-286. Hearing; appeal; school board or board of education; powers and duties.

(1) After examining the record and taking new evidence pursuant to section 79-285, if any, the school board or board of education or the designated committee thereof may withdraw to deliberate privately upon such record and new evidence. Any such deliberation shall be held in the presence only of board members in attendance at the appeal proceeding but may be held in the presence of legal counsel who has not previously acted as the designee of the principal in presenting the school's case before the hearing examiner.

(2) If any questions arise during such deliberations which require additional evidence, the deliberating body may reopen the hearing to receive such evidence, subject to the right of all parties to be present.

(3) The board may alter the superintendent's disposition of the case if it finds the decision to be too severe but may not impose a more severe sanction.

R.R.S. Neb. § 79-287. Hearing; appeal; board; final action.

The final action of the board under section 79-286 shall be evidenced by personally delivering or mailing by certified mail a copy of the board's decision to the student and his or her parent or guardian.

R.R.S. Neb. § 79-288. Final decision; judicial review; appeal to district court; other relief.

Any person aggrieved by a final decision in a contested case under the Student Discipline Act, whether such decision is affirmative or negative in form, shall be entitled to judicial review under sections 79-288 to 79-292. Nothing in the act shall be deemed to prevent resort to other means of review, redress, or relief provided by law.

R.R.S. Neb. § 79-289. Judicial review; procedure.

(1) Proceedings for review under sections 79-288 to 79-292 shall be instituted by filing a petition in the district court of the county where the action is taken within thirty days after the service of the final decision by the school board or board of education under sections 79-286 and 79-287.

(2) All parties of record shall be made parties to the proceedings for review. The court, in its discretion, may permit other interested persons to intervene.

(3) Summons shall be served as in other actions, except that a copy of the petition shall be served upon the board together with the summons. Service of summons upon a duly elected officer of the board or the appointed secretary of the board shall constitute service on the board.

(4) The filing of the petition or the service of summons upon the board shall not stay enforcement of a decision, but the board may stay enforcement, or the court may order a stay after notice to such board of application therefor and upon such terms as it deems proper.

(5) The court may require the party requesting such stay to give bond in such amount and condition as the court may direct but only in cases involving injury or damage to person or property.

R.R.S. Neb. § 79-290. Judicial review; transcript of record and proceedings; responsive pleading not required.

Within fifteen days after service of the petition under section 79-289 or within such further time as the court for good cause shown may allow, the school board or board of education shall prepare and transmit to the court a certified transcript of the record which shall include the rules and regulations of the school board relied upon by the school district in its determination to suspend, reassign, or expel the student and the proceedings conducted before it, including the final decision sought to be reversed, vacated, or modified. The school board need not file any responsive pleading.

R.R.S. Neb. § 79-291. Judicial review; conducted without a jury; grounds for judicial action.

(1) The review under sections 79-288 to 79-292 shall be conducted by the court without a jury on the record.

(2) The court may affirm the decision of the school board or board of education, remand the case for further proceedings, or reverse or modify the decision if the substantial rights of the petitioner may have been prejudiced because the board's decision is:

(a) In violation of constitutional provisions;

(b) In excess of the statutory authority or jurisdiction of the board;

(c) Made upon unlawful procedure;

(d) Affected by other error of law;

(e) Unsupported by competent, material, and substantial evidence in view of the entire record as made on review; or

(f) Arbitrary or capricious.

R.R.S. Neb. § 79-292. Appeal.

An aggrieved party may secure a review of any final judgment of the district court under sections 79-288 to 79-291 by appeal as provided in the Administrative Procedure Act.

In-school suspension

STATUTES

No relevant statutes found.

Return to school following removal

STATUTES

R.R.S. Neb. § 79-266.01. Expelled student; enrollment in public school; when.

(1) If a student has been expelled from a public school in any school district in any state or from a private, denominational, or parochial school in any state and the student has not completed the terms of the expulsion, the student shall not be permitted to enroll in a public school in any school district until the school board of the district in which enrollment is sought approves, by a majority vote, the enrollment of the student. As a condition of enrollment, the school board may require attendance in an alternative school, class, or educational program pursuant to section 79-266 until the terms of the expulsion are completed. A student expelled from a private, denominational, or parochial school or from a school in another state may not be prohibited from enrolling in a public school district in which the student resides or in which the student has been accepted pursuant to the enrollment option program for any period of time beyond the time limits placed on expulsion pursuant to the Student Discipline Act or for any expulsion for an offense for which expulsion is not authorized for a public school student under the act.

R.R.S. Neb. § 79-266. Pre-expulsion procedures; when; expelled student; alternative assignments; suspension of enforcement; agreement between school boards; reinstatement; when; expungement.

(3) A school district that has expelled a student may suspend the enforcement of such expulsion unless the expulsion was required by subsection (4) of section 79-283. The suspension may be for a period not to exceed the length of the expulsion. As a condition of such suspended action, the school district may

require participation in a plan pursuant to subsection (2) of this section or assign the student to a school, class, or educational program which the school district deems appropriate.

At the conclusion of such suspension period, the school district shall (a) reinstate any student who has satisfactorily participated in a plan pursuant to subsection (2) of this section or the school, class, or educational program to which such student has been assigned and permit the student to return to the school of former attendance or to attend other programs offered by the district or (b) if the student's conduct has been unsatisfactory, enforce the remainder of the expulsion action.

If the student is reinstated, the district may also take action to expunge the record of the expulsion action.

Use of restraint and seclusion

STATUTES

No relevant statutes found.

Alternative placements

STATUTES

R.R.S. Neb. § 79-266. Pre-expulsion procedures; when; expelled student; alternative assignments; suspension of enforcement; agreement between school boards; reinstatement; when; expungement.

(1) Beginning July 1, 1997, each school district shall have an alternative school, class, or educational program or the procedures of subsection (2) of this section available or in operation for all expelled students.

Any two or more school boards or boards of education may join together in providing alternative schools, classes, or educational programs. Any district may by agreement with another district send its suspended or expelled students to any alternative school, class, or educational program already in operation by such other district. An educational program may include, but shall not be limited to, individually prescribed educational and counseling programs or a community-centered classroom with experiences for the student as an observer or aide in governmental functions, as an on-the-job trainee, or as a participant in specialized tutorial experiences. Such programs shall include an individualized learning program to enable the student to continue academic work for credit toward graduation. The State Department of Education shall adopt and promulgate rules and regulations relating to alternative schools, classes, and educational programs.

(2) If a district does not provide an alternative school, class, or educational program for expelled students, the district shall follow the procedures in this subsection prior to expelling a student unless the expulsion was required by subsection (4) of section 79-283: A conference shall be called by a school administrator and held to assist the district in the development of a plan with the participation of a parent or legal guardian, the student, a school representative, and a representative of either a community organization with a mission of assisting young people or a representative of an agency involved with juvenile justice. The plan shall be in writing and adopted by a school administrator and presented to the student and the parent or legal guardian. The plan shall (a) specify guidelines and consequences for behaviors which have been identified as preventing the student from achieving the desired benefits from the educational opportunities provided, (b) identify educational objectives that must be achieved in order to receive credits toward graduation, (c) specify the financial resources and community programs available to meet both the educational and behavioral objectives identified, and (d) require the student to attend monthly reviews in order to assess the student's progress toward meeting the specified goals and objectives.

R.R.S. Neb. § 79-267. Student conduct constituting grounds for long-term suspension, expulsion, or mandatory reassignment; enumerated; alternatives for truant or tardy students.

(1) It is the intent of the Legislature that alternatives to suspension or expulsion be imposed against a student who is truant, tardy, or otherwise absent from required school activities.

ADMINISTRATIVE CODE

Nebraska Admin. Code Title 92, Ch. 17 (2012)

001.03 The requirements of this rule are only applicable to alternative schools, classes, or programs provided for expelled students or to procedures provided for expelled students in districts not providing alternative schools, courses or programs.

003 Establishment and General Requirements of Alternative Schools, Classes, or Programs

003.01 Effective July 1, 1997, the school district shall provide an alternative school, class, or program or shall carry out the procedures of Section 79-266 (2) found in Section 005 of this Rule for students who have been expelled.

003.01A The alternative school, class, or program for expelled students may be provided by the district, through a cooperative arrangement of two or more districts, or through an arrangement with an educational service unit.

003.01B Alternative schools, classes, or programs for expelled students may include community-based programs, home-based programs, specialized tutorial experiences, distance-learning, or other programs approved by the local board of education.

003.01C The school, class, or program for expelled students shall enable the student to continue academic work for credit, and shall also include the standard of student behavior and cooperation required of the student to complete the alternative learning program.

003.01D If the student fails to meet any of the conditions of the learning program, the district may, without further obligation, terminate the program after a due process hearing, as required in statutory provisions for suspension and expulsion of students, unless waived by the parent or legal guardian.

003.02 The school district shall have a written policy or plan describing how credit is awarded to students participating in alternative schools, classes, or programs for expelled students.

003.03 The school district shall make known to expelled students what alternative school(s), class(es), or program(s) is (are) available. If the parent or guardian should refuse to participate, the district has no further obligation with regard to provision of an alternative school, class, or program.

003.04 Teachers assigned to an alternative school, class, or program for expelled students being provided on-site by a school district or an educational service unit shall hold a valid Nebraska Teaching or Administrative Certificate issued pursuant to 92 NAC 21. Community-based or other off-site programs shall be planned in cooperation with and monitored or supervised by a school district staff member holding a Nebraska Teaching or Administrative Certificate issued pursuant to 92 NAC 21.

003.05 Alternative schools, classes, or programs for expelled students may be conducted at times other than the regular school day.

Disciplinary Approaches Addressing Specific Infractions and Conditions

Firearms (as required by the Guns-Free Schools Act)

STATUTES

R.R.S. Neb. § 79-263. School district; policy regarding firearms; requirements.

(1) Each school district shall adopt a policy requiring the expulsion from school for a period of not less than one year of any student who is determined to have knowingly and intentionally possessed, used, or transmitted a firearm on school grounds, in a vehicle owned, leased, or contracted by a school being used for a school purpose or in a vehicle being driven for a school purpose by a school employee or his or her designee, or at a school-sponsored activity or athletic event. For purposes of this section, firearm means a firearm as defined in 18 U.S.C. 921. The policy shall authorize the superintendent or the school board or board of education to modify the expulsion requirement on an individual basis.

(2) Each school district shall provide annually to the State Department of Education:

(a) An assurance that the school district has in effect the policy required by subsection (1) of this section; and

(b) A description of the circumstances surrounding any expulsions imposed under the policy required by subsection (1) of this section, including:

(i) The name of the school concerned;

(ii) The number of students expelled from the school; and

(iii) The types of weapons concerned.

R.R.S. Neb. § 79-283. Hearing; final disposition; written notice; effect; period of expulsion; review; when; procedure; readmittance.

(4) The expulsion of a student for the knowing and intentional possession, use, or transmission of a firearm, which for purposes of this section means a firearm as defined in 18 U.S.C. 921 as of January 1, 1995, shall be for a period as provided by the school district policy adopted pursuant to section 79-263. This subsection shall not apply to (a) the issuance of firearms to or possession of firearms by members of the Reserve Officers Training Corps when training or (b) firearms which may lawfully be possessed by the person receiving instruction under the immediate supervision of an adult instructor who may lawfully possess firearms.

Other weapons

STATUTES

79-267. Student conduct constituting grounds for long-term suspension, expulsion, or mandatory reassignment; enumerated; alternatives for truant or tardy students.

The following student conduct shall constitute grounds for long-term suspension, expulsion, or mandatory reassignment, subject to the procedural provisions of the Student Discipline Act, when such activity occurs on school grounds, in a vehicle owned, leased, or contracted by a school being used for a school purpose or in a vehicle being driven for a school purpose by a school employee or by his or her designee, or at a school-sponsored activity or athletic event:

(5) Knowingly possessing, handling, or transmitting any object or material that is ordinarily or generally considered a weapon;[...]

R.R.S. Neb. § 79-283. Hearing; final disposition; written notice; effect; period of expulsion; review; when; procedure; readmittance.

(3) The expulsion of a student for (a) the knowing and intentional use of force in causing or attempting to cause personal injury to a school employee, school volunteer, or student except as provided in subdivision (3) of section 79-267 or (b) the knowing and intentional possession, use, or transmission of a dangerous weapon, other than a firearm, shall be for a period not to exceed the remainder of the school year in which it took effect if the misconduct occurs during the first semester. If the expulsion takes place during the second semester, the expulsion shall remain in effect for summer school and may remain in effect for the first semester of the following school year. Such action may be modified or terminated by the school district at any time during the expulsion period.

Students with chronic disciplinary issues

No relevant statutes found.

Attendance and truancy

STATUTES

R.R.S. Neb. § 79-259. Student suspension, expulsion, or exclusion; not a violation of compulsory attendance; compliance with other laws required.

If a student is suspended, expelled, or excluded from school or from any educational function pursuant to the Student Discipline Act, such absence from school shall not be deemed a violation on the part of any person under any compulsory school attendance statutes. Any suspension or expulsion under the act shall comply with the requirements of the Special Education Act and the requirements of the federal Individuals with Disabilities Education Act, 20 U.S.C. 1401 et seq.

R.R.S. Neb. § 79-267. Student conduct constituting grounds for long-term suspension, expulsion, or mandatory reassignment; enumerated; alternatives for truant or tardy students.

(1) It is the intent of the Legislature that alternatives to suspension or expulsion be imposed against a student who is truant, tardy, or otherwise absent from required school activities.

R.R.S. Neb. § 79-201. Compulsory education; attendance required; exceptions; reports required.

(1) For purposes of this section, a child is of mandatory attendance age if the child (a) will reach six years of age prior to January 1 of the then-current school year and (b) has not reached eighteen years of age.

(2) Except as provided in subsection (3) of this section, every person residing in a school district within the State of Nebraska who has legal or actual charge or control of any child who is of mandatory attendance age or is enrolled in a public school shall cause such child to enroll in, if such child is not enrolled, and attend regularly a public, private, denominational, or parochial day school which meets the requirements for legal operation prescribed in Chapter 79, or a school which elects pursuant to section 79-1601 not to meet accreditation or approval requirements, each day that such school is open and in session, except when excused by school authorities or when illness or severe weather conditions make attendance impossible or impracticable.

(3) Subsection (2) of this section does not apply in the case of any child who:

(a) Has obtained a high school diploma by meeting the graduation requirements established in section 79-729;

(b) Has completed the program of instruction offered by a school which elects pursuant to section 79-1601 not to meet accreditation or approval requirements;

(c) Has reached sixteen years of age and has been withdrawn from school pursuant to section 79-202;

(d) (i) Will reach six years of age prior to January 1 of the then-current school year, but will not reach seven years of age prior to January 1 of such school year, (ii) such child's parent or guardian has signed an affidavit stating that the child is participating in an education program that the parent or guardian believes will prepare the child to enter grade one for the following school year, and (iii) such affidavit has been filed by the parent or guardian with the school district in which the child resides;

(e) (i) Will reach six years of age prior to January 1 of the then-current school year but has not reached seven years of age, (ii) such child's parent or guardian has signed an affidavit stating that the parent or guardian intends for the child to participate in a school which has elected or will elect pursuant to section 79-1601 not to meet accreditation or approval requirements and the parent or guardian intends to provide the Commissioner of Education with a statement pursuant to subsection (3) of section 79-1601 on or before the child's seventh birthday, and (iii) such affidavit has been filed by the parent or guardian with the school district in which the child resides; or

(f) Will not reach six years of age prior to January 1 of the then-current school year and such child was enrolled in a public school and has discontinued the enrollment according to the policy of the school board adopted pursuant to subsection (4) of this section.

(4) The board shall adopt policies allowing discontinuation of the enrollment of students who will not reach six years of age prior to January 1 of the then-current school year and specifying the procedures therefor.

(5) Each school district that is a member of a learning community shall report to the learning community coordinating council on or before September 1 of each year for the immediately preceding school year the following information:

(a) All reports of violations of this section made to the attendance officer of any school in the district pursuant to section 79-209;

(b) The results of all investigations conducted pursuant to section 79-209, including the attendance record that is the subject of the investigation and a list of services rendered in the case;

(c) The district's policy on excessive absenteeism; and

(d) Records of all notices served and reports filed pursuant to section 79-209 and the district's policy on habitual truancy.

R.R.S. Neb. § 79-202. Compulsory attendance; withdrawal of child from school; exempt from mandatory attendance; exit interview; withdrawal form; validity; child at least sixteen years of age; other enrollment options; later enrollment; effect; Commissioner of Education; duties.

(1) A person who has legal or actual charge or control of a child who is at least sixteen years of age but less than eighteen years of age may withdraw such child from school before graduation and be exempt from the mandatory attendance requirements of section 79-201 if an exit interview is conducted and the withdrawal form is signed as required by subsections (2) through (5) of this section for a child enrolled in a public, private, denominational, or parochial school or if a signed notarized release form is filed with the Commissioner of Education as required by subsection (6) of this section for a child enrolled in a school that elects pursuant to section 79-1601 not to meet accreditation or approval requirements.

(2) Upon the written request of any person who has legal or actual charge or control of a child who is at least sixteen years of age but less than eighteen years of age, the superintendent of a school district or the superintendent's designee shall conduct an exit interview if the child (a) is enrolled in a school

operated by the school district or (b) resides in the school district and is enrolled in a private, denominational, or parochial school.

(3) The superintendent or the superintendent's designee shall set the time and place for the exit interview which shall be personally attended by: (a) The child, unless the withdrawal is being requested due to an illness of the child making attendance at the exit interview impossible or impracticable; (b) the person who has legal or actual charge or control of the child who requested the exit interview; (c) the superintendent or the superintendent's designee; (d) the childs principal or the principal's designee if the child at the time of the exit interview is enrolled in a school operated by the school district; and (e) any other person requested by any of the required parties who agrees to attend the exit interview and is available at the time designated for the exit interview which may include, but need not be limited to, other school district personnel or the child's principal or such principal's designee if the child is enrolled in a private, denominational, or parochial school.

(4) At the exit interview, the person making the written request pursuant to subsection (2) of this section shall present evidence that (a) the person has legal or actual charge or control of the child and (b) the child would be withdrawing due to either (i) financial hardships requiring the child to be employed to support the child's family or one or more dependents of the child or (ii) an illness of the child making attendance impossible or impracticable. The superintendent or superintendent's designee shall identify all known alternative educational opportunities, including vocational courses of study, that are available to the child in the school district and how withdrawing from school is likely to reduce potential future earnings for the child and increase the likelihood of the child being unemployed in the future. Any other relevant information may be presented and discussed by any of the parties in attendance.

(5) (a) At the conclusion of the exit interview, the person making the written request pursuant to subsection (2) of this section may sign the withdrawal form provided by the school district agreeing to the withdrawal of the child or may rescind the written request for the withdrawal.

(b) Any withdrawal form signed by the person making the written request pursuant to subsection (2) of this section shall be valid only if (i) the child signs the form unless the withdrawal is being requested due to an illness of the child making attendance at the exit interview impossible or impracticable and (ii) the superintendent or superintendent's designee signs the form acknowledging that the interview was held, the required information was provided and discussed at the interview, and, in the opinion of the superintendent or the superintendent's designee, the person making the written request pursuant to subsection (2) of this section does in fact have legal or actual charge or control of the child and the child is experiencing either (A) financial hardships requiring the child to be employed to support the child's family or one or more dependents of the child or (B) an illness making attendance impossible or impracticable.

(6) A person who has legal or actual charge or control of the child who is at least sixteen years of age but less than eighteen years of age may withdraw such a child before graduation and be exempt from the mandatory attendance requirements of section 79-201 if such child has been enrolled in a school that elects pursuant to section 79-1601 not to meet the accreditation or approval requirements by filing with the State Department of Education a signed notarized release on a form prescribed by the Commissioner of Education.

(7) A child who has been withdrawn from school pursuant to this section may enroll in a school district at a later date as provided in section 79-215 or may enroll in a private, denominational, or parochial school or a school which elects pursuant to section 79-1601 not to meet accreditation or approval requirements. Any such enrollment shall void the withdrawal form previously entered, and the provisions of sections 79-201 to 79-210 shall apply to the child.

(8) The Commissioner of Education shall prescribe the required form for withdrawals pursuant to this section and determine and direct either that (a) withdrawal forms of school districts for any child who is

withdrawn from school pursuant to this section and subdivision (3)(c) of section 79-201 shall be provided annually to the State Department of Education or (b) data regarding such students shall be collected under subsection (2) of section 79-528.

R.R.S. Neb. § 79-203. Compulsory attendance; necessarily employed children; permit.

In case the services or earnings of a child are necessary for his or her own support or the support of those actually dependent upon him or her and the child is fourteen years of age or more and not more than sixteen years of age and has completed the work of the eighth grade, the person having legal or actual charge of such child may apply to the superintendent of the primary high school district in which the child resides or a person designated in writing by the superintendent. The superintendent or designee may, in his or her discretion, issue a permit allowing such child to be employed.

R.R.S. Neb. § 79-204. Compulsory attendance; necessarily employed children; continuation schools; attendance required.

All children who are fourteen years of age or more and not more than sixteen years of age, who reside in a school district in which a part-time continuation school is maintained by authority of the public school district and who are granted permits to be employed under section 79-203, shall attend a public, private, denominational, or parochial part-time continuation school eight hours of each week during the entire school year.

R.R.S. Neb. § 79-205. Compulsory attendance; record of attendance; annual attendance reports; made where.

Each teacher in the public, private, denominational, and parochial schools of this state shall keep a record showing (1) the name, age, and address of each child enrolled, (2) the number and county of the school district in which the school is located, (3) the number of days each pupil was present and the number of days absent, and (4) the cause of absence. On the third day on which the public, private, denominational, and parochial schools are in session at the beginning of each school year, each teacher shall send to the superintendent or administrator of the school a list of the pupils enrolled in his or her school with the age, grade, and address of each.

R.R.S. Neb. § 79-206. Compulsory attendance; nonattendance lists; transmission to enforcement officers.

Each superintendent or administrator of a school district, upon the receipt of the list specified in section 79-205, shall (1) compare the names of the children enrolled with the last census report on file in his or her office from such district, (2) prepare a list of all children resident in such district under his or her jurisdiction who are not attending school as provided in section 79-201, and (3) transmit the list to the officer or officers in such district whose duty it is to enforce the provisions of such section.

R.R.S. Neb. § 79-207. Compulsory attendance; entry or withdrawal of student; teachers' attendance reports.

Whenever any child enters or withdraws from any school after the third day in which school is in session, the teacher shall transmit at once the name of such child to the superintendent as specified in section 79-206 and the superintendent shall use such information in whatever way he or she deems necessary for the purpose of enforcing section 79-201. At the end of each week each teacher shall report all absences and the cause of absence to the proper superintendent. At the close of each period each teacher shall transmit to the superintendent a report showing (1) the name, age, and address of each child enrolled, (2) the number of half days each child was absent, (3) the number enrolled and the number attending on the last day of the period, and (4) the average daily attendance for the period. The provisions of this section requiring reports from each teacher shall not apply to individual teachers in schools employing more than

one teacher but shall in such case apply to the head teacher, principal, or superintendent who shall obtain the required information from the teachers under his or her supervision or control. All reports and lists required in this section shall be upon blanks prescribed by the State Department of Education.

R.R.S. Neb. § 79-208. Compulsory attendance; attendance officers; powers and duties; compensation.

School boards shall appoint one or more attendance officers who shall be vested with police powers and shall enforce the provisions of section 79-201 in the school districts for which they act. Attendance officers shall be compensated for their services in such sums as are determined by the school board, to be paid out of the general school fund of the district.

R.R.S. Neb. § 79-209. Compulsory attendance; nonattendance; school district; duties; remedial services; enforcement.

(1) In all school districts in this state, any superintendent, principal, teacher, or member of the school board who knows of any violation of section 79-201 on the part of any child of school age, his or her parent, the person in actual or legal control of such child, or any other person shall within three days report such violation to the attendance officer of the school, who shall investigate the case. When of his or her personal knowledge, by report or complaint from any resident of the district, or by report or complaint as provided in this section, the attendance officer believes that any child is unlawfully absent from school, the attendance officer shall immediately investigate.

(2) All school districts shall have a written policy on excessive absenteeism developed in collaboration with the county attorney of the county in which the principal office of the school district is located. The policy shall include a provision indicating how the school district and the county attorney will handle cases in which excessive absences are due to documented illness that makes attendance impossible or impracticable, and the policy shall state the number of absences or the hourly equivalent upon the occurrence of which the school shall render all services in its power to compel such child to attend some public, private, denominational, or parochial school, which the person having control of the child shall designate, in an attempt to address the problem of excessive absenteeism. The number of absences in the policy shall not exceed five days per quarter or the hourly equivalent. School districts may use excused and unexcused absences for purposes of the policy. Such services shall include, but need not be limited to:

(a) One or more meetings between a school attendance officer, school social worker or the school principal or a member of the school administrative staff designated by the school administration if such school does not have a school social worker, the child's parent or guardian, and the child, if necessary, to report and to attempt to solve the problem of excessive absenteeism;

(b) Educational counseling to determine whether curriculum changes, including, but not limited to, enrolling the child in an alternative education program that meets the specific educational and behavioral needs of the child, would help solve the problem of excessive absenteeism;

(c) Educational evaluation, which may include a psychological evaluation, to assist in determining the specific condition, if any, contributing to the problem of excessive absenteeism, supplemented by specific efforts by the school to help remedy any condition diagnosed; and

(d) Investigation of the problem of excessive absenteeism by the school social worker, or if such school does not have a school social worker, by the school principal or a member of the school administrative staff designated by the school administration, to identify conditions which may be contributing to the problem. If services for the child and his or her family are determined to be needed, the school social worker or the school principal or a member of the school administrative staff performing the investigation shall meet with the parent or guardian and the child to discuss any referral to appropriate

community agencies for economic services, family or individual counseling, or other services required to remedy the conditions that are contributing to the problem of excessive absenteeism.

(3) If the child is absent more than twenty days per year or the hourly equivalent and all of the absences are due to documented illness that makes attendance impossible or impracticable or are otherwise excused by school authorities, the attendance officer may report such information to the county attorney of the county in which the person resides. If the child is absent more than twenty days per year or the hourly equivalent and any of such absences are not excused, the attendance officer shall file a report with the county attorney of the county in which the person resides on a form which includes the following two statements, one of which must be designated by the school representative signing the report: (a) The school representative requests additional time to work with the student prior to intervention by the county attorney; and (b) the school representative believes that the school has used all reasonable efforts to resolve the student's excessive absenteeism without success and recommends county attorney intervention. If further action is necessary to address the child's attendance, the initial meeting between the parent or guardian of the child, the school, and the county attorney or his or her designee shall be at a location determined by the school.

(4) Nothing in this section shall preclude a county attorney from being involved at any stage in the process to address excessive absenteeism.

R.R.S. Neb. § 79-210. Violations; penalty.

Any person violating the provisions of sections 79-201 to 79-209 shall be guilty of a Class III misdemeanor.

Substance use

STATUTES

R.R.S. Neb. § 79-296. Anabolic steroids; additional sanction.

(1) In addition to the penalties provided in the Uniform Controlled Substances Act and section 79-267, any person under nineteen years of age who is a student at any public elementary, secondary, or postsecondary educational institution in this state who possesses, dispenses, delivers, or administers anabolic steroids as defined in section 28-401 in violation of the Uniform Controlled Substances Act may be prohibited from participating in any extracurricular activities for not more than thirty consecutive days for the first offense. For the second or any subsequent offense, the student may be barred from participation in such activities for any period of time the institution deems appropriate pursuant to the written policy of the institution.

(2) Any sanction imposed pursuant to this section shall be in accordance with a written policy of the institution. The institution shall post the written policy in a conspicuous place and shall make a copy of the policy available to any student upon request.

R.R.S. Neb. § 79-267. Student conduct constituting grounds for long-term suspension, expulsion, or mandatory reassignment; enumerated; alternatives for truant or tardy students.

The following student conduct shall constitute grounds for long-term suspension, expulsion, or mandatory reassignment, subject to the procedural provisions of the Student Discipline Act, when such activity occurs on school grounds, in a vehicle owned, leased, or contracted by a school being used for a school purpose or in a vehicle being driven for a school purpose by a school employee or by his or her designee, or at a school-sponsored activity or athletic event:

(6) Engaging in the unlawful possession, selling, dispensing, or use of a controlled substance or an imitation controlled substance, as defined in section 28-401, a substance represented to be a controlled

substance, or alcoholic liquor as defined in section 53-103.02 or being under the influence of a controlled substance or alcoholic liquor;[...]

R.R.S. Neb. § 53-103.02. Alcoholic liquor, defined.

(1) Alcoholic liquor includes alcohol, spirits, wine, beer, and any liquid or solid, patented or not, containing alcohol, spirits, wine, or beer and capable of being consumed as a beverage by a human being. Alcoholic liquor also includes confections or candy that contains more than one-half of one percent alcohol.

(2) The Nebraska Liquor Control Act does not apply to (a) alcohol used in the manufacture of denatured alcohol produced in accordance with acts of Congress and regulations adopted and promulgated pursuant to such acts, (b) flavoring extracts, syrups, medicinal, mechanical, scientific, culinary, or toilet preparations, or food products unfit for beverage purposes, but the act applies to alcoholic liquor used in the manufacture, preparation, or compounding of such products or confections or candy that contains more than one-half of one percent alcohol, or (c) wine intended for use and used by any church or religious organization for sacramental purposes.

R.R.S. Neb. § 28-401. Terms, defined.

(4) Controlled substance shall mean a drug, biological, substance, or immediate precursor in Schedules I to V of section 28-405. Controlled substance shall not include distilled spirits, wine, malt beverages, tobacco, or any nonnarcotic substance if such substance may, under the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 301 et seq., as such act existed on January 1, 2009, and the law of this state, be lawfully sold over the counter without a prescription;

Bullying, harassment, or hazing

STATUTES

79-267. Student conduct constituting grounds for long-term suspension, expulsion, or mandatory reassignment; enumerated; alternatives for truant or tardy students.

The following student conduct shall constitute grounds for long-term suspension, expulsion, or mandatory reassignment, subject to the procedural provisions of the Student Discipline Act, when such activity occurs on school grounds, in a vehicle owned, leased, or contracted by a school being used for a school purpose or in a vehicle being driven for a school purpose by a school employee or by his or her designee, or at a school-sponsored activity or athletic event:

(8) Engaging in bullying as defined in section 79-2,137;[...]

R.R.S. Neb. § 79-2,137. School district; development and adoption of bullying prevention and education policy; review.

(1) The Legislature finds and declares that:

(a) Bullying disrupts a school's ability to educate students; and

(b) Bullying threatens public safety by creating an atmosphere in which such behavior can escalate into violence.

(2) For purposes of this section, bullying means any ongoing pattern of physical, verbal, or electronic abuse on school grounds, in a vehicle owned, leased, or contracted by a school being used for a school purpose by a school employee or his or her designee, or at school-sponsored activities or school-sponsored athletic events.

(3) On or before July 1, 2009, each school district as defined in section 79-101shall develop and adopt a policy concerning bullying prevention and education for all students.

(4) The school district shall review the policy annually.

Other special infractions or conditions

STATUTES

R.R.S. Neb. § 79-2,101. Public schools; membership in secret organizations, prohibited.

It shall be unlawful for the pupils of any public school of this state to participate in or be members of any secret fraternity or secret organization that is in any degree a school organization.

R.R.S. Neb. § 79-2,103. Public schools; outside organizations; rushing prohibited; violation; penalty.

Any person, whether a pupil of any public school or not, who enters upon the school grounds or any school building for the purpose of rushing or soliciting, while there, any pupil of a public school to join any fraternity, society, or association organized outside of the schools shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than two dollars nor more than ten dollars.

Prevention and Behavioral Interventions (Non-Punitive)

Prevention

No relevant statutes found.

Behavioral interventions and student support services

STATUTES

R.R.S. Neb. § 79-258. Administrative and teaching personnel; authorized actions.

Administrative and teaching personnel may take actions regarding student behavior, other than those specifically provided in the Student Discipline Act, which are reasonably necessary to aid the student, further school purposes, or prevent interference with the educational process. Such actions may include, but need not be limited to, counseling of students, parent conferences, rearrangement of schedules, requirements that a student remain in school after regular hours to do additional work, restriction of extracurricular activity, or requirements that a student receive counseling, psychological evaluation, or psychiatric evaluation upon the written consent of a parent or guardian to such counseling or evaluation.

Professional development

STATUTES

R.R.S. Neb. § 79-2,141. Model dating violence policy; department; school district; duties; publication; staff training; redress under other law.

(4) Each school district shall provide dating violence training to staff deemed appropriate by a school district's administration. The dating violence training shall include, but not be limited to, basic awareness of dating violence, warning signs of dating violence, and the school district's dating violence policy. The dating violence training may be provided by any school district or combination of school districts, an educational service unit, or any combination of educational service units.

Monitoring and Accountability

Formal incident reporting of conduct violations

STATUTES

R.R.S. Neb. § 79-201. Compulsory education; attendance required; exceptions; reports required.

(1) For purposes of this section, a child is of mandatory attendance age if the child (a) will reach six years of age prior to January 1 of the then-current school year and (b) has not reached eighteen years of age.

(5) Each school district that is a member of a learning community shall report to the learning community coordinating council on or before September 1 of each year for the immediately preceding school year the following information:

(a) All reports of violations of this section made to the attendance officer of any school in the district pursuant to section 79-209;

(b) The results of all investigations conducted pursuant to section 79-209, including the attendance record that is the subject of the investigation and a list of services rendered in the case;

(c) The district's policy on excessive absenteeism; and

(d) Records of all notices served and reports filed pursuant to section 79-209 and the district's policy on habitual truancy.

R.R.S. Neb. § 79-207. Compulsory attendance; entry or withdrawal of student; teachers' attendance reports.

Whenever any child enters or withdraws from any school after the third day in which school is in session, the teacher shall transmit at once the name of such child to the superintendent as specified in section 79-206 and the superintendent shall use such information in whatever way he or she deems necessary for the purpose of enforcing section 79-201. At the end of each week each teacher shall report all absences and the cause of absence to the proper superintendent. At the close of each period each teacher shall transmit to the superintendent a report showing (1) the name, age, and address of each child enrolled, (2) the number of half days each child was absent, (3) the number enrolled and the number attending on the last day of the period, and (4) the average daily attendance for the period. The provisions of this section requiring reports from each teacher shall not apply to individual teachers in schools employing more than one teacher but shall in such case apply to the head teacher, principal, or superintendent who shall obtain the required information from the teachers under his or her supervision or control. All reports and lists required in this section shall be upon blanks prescribed by the State Department of Education.

R.R.S. Neb. § 79-209. Compulsory attendance; nonattendance; school district; duties; remedial services; enforcement.

(1) In all school districts in this state, any superintendent, principal, teacher, or member of the school board who knows of any violation of section 79-201 on the part of any child of school age, his or her parent, the person in actual or legal control of such child, or any other person shall within three days report such violation to the attendance officer of the school, who shall investigate the case. When of his or her personal knowledge, by report or complaint from any resident of the district, or by report or complaint as provided in this section, the attendance officer believes that any child is unlawfully absent from school, the attendance officer shall immediately investigate.

R.R.S. Neb. § 79-268. Long-term suspension, expulsion, or mandatory reassignment; procedures; enumerated.

If a principal makes a decision to discipline a student by long-term suspension, expulsion, or mandatory reassignment, the following procedures shall be followed:

(1) On the date of the decision, a written charge and a summary of the evidence supporting such charge shall be filed with the superintendent. The school shall, within two school days after the decision, send written notice by registered or certified mail to the student and his or her parent or guardian informing them of the rights established under the Student Discipline Act;

(2) Such written notice shall include the following:

(a) The rule or standard of conduct allegedly violated and the acts of the student alleged to constitute a cause for long-term suspension, expulsion, or mandatory reassignment, including a summary of the evidence to be presented against the student;

(b) The penalty, if any, which the principal has recommended in the charge and any other penalty to which the student may be subject;

(c) A statement that, before long-term suspension, expulsion, or mandatory reassignment for disciplinary purposes can be invoked, the student has a right to a hearing, upon request, on the specified charges;

(d) A description of the hearing procedures provided by the act, along with procedures for appealing any decision rendered at the hearing;

(e) A statement that the principal, legal counsel for the school, the student, the student's parent, or the student's representative or guardian has the right (i) to examine the student's academic and disciplinary records and any affidavits to be used at the hearing concerning the alleged misconduct and (ii) to know the identity of the witnesses to appear at the hearing and the substance of their testimony; and

(f) A form on which the student, the student's parent, or the student's guardian may request a hearing, to be signed by such parties and delivered to the principal or superintendent in person or by registered or certified mail as prescribed in sections 79-271 and 79-272; and

R.R.S. Neb. § 79-282. Hearing; hearing examiner; report; contents; review; final disposition; how determined.

(1) After a hearing requested under sections 79-268 and 79-269, a report shall be made by the hearing examiner of his or her findings and a recommendation of the action to be taken, which report shall explain, in terms of the needs of both the student and the school board, the reasons for the particular action recommended. Such recommendation may range from no action, through the entire field of counseling, to long-term suspension, expulsion, mandatory reassignment, or an alternative educational placement under section 79-266. […]

Parental notification

STATUTES

R.R.S. Neb. § 79-265. Principal; suspend student; grounds; procedure; written statement; conference; guidelines for completion of classwork.

(4) Within twenty-four hours or such additional time as is reasonably necessary following such suspension, the principal shall send a written statement to the student and his or her parent or guardian describing the student's conduct, misconduct, or violation of the rule or standard and the reasons for the

action taken. The principal shall make a reasonable effort to hold a conference with the parent or guardian before or at the time the student returns to school.

R.R.S. Neb. § 79-268. Long-term suspension, expulsion, or mandatory reassignment; procedures; enumerated.

If a principal makes a decision to discipline a student by long-term suspension, expulsion, or mandatory reassignment, the following procedures shall be followed:

(1) On the date of the decision, a written charge and a summary of the evidence supporting such charge shall be filed with the superintendent. The school shall, within two school days after the decision, send written notice by registered or certified mail to the student and his or her parent or guardian informing them of the rights established under the Student Discipline Act;

(2) Such written notice shall include the following:

(a) The rule or standard of conduct allegedly violated and the acts of the student alleged to constitute a cause for long-term suspension, expulsion, or mandatory reassignment, including a summary of the evidence to be presented against the student;

(b) The penalty, if any, which the principal has recommended in the charge and any other penalty to which the student may be subject;

(c) A statement that, before long-term suspension, expulsion, or mandatory reassignment for disciplinary purposes can be invoked, the student has a right to a hearing, upon request, on the specified charges;

(d) A description of the hearing procedures provided by the act, along with procedures for appealing any decision rendered at the hearing;

(e) A statement that the principal, legal counsel for the school, the student, the student's parent, or the student's representative or guardian has the right (i) to examine the student's academic and disciplinary records and any affidavits to be used at the hearing concerning the alleged misconduct and (ii) to know the identity of the witnesses to appear at the hearing and the substance of their testimony; and

(f) A form on which the student, the student's parent, or the student's guardian may request a hearing, to be signed by such parties and delivered to the principal or superintendent in person or by registered or certified mail as prescribed in sections 79-271 and 79-272; and

The Student Discipline Act does not preclude the student or the student's parent, guardian, or representative from discussing and settling the matter with appropriate school personnel prior to the hearing stage.

Reporting and referrals between schools and law enforcement

STATUTES

R.R.S. Neb. § 79-209. Compulsory attendance; nonattendance; school district; duties; remedial services; enforcement.

(1) In all school districts in this state, any superintendent, principal, teacher, or member of the school board who knows of any violation of section 79-201 on the part of any child of school age, his or her parent, the person in actual or legal control of such child, or any other person shall within three days report such violation to the attendance officer of the school, who shall investigate the case. When of his or her personal knowledge, by report or complaint from any resident of the district, or by report or complaint as provided in this section, the attendance officer believes that any child is unlawfully absent from school, the attendance officer shall immediately investigate.

(3) If the child is absent more than twenty days per year or the hourly equivalent and all of the absences are due to documented illness that makes attendance impossible or impracticable or are otherwise excused by school authorities, the attendance officer may report such information to the county attorney of the county in which the person resides. If the child is absent more than twenty days per year or the hourly equivalent and any of such absences are not excused, the attendance officer shall file a report with the county attorney of the county in which the person resides on a form which includes the following two statements, one of which must be designated by the school representative signing the report: (a) The school representative requests additional time to work with the student prior to intervention by the county attorney; and (b) the school representative believes that the school has used all reasonable efforts to resolve the student's excessive absenteeism without success and recommends county attorney intervention. If further action is necessary to address the child's attendance, the initial meeting between the parent or guardian of the child, the school, and the county attorney or his or her designee shall be at a location determined by the school.

R.R.S. Neb. § 79-293. Nebraska Criminal Code violation; principal or principal's designee; notify law enforcement authorities; immunity.

(1) The principal of a school or the principal's designee shall notify as soon as possible the appropriate law enforcement authorities, of the county or city in which the school is located, of any act of the student described in section 79-267 which the principal or designee knows or suspects is a violation of the Nebraska Criminal Code.

Disclosure of school records

STATUTES

R.R.S. Neb. § 79-2104. Access to school files or records; limitation; fees; disciplinary material; removed and destroyed; when.

(1) Any student in any public school or his or her parents, guardians, teachers, counselors, or school administrators shall have access to the school's files or records maintained concerning such student, including the right to inspect, review, and obtain copies of such files or records. No other person shall have access to such files or records except (a) when a parent, guardian, or student of majority age provides written consent or (b) as provided in subsection (3) of this section. The contents of such files or records shall not be divulged in any manner to any unauthorized person. All such files or records shall be maintained so as to separate academic and disciplinary matters, and all disciplinary material shall be removed and destroyed after a student's continuous absence from the school for a period of three years.

R.R.S. Neb. § 79-2105. School files or records; provided upon student's transfer.

A copy of a public or private school's files or records concerning a student, including academic material and any disciplinary material relating to any suspension or expulsion, shall be provided at no charge, upon request, to any public or private school to which the student transfers.

Data collection, review, and reporting of disciplinary policies and actions

STATUTES

R.R.S. Neb. § 79-263. School district; policy regarding firearms; requirements.

(2) Each school district shall provide annually to the State Department of Education:

(a) An assurance that the school district has in effect the policy required by subsection (1) of this section; and

(b) A description of the circumstances surrounding any expulsions imposed under the policy required by subsection (1) of this section, including:

(i) The name of the school concerned;

(ii) The number of students expelled from the school; and

(iii) The types of weapons concerned.

ADMINISTRATIVE CODE

Nebraska Admin. Code Title 92, Ch. 17 (2012)

004.02 Each school district shall annually report, in a manner prescribed by the Department, a description of the circumstances for any expelled student who knowingly and intentionally possessed, used, or transmitted a firearm on school grounds, in a vehicle owned, leased, or contracted by a school being used for a school purpose or in a vehicle being driven for a school purpose by a school employee or his or her designee, or at a school-sponsored activity or athletic event.

School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers

Authority and power to implement school arrest

STATUTES

R.R.S. Neb. § 79-208. Compulsory attendance; attendance officers; powers and duties; compensation.

School boards shall appoint one or more attendance officers who shall be vested with police powers and shall enforce the provisions of section 79-201 in the school districts for which they act. Attendance officers shall be compensated for their services in such sums as are determined by the school board, to be paid out of the general school fund of the district.

R.R.S. Neb. § 79-294. Removal of minor from school premises; release to peace officer; principal or other school official; duties; peace officer; duties; juvenile court review; when.

When a principal or other school official releases a minor student to a peace officer as defined in section 49-801 for the purpose of removing the minor from the school premises, the principal or other school official shall take immediate steps to notify the parent, guardian, or responsible relative of the minor regarding the release of the minor to the officer and regarding the place to which the minor is reportedly being taken, except when a minor has been taken into custody as a victim of suspected child abuse, in which case the principal or other school official shall provide the peace officer with the address and telephone number of the minor's parent or guardian. The peace officer shall take immediate steps to notify the parent, guardian, or responsible relative of the minor that the minor is in custody and the place where he or she is being held. If the peace officer has a reasonable belief that the minor would be endangered by a disclosure of the place where the minor is being held or that the disclosure would cause the custody of the minor to be disturbed, the peace officer may refuse to disclose the place where the minor is being held for a period not to exceed twenty-four hours. The peace officer shall, however, inform the parent, guardian, or responsible relative whether the child requires and is receiving medical or other treatment. The juvenile court shall review any decision not to disclose the place where the minor is being held at any subsequent detention hearing.

Certification or training

No relevant statutes found.

MOUs, authorization, and/or funding

No relevant statutes found.

State Education Agency Support

State model policies and implementation support

STATUTES

R.R.S. Neb. § 79-2,141. Model dating violence policy; department; school district; duties; publication; staff training; redress under other law.

(1) On or before March 1, 2010, the department shall develop and adopt a model dating violence policy to assist school districts in developing policies for dating violence.

(2) On or before July 1, 2010, each school district shall develop and adopt a specific policy to address incidents of dating violence involving students at school, which shall be made a part of the requirements for accreditation in accordance with section 79-703. Such policy shall include a statement that dating violence will not be tolerated.

(3) To ensure notice of a school district's dating violence policy, the policy shall be published in any school district handbook, manual, or similar publication that sets forth the comprehensive rules, procedures, and standards of conduct for students at school.

(4) Each school district shall provide dating violence training to staff deemed appropriate by a school district's administration. The dating violence training shall include, but not be limited to, basic awareness of dating violence, warning signs of dating violence, and the school district's dating violence policy. The dating violence training may be provided by any school district or combination of school districts, an educational service unit, or any combination of educational service units.

(5) Each school district shall inform the students' parents or legal guardians of the school district's dating violence policy. If requested, the school district shall provide the parents or legal guardians a copy of the school district's dating violence policy and relevant information.

(6) This section does not prevent a victim of dating violence from seeking redress under any other available law, either civil or criminal, and does not create or alter any existing tort liability.

Funding appropriations

No relevant statutes found.

Other/Uncategorized

Professional immunity or liability

STATUTES

R.R.S. Neb. § 79-293. Nebraska Criminal Code violation; principal or principal's designee; notify law enforcement authorities; immunity.

(2) The principal, the principal's designee, or any other school employee reporting an alleged violation of the Nebraska Criminal Code shall not be civilly or criminally liable as a result of any report authorized by this section unless (a) such report was false and the person making such report knew or should have known it was false or (b) the report was made with negligent disregard for the truth or falsity of the report.

Community input or involvement

No relevant statutes found.

Other/Uncategorized

No relevant statutes found.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by Nebraska provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
Website		
School Safety Center website	Provides information on School Safety Resources.	www.education.ne.gov/safety
Documents		
The Nebraska Department of Education model dating policy	Provides a model policy on dating violence	http://www.education.ne.gov/safety/Docs/LB63_Model_Policy_to_Prevent_Dating_Violence_2-2-10.pdf
Other Resources		
No relevant resources found		

Nevada
Compilation of School Discipline Laws and Regulations

Prepared: August 12, 2013

Introduction

This compilation presents school discipline-related state statutes, school discipline-related regulations, and, where available, links to state-sponsored websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSLE). For example, one major category encompasses all state laws or regulations mandating specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of state legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in each state.

Discipline categories were not mutually exclusive. Statutes and regulations often appeared across multiple categories. For states with more extensive statutes covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. State laws, ordered by chapter and section number, appear first within each category followed by state regulations. All statutes and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists statutes by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to state-sponsored websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of May 2013, with the exception of the state laws related to seclusion and restraint, which are complete and current as of December 2012. Readers should also note that the information in this document was compiled from individual state sources that are created by each state and which are maintained and updated with varying frequencies. Readers should consult the source information provided for each state directly in order to check for updates to this state's laws and regulations or conduct further research.

For further information, including definitions of the different policy categories, please refer to the Discipline Laws and Regulations Compendium posted on the Center's website.

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Safe Supportive Learning
Engagement | Safety | Environment

Table of Contents

Nevada State Codes Cited **1**

General Provisions **3**

Authority to develop and establish rules of conduct 3
Scope 5
Communication of policy 6

In-School Discipline **8**

Use of multi-tiered discipline approaches 8
Teacher authority to remove students from classrooms 8
Alternatives to suspension 9
Use of corporal punishment 9
Use of student and locker searches 10
Other in-school disciplinary approaches 10

Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements **11**

Grounds for possible suspension or expulsion 11
Grounds for mandatory suspension or expulsion 11
Limitations, conditions or exclusions for use of suspension and expulsion 12
Administrative procedures related to suspension and expulsion 14
In-school suspension 14
Return to school following removal 14
Use of restraint and seclusion 14
Alternative placements 16

Disciplinary Approaches Addressing Specific Infractions and Conditions **19**

Firearms (as required by the Guns-Free Schools Act) 19
Other weapons 19
Students with chronic disciplinary issues 20
Attendance and truancy 22
Substance use 24
Bullying, harassment, or hazing 25
Other special infractions or conditions 30

Prevention and Behavioral Interventions (Non-Punitive) **32**

Prevention 32
Behavioral interventions and student support services 33
Professional development 33

Monitoring and Accountability **35**

Formal incident reporting of conduct violations 35
Parental notification 35
Reporting and referrals between schools and law enforcement 38
Disclosure of school records 39
Data collection, review, and reporting of disciplinary policies and actions 40

School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers 42
Authority and power to implement school arrest 42
Certification or training 43
MOUs, authorization, and/or funding 43
State Education Agency Support 44
State model policies and implementation support 44
Funding appropriations 44
Other/Uncategorized 45
Professional immunity or liability 45
Community input or involvement 45
Other/Uncategorized 46
State-Sponsored, Publicly Available Websites or Other Resources on School Discipline 48

Nevada State Codes Cited

Nevada Revised Statutes

Title 34. Education

Chapter 388. System of Public Instruction

Policies; Informational Pamphlet; Program of Training

388.133. Policy by department concerning safe and respectful learning environment
388.134. Policy by school districts for provision of safe and respectful learning environment and policy for ethical, safe and secure use of computers; provision of training to school personnel; posting of policies on Internet website; annual review and update of policies

Prohibition of Bullying, Cyber-Bullying, Harassment and Intimidation; Reports Of Violations

388.135. Bullying, cyber-bullying, harassment and intimidation prohibited
388.1351. Staff member required to report violation to principal; time period for initiation and completion of investigation; authorization for parent to appeal disciplinary decision
388.1352. Establishment of policy by school districts for employees to report violations to law enforcement
388.1353. Principal required to submit report of violations for each semester to school district; review and compilation of reports by school district; submission of compilation to Department
388.139. Text of certain provisions required to be included in rules of behavior

Chapter 392. Pupils

Advisory Boards to Review School Attendance; School Attendance Councils; Absence and Truancy

392.140. Conditions under which pupil declared habitual truant; applicability
392.144. Duties of school if pupil is truant; reporting of habitual truant to law enforcement or referral to advisory board
392.149. Issuance of citation to habitual truant; applicability
392.150. Appointment of attendance officer authorized; procedures to monitor attendance and truancy; consideration of employment of attendance clerk
392.160. Taking into custody child reported absent from school; persons or counseling agency to whom child may be delivered

Children Who Have Been Adjudicated Delinquent for Sexual Offense or Sexually Motivated Act

392.264. Offender prohibited from attending school victim attends without court approval; duty of superintendent of school district to negotiate agreement for attendance in another school district; termination of agreement

Behavior and Discipline – General Provisions

392.461. Code of honor relating to cheating; contents; distribution
392.463. Adoption of plan to ensure public schools are safe and free of controlled substances; written rules of behavior and punishments; distribution of plan and rules to pupils; availability for inspection

392.4633. Corporal punishment prohibited; report of violation; forwarding of complaint if determined to be substantiated

392.4635. Policy for prohibition of activities of criminal gangs on school property

392.4637. Policy concerning use and possession of pagers, cellular telephones and other electronic devices

392.464. Adoption and enforcement by trustees of disciplinary measures for pupil in possession of alcoholic beverage or controlled substance on premises of school

Temporary Alternative Placement

392.4644. Plan for progressive discipline and on-site review of disciplinary decisions; annual review and revision of plan; posting and availability of plan; written reports by superintendent of schools, board of trustees and Superintendent of Public Instruction concerning compliance with section

392.4645. Removal of pupil from classroom: Notice; assignment to temporary alternative placement; exceptions

Habitual Disciplinary Problem; Suspension and Expulsion

392.4655. Conditions under which pupil deemed habitual disciplinary problem; plan of behavior to prevent pupil from being deemed habitual disciplinary problem

392.466. Suspension or expulsion of pupil for battery on employee of school, possession of firearm or dangerous weapon, sale or distribution of controlled substance or status as habitual disciplinary problem; limitations for pupils with disabilities

392.467. Suspension or expulsion of pupil: Procedure; limitation

392.4675. Certain suspended or expelled pupils ineligible to attend public school; authority for school district or charter school to enroll ineligible pupil in alternative programs, independent study, distance education or charter school designated for pupils with disciplinary problems

Unlawful Acts

392.910. Disturbance of school; assaulting pupil or school employee; interference with persons peaceably assembled within school; penalties

392.915. Threatening to cause bodily harm or death to pupil or school employee by means of oral, written or electronic communication; penalties

Nevada Administrative Code

Chapter 388. System of Public Instruction

Alternative Programs for Pupils at Risk of Dropping Out of School

388.510. General requirements; effective period

General Provisions

Authority to develop and establish rules of conduct

STATUTES

Nev. Rev. Stat. Ann. § 388.133. Policy by Department concerning safe and respectful learning environment.

1. The Department shall, in consultation with the boards of trustees of school districts, educational personnel, local associations and organizations of parents whose children are enrolled in public schools throughout this State, and individual parents and legal guardians whose children are enrolled in public schools throughout this State, prescribe by regulation a policy for all school districts and public schools to provide a safe and respectful learning environment that is free of bullying, cyber-bullying, harassment and intimidation.

2. The policy must include, without limitation:

(a) Requirements and methods for reporting violations of NRS 388.135; and

(b) A policy for use by school districts to train administrators, principals, teachers and all other personnel employed by the board of trustees of a school district. The policy must include, without limitation:

(1) Training in the appropriate methods to facilitate positive human relations among pupils without the use of bullying, cyber-bullying, harassment and intimidation so that pupils may realize their full academic and personal potential;

(2) Methods to improve the school environment in a manner that will facilitate positive human relations among pupils; and

(3) Methods to teach skills to pupils so that the pupils are able to replace inappropriate behavior with positive behavior.

Nev. Rev. Stat. Ann. § 388.134. Policy by school districts for provision of safe and respectful learning environment and policy for ethical, safe and secure use of computers; provision of training to school personnel; posting of policies on Internet website; annual review and update of policies.

1. Adopt the policy prescribed pursuant to NRS 388.133 and the policy prescribed pursuant to subsection

2 of NRS 389.520. The board of trustees may adopt an expanded policy for one or both of the policies if each expanded policy complies with the policy prescribed pursuant to NRS 388.133 or pursuant to subsection 2 of NRS 389.520, as applicable.

Nev. Rev. Stat. Ann. § 392.46. Code of honor relating to cheating; contents; distribution.

1. The Department shall prescribe by regulation a written policy that establishes a code of honor for pupils relating to cheating on examinations and course work. The policy must be developed in consultation with the boards of trustees of school districts, the governing bodies of charter schools, educational personnel employed by school districts and charter schools, and local associations and organizations of parents whose children are enrolled in public schools throughout this State.

2. The policy must include, without limitation, a definition of cheating that clearly and concisely informs pupils which acts constitute cheating for purposes of the code of honor.

Nev. Rev. Stat. Ann. § 392.463. Adoption of plan to ensure public schools are safe and free of controlled substances; written rules of behavior and punishments; distribution of plan and rules to pupils; availability for inspection.

1. Each school district shall adopt a plan to ensure that the public schools within the school district are safe and free of controlled substances. The plan must comply with the Safe and Drug-Free Schools and Communities Act, 20 U.S.C. §§ 7101 et seq.

2. Each school district shall prescribe written rules of behavior required of and prohibited for pupils attending school within their district and shall prescribe appropriate punishments for violations of the rules. If suspension or expulsion is used as a punishment for a violation of the rules, the school district shall follow the procedures in NRS 392.467.

Nev. Rev. Stat. Ann. § 392.464. Adoption and enforcement by trustees of disciplinary measures for pupil in possession of alcoholic beverage or controlled substance on premises of school.

1. The board of trustees of each school district shall adopt and enforce measures for disciplining any pupil who is found in possession of an alcoholic beverage or a controlled substance, while on the premises of any public school in its district.

Nev. Rev. Stat. Ann. § 392.4635. Policy for prohibition of activities of criminal gangs on school property.

1. The board of trustees of each school district shall establish a policy that prohibits the activities of criminal gangs on school property.

2. The policy established pursuant to subsection 1 may include, without limitation:

(a) The provision of training for the prevention of the activities of criminal gangs on school property.

(b) If the policy includes training:

(1) A designation of the grade levels of the pupils who must receive the training.

(2) A designation of the personnel who must receive the training, including, without limitation, personnel who are employed in schools at the grade levels designated pursuant to subparagraph (1).

The board of trustees of each school district shall ensure that the training is provided to the pupils and personnel designated in the policy.

(c) Provisions which prohibit:

(1) A pupil from wearing any clothing or carrying any symbol on school property that denotes membership in or an affiliation with a criminal gang; and

(2) Any activity that encourages participation in a criminal gang or facilitates illegal acts of a criminal gang.

(d) Provisions which provide for the suspension or expulsion of pupils who violate the policy.

Nev. Rev. Stat. Ann. § 392.4637. Policy concerning use and possession of pagers, cellular telephones and other electronic devices.

1. The board of trustees of each school district shall adopt a policy concerning the use and possession by pupils of a pager, cellular telephone or any other similar electronic device used for communication while on the premises of a public school or while at an activity sponsored by a public school.

2. The policy adopted pursuant to subsection 1 must:

(a) Prescribe appropriate measures for disciplining a pupil who violates the policy.

(b) Be included within each copy of the rules of behavior for pupils that the school district provides to pupils pursuant to NRS 392.463.

Nev. Rev. Stat. Ann. § 392.4638. Board of trustees authorized to adopt policy for pupils to report unlawful activity being conducted on school property, activity sponsored by public school or on school bus.

1. The board of trustees of each school district may adopt a policy that allows a pupil enrolled in a public school within the school district to report, anonymously if the pupil chooses, any unlawful activity which is being conducted on school property, at an activity sponsored by a public school or on a school bus. The policy may include, without limitation:

(a) The types of unlawful activities which a pupil may report; and

(b) The manner in which a pupil may report the unlawful activities.

2. The board of trustees of a school district may work in consultation with a local law enforcement agency or other governmental entity, corporation, business, organization or other entity to assist the board of trustees in the implementation of a policy adopted pursuant to subsection 1.

3. If the board of trustees of a school district adopts a policy pursuant to subsection 1, each public school within the school district shall post prominently in various locations at the school the policy adopted pursuant to subsection 1, which must clearly denote the phone number and any other methods by which a report may be made. If a public school maintains an Internet website for the school, the policy must also be posted on the school's website.

4. If the board of trustees of a school district adopts a policy pursuant to subsection 1, the board of trustees shall post the policy on the Internet website maintained by the school district.

Nev. Rev. Stat. Ann. § 392.4644. Plan for progressive discipline and on-site review of disciplinary decisions; annual review and revision of plan; posting and availability of plan; written reports by superintendent of schools, board of trustees and Superintendent of Public Instruction concerning compliance with section.

1. The principal of each public school shall establish a plan to provide for the progressive discipline of pupils and on-site review of disciplinary decisions. The plan must:

(a) Be developed with the input and participation of teachers and other educational personnel and support personnel who are employed at the school, and the parents and guardians of pupils who are enrolled in the school.

(b) Be consistent with the written rules of behavior prescribed in accordance with NRS 392.463.

(c) Include, without limitation, provisions designed to address the specific disciplinary needs and concerns of the school.

(d) Provide for the temporary removal of a pupil from a classroom in accordance with NRS 392.4645.

Scope

STATUTES

Nev. Rev. Stat. Ann. § 392.466. Suspension or expulsion of pupil for battery on employee of school, possession of firearm or dangerous weapon, sale or distribution of controlled substance or status as habitual disciplinary problem; limitations for pupils with disabilities.

1. Except as otherwise provided in this section, any pupil who commits a battery which results in the bodily injury of an employee of the school or who sells or distributes any controlled substance while on the premises of any public school, at an activity sponsored by a public school or on any school bus must, for the first occurrence, be suspended or expelled from that school, although the pupil may be placed in

another kind of school, for at least a period equal to one semester for that school. For a second occurrence, the pupil must be permanently expelled from that school and:

(a) Enroll in a private school pursuant to chapter 394 of NRS or be homeschooled; or

(b) Enroll in a program of independent study provided pursuant to NRS 389.155 for pupils who have been suspended or expelled from public school or a program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive, if the pupil qualifies for enrollment and is accepted for enrollment in accordance with the requirements of the applicable program.

2. Except as otherwise provided in this section, any pupil who is found in possession of a firearm or a dangerous weapon while on the premises of any public school, at an activity sponsored by a public school or on any school bus must, for the first occurrence, be expelled from the school for a period of not less than 1 year, although the pupil may be placed in another kind of school for a period not to exceed the period of the expulsion. For a second occurrence, the pupil must be permanently expelled from the school and:

(a) Enroll in a private school pursuant to chapter 394 of NRS or be homeschooled; or

(b) Enroll in a program of independent study provided pursuant NRS 389.155 for pupils who have been suspended or expelled from public school or a program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive, if the pupil qualifies for enrollment and is accepted for enrollment in accordance with the requirements of the applicable program.

Communication of policy

STATUTES

Nev. Rev. Stat. Ann. § 388.134. Policy by school districts for provision of safe and respectful learning environment and policy for ethical, safe and secure use of computers; provision of training to school personnel; posting of policies on Internet website; annual review and update of policies.

The board of trustees of each school district shall:

3. Post the policies adopted pursuant to subsection 1 on the Internet website maintained by the school district.

4. Ensure that the parents and legal guardians of pupils enrolled in the school district have sufficient information concerning the availability of the policies, including, without limitation, information that describes how to access the policies on the Internet website maintained by the school district. Upon the request of a parent or legal guardian, the school district shall provide the parent or legal guardian with a written copy of the policies.

Nev. Rev. Stat. Ann. § 388.139. Text of certain provisions required to be included in rules of behavior.

Each school district shall include the text of the provisions of NRS 388.121 to 388.139, inclusive, and the policies adopted by the board of trustees of the school district pursuant to NRS 388.134 under the heading "Bullying, Cyber-Bullying, Harassment and Intimidation Is Prohibited in Public Schools," within each copy of the rules of behavior for pupils that the school district provides to pupils pursuant to NRS 392.463.

Nev. Rev. Stat. Ann. § 392.461. Code of honor relating to cheating; contents; distribution.

4. Copies of the code of honor must be made available for inspection at each public school located within a school district, including, without limitation, each charter school, in an area on the grounds of the school that is open to the public.

5. Each classroom teacher shall:

(a) Distribute the code of honor to each pupil enrolled in the teacher's class and to the parent or legal guardian of each pupil enrolled in his or her class at the beginning of each school year or upon a pupil's enrollment in the teacher's class, as applicable;

(b) Provide the pupil and the parent or legal guardian of the pupil with a reasonable opportunity to sign the code of honor; and

(c) If the code of honor is returned with the signatures, retain a copy of the signed code of honor in the pupil's file.

Nev. Rev. Stat. Ann. § 392.463. Adoption of plan to ensure public schools are safe and free of controlled substances; written rules of behavior and punishments; distribution of plan and rules to pupils; availability for inspection.

3. A copy of the plan adopted pursuant to subsection 1 and the rules of behavior, prescribed punishments and procedures to be followed in imposing punishments prescribed pursuant to subsection 2 must be distributed to each pupil at the beginning of the school year and to each new pupil who enters school during the year. Copies must also be made available for inspection at each school located in that district in an area on the grounds of the school which is open to the public.

Nev. Rev. Stat. Ann. § 392.4644. Plan for progressive discipline and on-site review of disciplinary decisions; annual review and revision of plan; posting and availability of plan; written reports by superintendent of schools, board of trustees and Superintendent of Public Instruction concerning compliance with section.

2. On or before October 1 of each year, the principal of each public school shall:

(c) Post a copy of the plan or the revised plan, as applicable, in a prominent place at the school for public inspection and otherwise make the plan available for public inspection at the administrative office of the school.

In-School Discipline

Use of multi-tiered discipline approaches

STATUTES

Nev. Rev. Stat. Ann. § 392.4644. Plan for progressive discipline and on-site review of disciplinary decisions; annual review and revision of plan; posting and availability of plan; written reports by superintendent of schools, board of trustees and Superintendent of Public Instruction concerning compliance with section.

1. The principal of each public school shall establish a plan to provide for the progressive discipline of pupils and on-site review of disciplinary decisions. The plan must:

(a) Be developed with the input and participation of teachers and other educational personnel and support personnel who are employed at the school, and the parents and guardians of pupils who are enrolled in the school.

(b) Be consistent with the written rules of behavior prescribed in accordance with NRS 392.463.

(c) Include, without limitation, provisions designed to address the specific disciplinary needs and concerns of the school.

(d) Provide for the temporary removal of a pupil from a classroom in accordance with NRS 392.4645.

Teacher authority to remove students from classrooms

STATUTES

Nev. Rev. Stat. Ann. § 392.4645. Removal of pupil from classroom: Notice; assignment to temporary alternative placement; exceptions.

1. The plan established pursuant to NRS 392.4644 must provide for the temporary removal of a pupil from a classroom if, in the judgment of the teacher, the pupil has engaged in behavior that seriously interferes with the ability of the teacher to teach the other pupils in the classroom and with the ability of the other pupils to learn. The plan must provide that, upon the removal of a pupil from a classroom pursuant to this section, the principal of the school shall provide an explanation of the reason for the removal of the pupil to the pupil and offer the pupil an opportunity to respond to the explanation. Within 24 hours after the removal of a pupil pursuant to this section, the principal of the school shall notify the parent or legal guardian of the pupil of the removal.

Nev. Rev. Stat. Ann. § 392.4646. Removal of pupil from classroom: Conference; recommendation of principal.

1. Except as otherwise provided in this section, not later than 3 school days after a pupil is removed from a classroom pursuant to NRS 392.4645, a conference must be held with:

(a) The pupil;

(b) A parent or legal guardian of the pupil;

(c) The principal of the school; and

(d) The teacher who removed the pupil.

The principal shall give an oral or written notice of the conference, as appropriate, to each person who is required to participate.

2. After receipt of the notice required pursuant to subsection 1, the parent or legal guardian of the pupil may, not later than 3 school days after the removal of the pupil, request that the date of the conference be postponed. The principal shall accommodate such a request. If the date of the conference is postponed pursuant to this subsection, the principal shall send written notice to the parent or legal guardian confirming that the conference has been postponed at the request of the parent or legal guardian.

3. If a parent or legal guardian of a pupil refuses to attend a conference, the principal of the school shall send a written notice to the parent or legal guardian confirming that the parent or legal guardian has waived the right to a conference provided by this section and authorized the principal to recommend the placement of the pupil pursuant to subsection 6.

4. Except as otherwise provided in this subsection, a pupil must not return to the classroom from which the pupil was removed before the conference is held. If the conference is not held within 3 school days after the removal of the pupil, the pupil must be allowed to return to the classroom unless:

(a) The parent or legal guardian of the pupil refuses to attend the conference;

(b) The failure to hold a conference is attributed to the action or inaction of the pupil or the parent or legal guardian of the pupil; or

(c) The parent or legal guardian requested that the date of the conference be postponed.

5. During the conference, the teacher who removed the pupil from the classroom or the principal shall provide the pupil and the pupil's parent or legal guardian with an explanation of the reason for the removal of the pupil from the classroom. The pupil and the pupil's parent or legal guardian must be granted an opportunity to respond to the explanation of the pupil's behavior and to indicate whether the removal of the pupil from the classroom was appropriate in their opinion based upon the behavior of the pupil.

6. Upon conclusion of the conference or, if a conference is not held pursuant to subsection 3 not later than 3 school days after the removal of a pupil from a classroom, the principal shall recommend whether to return the pupil to the classroom or continue the temporary alternative placement of the pupil.

Alternatives to suspension

No relevant statutes found.

Use of corporal punishment

STATUTES

Nev. Rev. Stat. Ann. § 392.4633. Corporal punishment prohibited; report of violation; forwarding of complaint if determined to be substantiated.

1. Corporal punishment must not be administered upon a pupil in any public school.

2. Subsection 1 does not prohibit any teacher, principal or other licensed person from defending himself or herself if attacked by a pupil.

3. A person may report the use of corporal punishment on a pupil to the agency which provides child welfare services in the county in which the school district is located. If the agency determines that the complaint is substantiated, the agency shall forward the complaint to the Department, the appropriate local law enforcement agency within the county and the district attorney's office within the county for further investigation.

4. As used in this section:

(a) "Agency which provides child welfare services" has the meaning ascribed to it in NRS 432B.030.

(b) "Corporal punishment" means the intentional infliction of physical pain upon or the physical restraint of a pupil for disciplinary purposes. The term does not include the use of reasonable and necessary force:

(1) To quell a disturbance that threatens physical injury to any person or the destruction of property;

(2) To obtain possession of a weapon or other dangerous object within a pupil's control;

(3) For the purpose of self-defense or the defense of another person; or

(4) To escort a disruptive pupil who refuses to go voluntarily with the proper authorities.

Use of student and locker searches

No relevant statutes found.

Other in-school disciplinary approaches

No relevant statutes found.

Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements

Grounds for possible suspension or expulsion

STATUTES

Nev. Rev. Stat. Ann. § 392.467. Suspension or expulsion of pupil: Procedure; limitation.

1. Except as otherwise provided in subsections 4 and 5, the board of trustees of a school district may authorize the suspension or expulsion of any pupil from any public school within the school district.

2. Except as otherwise provided in subsection 5, no pupil may be suspended or expelled until the pupil has been given notice of the charges against him or her, an explanation of the evidence and an opportunity for a hearing, except that a pupil who poses a continuing danger to persons or property or an ongoing threat of disrupting the academic process or who is selling or distributing any controlled substance or is found to be in possession of a dangerous weapon as provided in NRS 392.466 may be removed from the school immediately upon being given an explanation of the reasons for his or her removal and pending proceedings, to be conducted as soon as practicable after removal, for the pupil's suspension or expulsion.

3. The provisions of chapter 241 of NRS do not apply to any hearing conducted pursuant to this section. Such hearings must be closed to the public.

4. The board of trustees of a school district shall not authorize the expulsion, suspension or removal of any pupil from the public school system solely because the pupil is declared a truant or habitual truant in accordance with NRS 392.130 or 392.140.

5. A pupil who is participating in a program of special education pursuant to NRS 388.520, other than a pupil who is gifted and talented or who receives early intervening services, may, in accordance with the procedural policy adopted by the board of trustees of the school district for such matters, be:

(a) Suspended from school pursuant to this section for not more than 10 days.

(b) Suspended from school for more than 10 days or permanently expelled from school pursuant to this section only after the board of trustees of the school district has reviewed the circumstances and determined that the action is in compliance with the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq.

Grounds for mandatory suspension or expulsion

STATUTES

Nev. Rev. Stat. Ann. § 392.466. Suspension or expulsion of pupil for battery on employee of school, possession of firearm or dangerous weapon, sale or distribution of controlled substance or status as habitual disciplinary problem; limitations for pupils with disabilities.

1. Except as otherwise provided in this section, any pupil who commits a battery which results in the bodily injury of an employee of the school or who sells or distributes any controlled substance while on the premises of any public school, at an activity sponsored by a public school or on any school bus must, for the first occurrence, be suspended or expelled from that school, although the pupil may be placed in another kind of school, for at least a period equal to one semester for that school. For a second occurrence, the pupil must be permanently expelled from that school and:

(a) Enroll in a private school pursuant to chapter 394 of NRS or be homeschooled; or

(b) Enroll in a program of independent study provided pursuant to NRS 389.155 for pupils who have been suspended or expelled from public school or a program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive, if the pupil qualifies for enrollment and is accepted for enrollment in accordance with the requirements of the applicable program.

2. Except as otherwise provided in this section, any pupil who is found in possession of a firearm or a dangerous weapon while on the premises of any public school, at an activity sponsored by a public school or on any school bus must, for the first occurrence, be expelled from the school for a period of not less than 1 year, although the pupil may be placed in another kind of school for a period not to exceed the period of the expulsion. For a second occurrence, the pupil must be permanently expelled from the school and:

(a) Enroll in a private school pursuant to chapter 394 of NRS or be homeschooled; or

(b) Enroll in a program of independent study provided pursuant NRS 389.155 for pupils who have been suspended or expelled from public school or a program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive, if the pupil qualifies for enrollment and is accepted for enrollment in accordance with the requirements of the applicable program.

3. Except as otherwise provided in this section, if a pupil is deemed a habitual disciplinary problem pursuant to NRS 392.4655, the pupil must be suspended or expelled from the school for a period equal to at least one semester for that school. For the period of the pupil's suspension or expulsion, the pupil must:

(a) Enroll in a private school pursuant to chapter 394 of NRS or be homeschooled; or

(b) Enroll in a program of independent study provided pursuant to NRS 389.155 for pupils who have been suspended or expelled from public school or a program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive, if the pupil qualifies for enrollment and is accepted for enrollment in accordance with the requirements of the applicable program.

Limitations, conditions or exclusions for use of suspension and expulsion

STATUTES

Nev. Rev. Stat. Ann. § 392.466. Suspension or expulsion of pupil for battery on employee of school, possession of firearm or dangerous weapon, sale or distribution of controlled substance or status as habitual disciplinary problem; limitations for pupils with disabilities.

2. Except as otherwise provided in this section, any pupil who is found in possession of a firearm or a dangerous weapon while on the premises of any public school, at an activity sponsored by a public school or on any school bus must, for the first occurrence, be expelled from the school for a period of not less than 1 year, although the pupil may be placed in another kind of school for a period not to exceed the period of the expulsion. For a second occurrence, the pupil must be permanently expelled from the school and:

(a) Enroll in a private school pursuant to chapter 394 of NRS or be homeschooled; or

(b) Enroll in a program of independent study provided pursuant NRS 389.155 for pupils who have been suspended or expelled from public school or a program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive, if the pupil qualifies for enrollment and is accepted for enrollment in accordance with the requirements of the applicable program.

The superintendent of schools of a school district may, for good cause shown in a particular case in that school district, allow a modification to the expulsion requirement of this subsection if such modification is set forth in writing.

5. Any pupil in grades 1 to 6, inclusive, except a pupil who has been found to have possessed a firearm in violation of subsection 2, may be suspended from school or permanently expelled from school pursuant to this section only after the board of trustees of the school district has reviewed the circumstances and approved this action in accordance with the procedural policy adopted by the board for such issues.

6. A pupil who is participating in a program of special education pursuant to NRS 388.520, other than a pupil who is gifted and talented or who receives early intervening services, may, in accordance with the procedural policy adopted by the board of trustees of the school district for such matters, be:

(a) Suspended from school pursuant to this section for not more than 10 days. Such a suspension may be imposed pursuant to this paragraph for each occurrence of conduct proscribed by subsection 1.

(b) Suspended from school for more than 10 days or permanently expelled from school pursuant to this section only after the board of trustees of the school district has reviewed the circumstances and determined that the action is in compliance with the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq.

Nev. Rev. Stat. Ann. § 392.467. Suspension or expulsion of pupil: Procedure; limitation.

1. Except as otherwise provided in subsections 4 and 5, the board of trustees of a school district may authorize the suspension or expulsion of any pupil from any public school within the school district.

2. Except as otherwise provided in subsection 5, no pupil may be suspended or expelled until the pupil has been given notice of the charges against him or her, an explanation of the evidence and an opportunity for a hearing, except that a pupil who poses a continuing danger to persons or property or an ongoing threat of disrupting the academic process or who is selling or distributing any controlled substance or is found to be in possession of a dangerous weapon as provided in NRS 392.466 may be removed from the school immediately upon being given an explanation of the reasons for his or her removal and pending proceedings, to be conducted as soon as practicable after removal, for the pupil's suspension or expulsion.

3. The provisions of chapter 241 of NRS do not apply to any hearing conducted pursuant to this section. Such hearings must be closed to the public.

4. The board of trustees of a school district shall not authorize the expulsion, suspension or removal of any pupil from the public school system solely because the pupil is declared a truant or habitual truant in accordance with NRS 392.130 or 392.140.

5. A pupil who is participating in a program of special education pursuant to NRS 388.520, other than a pupil who is gifted and talented or who receives early intervening services, may, in accordance with the procedural policy adopted by the board of trustees of the school district for such matters, be:

(a) Suspended from school pursuant to this section for not more than 10 days.

(b) Suspended from school for more than 10 days or permanently expelled from school pursuant to this section only after the board of trustees of the school district has reviewed the circumstances and determined that the action is in compliance with the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq.

Administrative procedures related to suspension and expulsion

STATUTES

Nev. Rev. Stat. Ann. § 392.466. Suspension or expulsion of pupil for battery on employee of school, possession of firearm or dangerous weapon, sale or distribution of controlled substance or status as habitual disciplinary problem; limitations for pupils with disabilities.

5. Any pupil in grades 1 to 6, inclusive, except a pupil who has been found to have possessed a firearm in violation of subsection 2, may be suspended from school or permanently expelled from school pursuant to this section only after the board of trustees of the school district has reviewed the circumstances and approved this action in accordance with the procedural policy adopted by the board for such issues.

Nev. Rev. Stat. Ann. § 392.467. Suspension or expulsion of pupil: Procedure; limitation.

2. Except as otherwise provided in subsection 5, no pupil may be suspended or expelled until the pupil has been given notice of the charges against him or her, an explanation of the evidence and an opportunity for a hearing, except that a pupil who poses a continuing danger to persons or property or an ongoing threat of disrupting the academic process or who is selling or distributing any controlled substance or is found to be in possession of a dangerous weapon as provided in NRS 392.466 may be removed from the school immediately upon being given an explanation of the reasons for his or her removal and pending proceedings, to be conducted as soon as practicable after removal, for the pupil's suspension or expulsion.

In-school suspension

No relevant statutes found.

Return to school following removal

No relevant statutes found.

Use of restraint and seclusion

STATUTES

Nev. Rev. Stat. Ann. § 388.5265. Aversive intervention prohibited.

A person employed by the board of trustees of a school district or any other person shall not use any aversive intervention on a pupil with a disability.

Nev. Rev. Stat. Ann. § 388.527. Physical restraint and mechanical restraint prohibited; exceptions.

A person employed by the board of trustees of a school district or any other person shall not:

1. Except as otherwise provided in NRS 388.5275, use physical restraint on a pupil with a disability.
2. Except as otherwise provided in NRS 388.528, use mechanical restraint on a pupil with a disability.

Nev. Rev. Stat. Ann. § 388.5275. Conditions under which physical restraint may be used; report required; requirements if pupil has three or five reports of use of restraint in 1 school year.

1. Except as otherwise provided in subsection 2, physical restraint may be used on a pupil with a disability only if:

(a) An emergency exists that necessitates the use of physical restraint;

(b) The physical restraint is used only for the period that is necessary to contain the behavior of the pupil so that the pupil is no longer an immediate threat of causing physical injury to the pupil or to others or causing severe property damage; and

(c) The use of force in the application of physical restraint does not exceed the force that is reasonable and necessary under the circumstances precipitating the use of physical restraint.

2. Physical restraint may be used on a pupil with a disability and the provisions of subsection 1 do not apply if the physical restraint is used to:

(a) Assist the pupil in completing a task or response if the pupil does not resist the application of physical restraint or if the pupil's resistance is minimal in intensity and duration;

(b) Escort or carry the pupil to safety if the pupil is in danger in his or her present location; or

(c) Conduct medical examinations or treatments on the pupil that are necessary.

3. If physical restraint is used on a pupil with a disability in an emergency, the use of the procedure must be reported in the pupil's cumulative record and a confidential file maintained for the pupil not later than 1 working day after the procedure is used. A copy of the report must be provided to the board of trustees of the school district or its designee, the pupil's individualized education program team and the parent or guardian of the pupil. If the board of trustees or its designee determines that a denial of the pupil's rights has occurred, the board of trustees or its designee shall submit a report to the Department in accordance with NRS 388.5315.

4. If a pupil with a disability has three reports of the use of physical restraint in his or her record pursuant subsection 3 in 1 school year, the school district shall notify the school in which the pupil is enrolled to review the circumstances of the use of the restraint on the pupil and provide a report to the school district on its findings.

5. If a pupil with a disability has five reports of the use of physical restraint in his or her record pursuant to subsection 3 in 1 school year, the pupil's individualized education program must be reviewed in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1414 et seq., and the regulations adopted pursuant thereto. If physical restraint continues after the pupil's individualized education program has been reviewed, the school district and the parent or legal guardian of the pupil shall include in the pupil's individualized education program additional methods that are appropriate for the pupil to ensure that the restraint does not continue, including, without limitation, mentoring, training, a functional behavioral assessment, a positive behavior plan and positive behavioral supports.

Nev. Rev. Stat. Ann. § 388.528. Conditions under which mechanical restraint may be used; report required; requirements if pupil has three or five reports of use of restraint in 1 school year.

1. Except as otherwise provided in subsection 2, mechanical restraint may be used on a pupil with a disability only if:

(a) An emergency exists that necessitates the use of mechanical restraint;

(b) A medical order authorizing the use of mechanical restraint from the pupil's treating physician is included in the pupil's individualized education program before the application of the mechanical restraint;

(c) The physician who signed the order required pursuant to paragraph (b) or the attending physician examines the pupil as soon as practicable after the application of the mechanical restraint;

(d) The mechanical restraint is applied by a member of the staff of the school who is trained and qualified to apply mechanical restraint;

(e) The pupil is given the opportunity to move and exercise the parts of his or her body that are restrained at least 10 minutes per every 60 minutes of restraint, unless otherwise prescribed by the physician who signed the order;

(f) A member of the staff of the school lessens or discontinues the restraint every 15 minutes to determine whether the pupil will stop injury to himself or herself without the use of the restraint;

(g) The record of the pupil contains a notation that includes the time of day that the restraint was lessened or discontinued pursuant to paragraph (f), the response of the pupil and the response of the member of the staff of the school who applied the mechanical restraint;

(h) A member of the staff of the school continuously monitors the pupil during the time that mechanical restraint is used on the pupil; and

(i) The mechanical restraint is used only for the period that is necessary to contain the behavior of the pupil so that the pupil is no longer an immediate threat of causing physical injury to himself or herself.

2. Mechanical restraint may be used on a pupil with a disability and the provisions of subsection 1 do not apply if the mechanical restraint is used to:

(a) Treat the medical needs of the pupil;

(b) Protect a pupil who is known to be at risk of injury to himself or herself because he or she lacks coordination or suffers from frequent loss of consciousness;

(c) Provide proper body alignment to a pupil; or

(d) Position a pupil who has physical disabilities in a manner prescribed in the pupil's individualized education program.

3. If mechanical restraint is used on a pupil with a disability in an emergency, the use of the procedure must be reported in the pupil's cumulative record and a confidential file maintained for the pupil not later than 1 working day after the procedure is used. A copy of the report must be provided to the board of trustees of the school district or its designee, the pupil's individualized education program team and the parent or guardian of the pupil. If the board of trustees or its designee determines that a denial of the pupil's rights has occurred, the board of trustees or its designee shall submit a report to the Department in accordance with NRS 388.5315.

4. If a pupil with a disability has three reports of the use of mechanical restraint in his or her record pursuant to subsection 3 in 1 school year, the school district shall notify the school in which the pupil is enrolled to review the circumstances of the use of the restraint on the pupil and provide a report of its findings to the school district.

5. If a pupil with a disability has five reports of the use of mechanical restraint in his or her record pursuant to subsection 3 in 1 school year, the pupil's individualized education program must be reviewed in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1414 et seq., and the regulations adopted pursuant thereto. If mechanical restraint continues after the pupil's individualized education program has been reviewed, the school district and the parent or legal guardian of the pupil shall include in the pupil's individualized education program additional methods that are appropriate for the pupil to ensure that restraint does not continue, including, without limitation, mentoring, training, a functional behavioral assessment, a positive behavior plan and positive behavioral supports.

Alternative placements

STATUTES

Nev. Rev. Stat. Ann. § 392.466. Suspension or expulsion of pupil for battery on employee of school, possession of firearm or dangerous weapon, sale or distribution of controlled substance or status as habitual disciplinary problem; limitations for pupils with disabilities.

1. Except as otherwise provided in this section, any pupil who commits a battery which results in the bodily injury of an employee of the school or who sells or distributes any controlled substance while on

the premises of any public school, at an activity sponsored by a public school or on any school bus must, for the first occurrence, be suspended or expelled from that school, although the pupil may be placed in another kind of school, for at least a period equal to one semester for that school. For a second occurrence, the pupil must be permanently expelled from that school and:

(a) Enroll in a private school pursuant to chapter 394 of NRS or be homeschooled; or

(b) Enroll in a program of independent study provided pursuant to NRS 389.155 for pupils who have been suspended or expelled from public school or a program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive, if the pupil qualifies for enrollment and is accepted for enrollment in accordance with the requirements of the applicable program.

2. Except as otherwise provided in this section, any pupil who is found in possession of a firearm or a dangerous weapon while on the premises of any public school, at an activity sponsored by a public school or on any school bus must, for the first occurrence, be expelled from the school for a period of not less than 1 year, although the pupil may be placed in another kind of school for a period not to exceed the period of the expulsion. For a second occurrence, the pupil must be permanently expelled from the school and:

(a) Enroll in a private school pursuant to chapter 394 of NRS or be homeschooled; or

(b) Enroll in a program of independent study provided pursuant NRS 389.155 for pupils who have been suspended or expelled from public school or a program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive, if the pupil qualifies for enrollment and is accepted for enrollment in accordance with the requirements of the applicable program. [...]

3. Except as otherwise provided in this section, if a pupil is deemed a habitual disciplinary problem pursuant to NRS 392.4655, the pupil must be suspended or expelled from the school for a period equal to at least one semester for that school. For the period of the pupil's suspension or expulsion, the pupil must:

(a) Enroll in a private school pursuant to chapter 394 of NRS or be homeschooled; or

(b) Enroll in a program of independent study provided pursuant to NRS 389.155 for pupils who have been suspended or expelled from public school or a program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive, if the pupil qualifies for enrollment and is accepted for enrollment in accordance with the requirements of the applicable program.

8. The provisions of this section do not prohibit a pupil who is suspended or expelled from enrolling in a charter school that is designed exclusively for the enrollment of pupils with disciplinary problems if the pupil is accepted for enrollment by the charter school pursuant to NRS 386.580. Upon request, the governing body of a charter school must be provided with access to the records of the pupil relating to the pupil's suspension or expulsion in accordance with applicable federal and state law before the governing body makes a decision concerning the enrollment of the pupil.

Nev. Rev. Stat. Ann. § 392.4645. Removal of pupil from classroom: Notice; assignment to temporary alternative placement; exceptions.

1. The plan established pursuant to NRS 392.4644 must provide for the temporary removal of a pupil from a classroom if, in the judgment of the teacher, the pupil has engaged in behavior that seriously interferes with the ability of the teacher to teach the other pupils in the classroom and with the ability of the other pupils to learn. The plan must provide that, upon the removal of a pupil from a classroom pursuant to this section, the principal of the school shall provide an explanation of the reason for the removal of the pupil to the pupil and offer the pupil an opportunity to respond to the explanation. Within 24 hours after the removal of a pupil pursuant to this section, the principal of the school shall notify the parent or legal guardian of the pupil of the removal.

2. Except as otherwise provided in subsection 3, a pupil who is removed from a classroom pursuant to this section must be assigned to a temporary alternative placement pursuant to which the pupil:

(a) Is separated, to the extent practicable, from pupils who are not assigned to a temporary alternative placement;

(b) Studies under the supervision of appropriate personnel of the school district; and

(c) Is prohibited from engaging in any extracurricular activity sponsored by the school.

Nev. Rev. Stat. Ann. § 392.4675. Certain suspended or expelled pupils ineligible to attend public school; authority for school district or charter school to enroll ineligible pupil in alternative programs, independent study, distance education or charter school designated for pupils with disciplinary problems.

2. A school district or a charter school, if the charter school offers the applicable program, may allow a pupil who is ineligible to attend a public school pursuant to this section to enroll in:

(a) An alternative program for the education of pupils at risk of dropping out of school provided pursuant to NRS 388.537;

(b) A program of independent study provided pursuant to NRS 389.155 for pupils who have been suspended or expelled from public school;

(c) A program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive; or

(d) Any program of instruction offered pursuant to the provisions of NRS 388.550,

if the pupil qualifies for enrollment and is accepted for enrollment in accordance with the requirements of the applicable program. A school district or charter school may conduct an investigation of the background of any such pupil to determine if the educational needs of the pupil may be satisfied without undue disruption to the program. If an investigation is conducted, the board of trustees of the school district or the governing body of the charter school shall, based on the results of the investigation, determine if the pupil will be allowed to enroll in such a program.

ADMINISTRATIVE CODE

NAC 388.510. General requirements; effective period.

1. A plan for an alternative program submitted for approval pursuant to NRS 388.537 must be on a form approved by the Department of Education and must address the considerations set forth in NRS 388.537.

2. A plan for an alternative program that is approved pursuant to NRS 388.537 remains in effect for 5 years after the date of approval. The board of trustees of a school district shall update its plan for an alternative program at least once annually if a substantive change is made to the plan.

Disciplinary Approaches Addressing Specific Infractions and Conditions

Firearms (as required by the Guns-Free Schools Act)

STATUTES

Nev. Rev. Stat. Ann. § 392.466. Suspension or expulsion of pupil for battery on employee of school, possession of firearm or dangerous weapon, sale or distribution of controlled substance or status as habitual disciplinary problem; limitations for pupils with disabilities.

2. Except as otherwise provided in this section, any pupil who is found in possession of a firearm or a dangerous weapon while on the premises of any public school, at an activity sponsored by a public school or on any school bus must, for the first occurrence, be expelled from the school for a period of not less than 1 year, although the pupil may be placed in another kind of school for a period not to exceed the period of the expulsion. For a second occurrence, the pupil must be permanently expelled from the school and:

(a) Enroll in a private school pursuant to chapter 394 of NRS or be homeschooled; or

(b) Enroll in a program of independent study provided pursuant NRS 389.155 for pupils who have been suspended or expelled from public school or a program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive, if the pupil qualifies for enrollment and is accepted for enrollment in accordance with the requirements of the applicable program.

The superintendent of schools of a school district may, for good cause shown in a particular case in that school district, allow a modification to the expulsion requirement of this subsection if such modification is set forth in writing.

4. This section does not prohibit a pupil from having in his or her possession a knife or firearm with the approval of the principal of the school. A principal may grant such approval only in accordance with the policies or regulations adopted by the board of trustees of the school district.

7. As used in this section: [...]

(c) “Firearm” includes, without limitation, any pistol, revolver, shotgun, explosive substance or device, and any other item included within the definition of a “firearm” in 18 U.S.C. § 921, as that section existed on July 1, 1995.

Other weapons

STATUTES

Nev. Rev. Stat. Ann. § 392.466. Suspension or expulsion of pupil for battery on employee of school, possession of firearm or dangerous weapon, sale or distribution of controlled substance or status as habitual disciplinary problem; limitations for pupils with disabilities.

2. Except as otherwise provided in this section, any pupil who is found in possession of a firearm or a dangerous weapon while on the premises of any public school, at an activity sponsored by a public school or on any school bus must, for the first occurrence, be expelled from the school for a period of not less than 1 year, although the pupil may be placed in another kind of school for a period not to exceed the period of the expulsion. For a second occurrence, the pupil must be permanently expelled from the school and:

(a) Enroll in a private school pursuant to chapter 394 of NRS or be homeschooled; or

(b) Enroll in a program of independent study provided pursuant NRS 389.155 for pupils who have been suspended or expelled from public school or a program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive, if the pupil qualifies for enrollment and is accepted for enrollment in accordance with the requirements of the applicable program.

The superintendent of schools of a school district may, for good cause shown in a particular case in that school district, allow a modification to the expulsion requirement of this subsection if such modification is set forth in writing.

4. This section does not prohibit a pupil from having in his or her possession a knife or firearm with the approval of the principal of the school. A principal may grant such approval only in accordance with the policies or regulations adopted by the board of trustees of the school district.

7. As used in this section: [...]

(b) “Dangerous weapon” includes, without limitation, a blackjack, slingshot, billy, sand-club, sandbag, metal knuckles, dirk or dagger, a nunchaku, switchblade knife or trefoil, as defined in NRS 202.350, a butterfly knife or any other knife described in NRS 202.350, or any other object which is used, or threatened to be used, in such a manner and under such circumstances as to pose a threat of, or cause, bodily injury to a person. [...]

Students with chronic disciplinary issues

STATUTES

Nev. Rev. Stat. Ann. § 392.466. Suspension or expulsion of pupil for battery on employee of school, possession of firearm or dangerous weapon, sale or distribution of controlled substance or status as habitual disciplinary problem; limitations for pupils with disabilities.

3. Except as otherwise provided in this section, if a pupil is deemed a habitual disciplinary problem pursuant to NRS 392.4655, the pupil must be suspended or expelled from the school for a period equal to at least one semester for that school. For the period of the pupil’s suspension or expulsion, the pupil must:

(a) Enroll in a private school pursuant to chapter 394 of NRS or be homeschooled; or

(b) Enroll in a program of independent study provided pursuant to NRS 389.155 for pupils who have been suspended or expelled from public school or a program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive, if the pupil qualifies for enrollment and is accepted for enrollment in accordance with the requirements of the applicable program.

Nev. Rev. Stat. Ann. § 392.4655. Conditions under which pupil deemed habitual disciplinary problem; plan of behavior to prevent pupil from being deemed habitual disciplinary problem.

1. Except as otherwise provided in this section, a principal of a school shall deem a pupil enrolled in the school a habitual disciplinary problem if the school has written evidence which documents that in 1 school year:

(a) The pupil has threatened or extorted, or attempted to threaten or extort, another pupil or a teacher or other personnel employed by the school;

(b) The pupil has been suspended for initiating at least two fights on school property, at an activity sponsored by a public school, on a school bus or, if the fight occurs within 1 hour of the beginning or end of a school day, on the pupil's way to or from school; or

(c) The pupil has a record of five suspensions from the school for any reason.

2. At least one teacher of a pupil who is enrolled in elementary school and at least two teachers of a pupil who is enrolled in junior high, middle school or high school may request that the principal of the school deem a pupil a habitual disciplinary problem. Upon such a request, the principal of the school shall meet with each teacher who made the request to review the pupil's record of discipline. If, after the review, the principal of the school determines that the provisions of subsection 1 do not apply to the pupil, a teacher who submitted a request pursuant to this subsection may appeal that determination to the board of trustees of the school district. Upon receipt of such a request, the board of trustees shall review the initial request and determination pursuant to the procedure established by the board of trustees for such matters.

3. If a pupil is suspended for initiating a fight described in paragraph (b) of subsection 1 and the fight is the first such fight that the pupil has initiated during that school year, or if a pupil receives one suspension on the pupil's record, the school in which the pupil is enrolled shall provide written notice to the parent or legal guardian of the pupil that contains:

(a) A description of the acts committed by the pupil and the dates on which those acts were committed;

(b) An explanation that if the pupil is suspended for initiating one additional fight or if the pupil receives five suspensions on his or her record during the current school year, the pupil will be deemed a habitual disciplinary problem;

(c) An explanation that, pursuant to subsection 3 of NRS 392.466, a pupil who is deemed a habitual disciplinary problem must be suspended or expelled from school for a period equal to at least one school semester;

(d) If the pupil has a disability and is participating in a program of special education pursuant to NRS 388.520, an explanation of the effect of subsection 6 of NRS 392.466, including, without limitation, that if it is determined in accordance with 20 U.S.C. § 1415 that the pupil's behavior is not a manifestation of the pupil's disability, he or she may be suspended or expelled from school in the same manner as a pupil without a disability; and

(e) If applicable, a summary of the provisions of subsection 4.

A school shall provide the notice required by this subsection for each suspension on the record of a pupil during a school year. A school may include the notice required by this subsection with notice that is otherwise provided to the parent or legal guardian of a pupil which informs the parent or legal guardian of the act committed by the pupil.

4. If a pupil is suspended for initiating a fight described in paragraph (b) of subsection 1 and the fight is the first such fight that the pupil has initiated during that school year, or if a pupil receives four suspensions on the pupil's record within 1 school year, the school in which the pupil is enrolled may develop, in consultation with the pupil and the parent or legal guardian of the pupil, a plan of behavior for the pupil. Such a plan must be designed to prevent the pupil from being deemed a habitual disciplinary problem and may include, without limitation, a voluntary agreement by:

(a) The parent or legal guardian to attend school with his or her child.

(b) The pupil and the pupil's parent or legal guardian to attend counseling, programs or services available in the school district or community.

(c) The pupil and the pupil's parent or legal guardian that the pupil will attend summer school, intersession school or school on Saturday, if any of those alternatives are offered by the school district.

If the pupil commits the same act for which notice was provided pursuant to subsection 3 after he or she enters into a plan of behavior, the pupil shall be deemed a habitual disciplinary problem.

5. If a pupil commits an act the commission of which qualifies the pupil to be deemed a habitual disciplinary problem pursuant to subsection 1, the school shall provide written notice to the parent or legal guardian of the pupil that contains:

(a) A description of the qualifying act and any previous such acts committed by the pupil and the dates on which those acts were committed;

(b) An explanation that pursuant to subsection 3 of NRS 392.466, a pupil who is a habitual disciplinary problem must be suspended or expelled from school for a period equal to at least one school semester;

(c) If the pupil has a disability and is participating in a program of special education pursuant to NRS 388.520, an explanation of the effect of subsection 6 of NRS 392.466, including, without limitation, that if it is determined in accordance with 20 U.S.C. § 1415 that the pupil's behavior is not a manifestation of the pupil's disability, he or she may be suspended or expelled from school in the same manner as a pupil without a disability; and

(d) If applicable, a summary of the provisions of subsection 6.

The school shall provide the notice at least 7 days before the school deems the pupil a habitual disciplinary problem. A school may include the notice required by this subsection with notice that is otherwise provided to the parent or legal guardian of a pupil which informs the parent or legal guardian of the act committed by the pupil.

6. Before a school deems a pupil a habitual disciplinary problem and suspends or expels the pupil, the school may develop, in consultation with the pupil and the parent or legal guardian of the pupil, a plan of behavior for the pupil. Such a plan must be designed to prevent the pupil from being deemed a habitual disciplinary problem and may include, without limitation, a voluntary agreement by:

(a) The parent or legal guardian to attend school with his or her child.

(b) The pupil and the pupil's parent or legal guardian to attend counseling, programs or services available in the school district or community.

(c) The pupil and the pupil's parent or legal guardian that the pupil will attend summer school, intersession school or school on Saturday, if any of those alternatives are offered by the school district.

If the pupil violates the conditions of the plan or commits the same act for which notice was provided pursuant to subsection 5 after he or she enters into a plan of behavior, the pupil shall be deemed a habitual disciplinary problem.

7. A pupil may, pursuant to the provisions of this section, enter into one plan of behavior per school year.

8. The parent or legal guardian of a pupil who has entered into a plan of behavior with a school pursuant to this section may appeal to the board of trustees of the school district a determination made by the school concerning the contents of the plan of behavior or action taken by the school pursuant to the plan of behavior. Upon receipt of such a request, the board of trustees of the school district shall review the determination in accordance with the procedure established by the board of trustees for such matters.

Attendance and truancy

STATUTES

Nev. Rev. Stat. Ann. § 392.140. Conditions under which pupil declared habitual truant; applicability.

1. Any child who has been declared a truant three or more times within one school year must be declared a habitual truant.

2. Any child who has once been declared a habitual truant and who in an immediately succeeding year is absent from school without the written:

(a) Approval of the child's teacher or the principal of the school pursuant to subsection 1 of NRS 392.130; or

(b) Notice of his or her parent or legal guardian or other person who has control or charge over the pupil pursuant to subsection 3 of NRS 392.130,

may again be declared a habitual truant.

3. The provisions of this section apply to all pupils who are required to attend school pursuant to NRS 392.040.

Nev. Rev. Stat. Ann. § 392.144. Duties of school if pupil is truant; reporting of habitual truant to law enforcement or referral to advisory board.

1. If a pupil has one or more unapproved absences from school, the school in which the pupil is enrolled shall take reasonable actions designed, as applicable, to encourage, enable or convince the pupil to attend school.

2. If a pupil is a habitual truant pursuant to NRS 392.140, the principal of the school shall:

(a) Report the pupil to a school police officer or to the local law enforcement agency for investigation and issuance of a citation, if warranted, in accordance with NRS 392.149; or

(b) If the parent or legal guardian of a pupil has signed a written consent pursuant to subsection 4, submit a written referral of the pupil to the advisory board to review school attendance in the county in accordance with NRS 392.146.

3. The board of trustees of each school district shall adopt criteria to determine whether the principal of a school shall report a pupil to a school police officer or law enforcement agency pursuant to paragraph (a) of subsection 2 or refer a pupil to an advisory board to review school attendance pursuant to paragraph (b) of subsection 2.

4. If the principal of a school makes an initial determination to submit a written referral of a pupil to the advisory board to review school attendance, the principal shall notify the parent or legal guardian of the pupil and request the parent or legal guardian to sign a written consent that authorizes the school and, if applicable, the school district to release the records of the pupil to the advisory board to the extent that such release is necessary for the advisory board to carry out its duties pursuant to NRS 392.146; and 392.147. The written consent must comply with the applicable requirements of 20 U.S.C. § 1232g(b) and 34 C.F.R. Part 99. If the parent or legal guardian refuses to sign the consent, the principal shall report the pupil to a school police officer or to a local law enforcement agency pursuant to paragraph (a) of subsection 2.

Nev. Rev. Stat. Ann. § 392.149. Issuance of citation to habitual truant; applicability.

1. Upon receipt of a report pursuant to NRS 392.144; or 392.147, if it appears after investigation that a pupil is a habitual truant, the school police officer or law enforcement agency to whom the report is made shall prepare manually or electronically a citation directing the pupil to appear in the proper juvenile court.

Nev. Rev. Stat. Ann. § 392.150. Appointment of attendance officer authorized; procedures to monitor attendance and truancy; consideration of employment of attendance clerk.

1. The board of trustees of a school district may appoint an attendance officer for the school district, who need not be a licensed employee of the school district, except that in any school district where a system of classified employment is in effect, attendance officers must be classified employees of the school district. If the board of trustees appoints an attendance officer for the school district, the board of trustees may:

(a) Fix the compensation of the attendance officer;

(b) Prescribe the duties of the attendance officer; and

(c) Adopt regulations not inconsistent with law for the performance of the duties of the attendance officer.

2. The board of trustees of each school district shall:

(a) Establish procedures to monitor the attendance and truancy of pupils, including, without limitation, a standard method for reporting the truancy of pupils and a standard method for reporting excessive absences of pupils throughout the school district;

(b) Coordinate efforts to refer pupils who are truant to appropriate providers of community services; and

(c) Determine, based on the attendance and truancy of pupils at each school within the school district, whether to employ an attendance clerk for a particular school or group of schools whose primary responsibility is to monitor the attendance and truancy of pupils.

Nev. Rev. Stat. Ann. § 392.160. Taking into custody child reported absent from school; persons or counseling agency to whom child may be delivered.

1. Any peace officer, the attendance officer or any other school officer shall, during school hours, take into custody without warrant:

(a) Any child between the ages of 7 and 18 years; and

(b) Any child who has arrived at the age of 6 years but not at the age of 7 years and is enrolled in a public school, who has been reported to the officer by the teacher, superintendent of schools or other school officer as an absentee from instruction upon which the child is lawfully required to attend.

2. Except as otherwise provided in subsection 3:

(a) During school hours, the officer having custody shall forthwith deliver the child to the superintendent of schools, principal or other school officer at the child's school of attendance.

(b) After school hours, the officer having custody shall deliver the child to the parent, guardian or other person having control or charge of the child.

Nev. Rev. Stat. Ann. § 392.467. Suspension or expulsion of pupil: Procedure; limitation.

4. The board of trustees of a school district shall not authorize the expulsion, suspension or removal of any pupil from the public school system solely because the pupil is declared a truant or habitual truant in accordance with NRS 392.130 or 392.140.

Substance use

STATUTES

Nev. Rev. Stat. Ann. § 392.463. Adoption of plan to ensure public schools are safe and free of controlled substances; written rules of behavior and punishments; distribution of plan and rules to pupils; availability for inspection.

1. Each school district shall adopt a plan to ensure that the public schools within the school district are safe and free of controlled substances. The plan must comply with the Safe and Drug-Free Schools and Communities Act, 20 U.S.C. §§ 7101 et seq.

2. Each school district shall prescribe written rules of behavior required of and prohibited for pupils attending school within their district and shall prescribe appropriate punishments for violations of the rules. If suspension or expulsion is used as a punishment for a violation of the rules, the school district shall follow the procedures in NRS 392.467.

Nev. Rev. Stat. Ann. § 392.464. Adoption and enforcement by trustees of disciplinary measures for pupil in possession of alcoholic beverage or controlled substance on premises of school.

1. The board of trustees of each school district shall adopt and enforce measures for disciplining any pupil who is found in possession of an alcoholic beverage or a controlled substance, while on the premises of any public school in its district.

Nev. Rev. Stat. Ann. § 392.466. Suspension or expulsion of pupil for battery on employee of school, possession of firearm or dangerous weapon, sale or distribution of controlled substance or status as habitual disciplinary problem; limitations for pupils with disabilities.

1. Except as otherwise provided in this section, any pupil who commits a battery which results in the bodily injury of an employee of the school or who sells or distributes any controlled substance while on the premises of any public school, at an activity sponsored by a public school or on any school bus must, for the first occurrence, be suspended or expelled from that school, although the pupil may be placed in another kind of school, for at least a period equal to one semester for that school. For a second occurrence, the pupil must be permanently expelled from that school and:

(a) Enroll in a private school pursuant to chapter 394 of NRS or be homeschooled; or

(b) Enroll in a program of independent study provided pursuant to NRS 389.155 for pupils who have been suspended or expelled from public school or a program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive, if the pupil qualifies for enrollment and is accepted for enrollment in accordance with the requirements of the applicable program.

Bullying, harassment, or hazing

STATUTES

Nev. Rev. Stat. Ann. § 388.121. Definitions.

As used in NRS 388.121 to 388.139, inclusive, unless the context otherwise requires, the words and terms defined in NRS 388.122 to 388.129, inclusive, have the meanings ascribed to them in those sections.

Nev. Rev. Stat. Ann. § 388.122. "Bullying" defined.

"Bullying" means a willful act which is written, verbal or physical, or a course of conduct on the part of one or more persons which is not authorized by law and which exposes a person one time or repeatedly and over time to one or more negative actions which is highly offensive to a reasonable person and:

1. Is intended to cause or actually causes the person to suffer harm or serious emotional distress;

2. Places the person in reasonable fear of harm or serious emotional distress; or

3. Creates an environment which is hostile to a pupil by interfering with the education of the pupil.

Nev. Rev. Stat. Ann. § 388.123. "Cyber-bullying" defined.

"Cyber-bullying" means bullying through the use of electronic communication. The term includes the use of electronic communication to transmit or distribute a sexual image of a minor. As used in this section, "sexual image" has the meaning ascribed to it in NRS 200.737.

Nev. Rev. Stat. Ann. § 388.124. "Electronic communication" defined.

"Electronic communication" means the communication of any written, verbal or pictorial information through the use of an electronic device, including, without limitation, a telephone, a cellular phone, a computer or any similar means of communication.

Nev. Rev. Stat. Ann. § 388.125. "Harassment" defined.

"Harassment" means a willful act which is written, verbal or physical, or a course of conduct that is not otherwise authorized by law, is highly offensive to a reasonable person and:

1. Is intended to cause or actually causes another person to suffer serious emotional distress;
2. Places a person in reasonable fear of harm or serious emotional distress; or
3. Creates an environment which is hostile to a pupil by interfering with the education of the pupil.

Nev. Rev. Stat. Ann. § 388.129. "Intimidation" defined.

"Intimidation" means a willful act which is written, verbal or physical, or a course of conduct that is not otherwise authorized by law, is highly offensive to a reasonable person and:

1. Poses a threat of immediate harm or actually inflicts harm to another person or to the property of another person;
2. Places a person in reasonable fear of harm or serious emotional distress; or
3. Creates an environment which is hostile to a pupil by interfering with the education of the pupil.

Nev. Rev. Stat. Ann. § 388.132. Legislative declaration concerning safe and respectful learning environment.

The Legislature declares that:

1. A learning environment that is safe and respectful is essential for the pupils enrolled in the public schools in this State to achieve academic success and meet this State's high academic standards;
2. Any form of bullying, cyber-bullying, harassment or intimidation in public schools seriously interferes with the ability of teachers to teach in the classroom and the ability of pupils to learn;
3. The use of the Internet by pupils in a manner that is ethical, safe and secure is essential to a safe and respectful learning environment and is essential for the successful use of technology;
4. The intended goal of the Legislature is to ensure that:
   (a) The public schools in this State provide a safe and respectful learning environment in which persons of differing beliefs, characteristics and backgrounds can realize their full academic and personal potential;
   (b) All administrators, principals, teachers and other personnel of the school districts and public schools in this State demonstrate appropriate behavior on the premises of any public school by treating other persons, including, without limitation, pupils, with civility and respect and by refusing to tolerate bullying, cyber-bullying, harassment or intimidation; and
   (c) All persons in public schools are entitled to maintain their own beliefs and to respectfully disagree without resorting to bullying, cyber-bullying, violence, harassment or intimidation; and
5. By declaring its goal that the public schools in this State provide a safe and respectful learning environment, the Legislature is not advocating or requiring the acceptance of differing beliefs in a manner that would inhibit the freedom of expression, but is requiring that pupils with differing beliefs be free from abuse and harassment.

Nev. Rev. Stat. Ann. § 388.1325. Bullying Prevention Fund: Creation; acceptance of gifts and grants; credit of interest and income; authorized uses by school district that receives grant.

1. The Bullying Prevention Fund is hereby created in the State General Fund, to be administered by the Superintendent of Public Instruction. The Superintendent of Public Instruction may accept gifts and grants from any source for deposit into the Fund. The interest and income earned on the money in the Fund must be credited to the Fund.

2. In accordance with the regulations adopted by the State Board pursuant to NRS 388.1327, a school district that applies for and receives a grant of money from the Bullying Prevention Fund shall use the money for one or more of the following purposes:

(a) The establishment of programs to create a school environment that is free from bullying, cyber-bullying, harassment and intimidation;

(b) The provision of training on the policies adopted by the school district pursuant to NRS 388.134 and the provisions of NRS 388.121 to 388.139, inclusive; or

(c) The development and implementation of procedures by which the public schools of the school district and the pupils enrolled in those schools can discuss the policies adopted pursuant to NRS 388.134 and the provisions of NRS 388.121 to 388.139, inclusive.

Nev. Rev. Stat. Ann. § 388.1327. Regulations.

The State Board shall adopt regulations:

1. Establishing the process whereby school districts may apply to the State Board for a grant of money from the Bullying Prevention Fund pursuant to NRS 388.1325.

2. As are necessary to carry out the provisions of NRS 388.121 to 388.139, inclusive.

Nev. Rev. Stat. Ann. § 388.133. Policy by Department concerning safe and respectful learning environment.

1. The Department shall, in consultation with the boards of trustees of school districts, educational personnel, local associations and organizations of parents whose children are enrolled in public schools throughout this State, and individual parents and legal guardians whose children are enrolled in public schools throughout this State, prescribe by regulation a policy for all school districts and public schools to provide a safe and respectful learning environment that is free of bullying, cyber-bullying, harassment and intimidation.

2. The policy must include, without limitation:

(a) Requirements and methods for reporting violations of NRS 388.135; and

(b) A policy for use by school districts to train administrators, principals, teachers and all other personnel employed by the board of trustees of a school district. The policy must include, without limitation:

(1) Training in the appropriate methods to facilitate positive human relations among pupils without the use of bullying, cyber-bullying, harassment and intimidation so that pupils may realize their full academic and personal potential;

(2) Methods to improve the school environment in a manner that will facilitate positive human relations among pupils; and

(3) Methods to teach skills to pupils so that the pupils are able to replace inappropriate behavior with positive behavior.

Nev. Rev. Stat. Ann. § 388.134. Policy by school districts for provision of safe and respectful learning environment and policy for ethical, safe and secure use of computers; provision of training to school personnel; posting of policies on Internet website; annual review and update of policies.

The board of trustees of each school district shall:

1. Adopt the policy prescribed pursuant to NRS 388.133 and the policy prescribed pursuant to subsection 2 of NRS 389.520. The board of trustees may adopt an expanded policy for one or both of the policies if

each expanded policy complies with the policy prescribed pursuant to NRS 388.133 or pursuant to subsection 2 of NRS 389.520, as applicable.

2. Provide for the appropriate training of all administrators, principals, teachers and all other personnel employed by the board of trustees in accordance with the policies prescribed pursuant to NRS 388.133 and pursuant to subsection 2 of NRS 389.520.

3. Post the policies adopted pursuant to subsection 1 on the Internet website maintained by the school district.

4. Ensure that the parents and legal guardians of pupils enrolled in the school district have sufficient information concerning the availability of the policies, including, without limitation, information that describes how to access the policies on the Internet website maintained by the school district. Upon the request of a parent or legal guardian, the school district shall provide the parent or legal guardian with a written copy of the policies.

5. Review the policies adopted pursuant to subsection 1 on an annual basis and update the policies if necessary. If the board of trustees of a school district updates the policies, the board of trustees must submit a copy of the updated policies to the Department within 30 days after the update.

Nev. Rev. Stat. Ann. § 388.135. Bullying, cyber-bullying, harassment and intimidation prohibited.

A member of the board of trustees of a school district, any employee of the board of trustees, including, without limitation, an administrator, principal, teacher or other staff member, or any pupil shall not engage in bullying, cyber-bullying, harassment or intimidation on the premises of any public school, at an activity sponsored by a public school or on any school bus.

Nev. Rev. Stat. Ann. § 388.1351. Staff member required to report violation to principal; time period for initiation and completion of investigation; authorization for parent to appeal disciplinary decision.

1. A teacher or other staff member who witnesses a violation of NRS 388.135 or receives information that a violation of NRS 388.135 has occurred shall verbally report the violation to the principal or his or her designee on the day on which the teacher or other staff member witnessed the violation or received information regarding the occurrence of a violation.

2. The principal or his or her designee shall initiate an investigation not later than 1 day after receiving notice of the violation pursuant to subsection 1. The investigation must be completed within 10 days after the date on which the investigation is initiated and, if a violation is found to have occurred, include recommendations concerning the imposition of disciplinary action or other measures to be imposed as a result of the violation, in accordance with the policy governing disciplinary action adopted by the board of trustees of the school district.

3. The parent or legal guardian of a pupil involved in the reported violation of NRS 388.135 may appeal a disciplinary decision of the principal or his or her designee, made against the pupil as a result of the violation, in accordance with the policy governing disciplinary action adopted by the board of trustees of the school district.

Nev. Rev. Stat. Ann. § 388.1352. Establishment of policy by school districts for employees to report violations to law enforcement.

The board of trustees of each school district, in conjunction with the school police officers of the school district, if any, and the local law enforcement agencies that have jurisdiction over the school district, shall establish a policy for the procedures which must be followed by an employee of the school district when reporting a violation of NRS 388.135 to a school police officer or local law enforcement agency.

Nev. Rev. Stat. Ann. § 388.1353. Principal required to submit report of violations for each semester to school district; review and compilation of reports by school district; submission of compilation to Department.

1. On or before January 1 and June 30 of each year, the principal of each public school shall submit to the board of trustees of the school district a report on the violations of NRS 388.135 which are reported during the previous school semester. The report must include, without limitation:

(a) The number of violations of NRS 388.135 occurring at the school or otherwise involving a pupil enrolled at the school which are reported during that period; and

(b) Any actions taken at the school to reduce the number of incidences of bullying, cyber-bullying, harassment and intimidation, including, without limitation, training that was offered or other policies, practices and programs that were implemented.

2. The board of trustees of each school district shall review and compile the reports submitted pursuant to subsection 1 and, on or before August 1, submit a compilation of the reports to the Department.

Nev. Rev. Stat. Ann. § 388.1355. Compilation of reports by Superintendent of Public Instruction; submission of written compilation to Attorney General.

The Superintendent of Public Instruction shall:

1. Compile the reports submitted pursuant to NRS 388.1353 and prepare a written report of the compilation.

2. On or before October 1 of each year, submit the written compilation to the Attorney General.

Nev. Rev. Stat. Ann. § 388.136. School officials prohibited from interfering with disclosure of violations.

1. A school official shall not directly or indirectly interfere with or prevent the disclosure of information concerning a violation of NRS 388.135.

2. As used in this section, “school official” means:

(a) A member of the board of trustees of a school district; or

(b) A licensed or unlicensed employee of a school district.

Nev. Rev. Stat. Ann. § 388.137. Immunity for reporting of violations; exceptions.

No cause of action may be brought against a pupil or an employee or volunteer of a school who reports a violation of NRS 388.135 unless the person who made the report acted with malice, intentional misconduct, gross negligence, or intentional or knowing violation of the law.

Nev. Rev. Stat. Ann. § 388.139. Text of certain provisions required to be included in rules of behavior.

Each school district shall include the text of the provisions of NRS 388.121 to 388.139, inclusive, and the policies adopted by the board of trustees of the school district pursuant to NRS 388.134 under the heading "Bullying, Cyber-Bullying, Harassment and Intimidation Is Prohibited in Public Schools," within each copy of the rules of behavior for pupils that the school district provides to pupils pursuant to NRS 392.463.

Nev. Rev. Stat. Ann. § 392.915. Threatening to cause bodily harm or death to pupil or school employee by means of oral, written or electronic communication; penalties.

1. A person shall not, through the use of any means of oral, written or electronic communication, including, without limitation, through the use of cyber-bullying, knowingly threaten to cause bodily harm or death to a pupil or employee of a school district or charter school with the intent to:

(a) Intimidate, harass, frighten, alarm or distress a pupil or employee of a school district or charter school;

(b) Cause panic or civil unrest; or

(c) Interfere with the operation of a public school, including, without limitation, a charter school.

2. Unless a greater penalty is provided by specific statute, a person who violates the provisions of subsection 1 is guilty of:

(a) A misdemeanor, unless the provisions of paragraph (b) apply to the circumstances.

(b) A gross misdemeanor, if the threat causes:

(1) Any pupil or employee of a school district or charter school who is the subject of the threat to be intimidated, harassed, frightened, alarmed or distressed;

(2) Panic or civil unrest; or

(3) Interference with the operation of a public school, including, without limitation, a charter school.

Other special infractions or conditions

STATUTES

Nev. Rev. Stat. Ann. § 392.910. Disturbance of school; assaulting pupil or school employee; interference with persons peaceably assembled within school; penalties.

1. It is unlawful for any person to disturb the peace of any public school by using vile or indecent language within the building or grounds of the school. Any person who violates any of the provisions of this subsection is guilty of a misdemeanor.

2. It is unlawful for any person to assault any pupil or school employee:

(a) Within the building or grounds of the school;

(b) On a bus, van or any other motor vehicle owned, leased or chartered by a school district to transport pupils or school employees; or (c) At a location where the pupil or school employee is involved in an activity sponsored by a public school.

Except under circumstances described in paragraph (c) or (d) of subsection 2 of NRS 200.471 or in NRS 200.571, any person who violates any of the provisions of this subsection is guilty of a misdemeanor.

Nev. Rev. Stat. Ann. § 392.4635. Policy for prohibition of activities of criminal gangs on school property.

1. The board of trustees of each school district shall establish a policy that prohibits the activities of criminal gangs on school property.

2. The policy established pursuant to subsection 1 may include, without limitation:

(a) The provision of training for the prevention of the activities of criminal gangs on school property.

(b) If the policy includes training:

(1) A designation of the grade levels of the pupils who must receive the training.

(2) A designation of the personnel who must receive the training, including, without limitation, personnel who are employed in schools at the grade levels designated pursuant to subparagraph (1).

The board of trustees of each school district shall ensure that the training is provided to the pupils and personnel designated in the policy.

(c) Provisions which prohibit:

(1) A pupil from wearing any clothing or carrying any symbol on school property that denotes membership in or an affiliation with a criminal gang; and

(2) Any activity that encourages participation in a criminal gang or facilitates illegal acts of a criminal gang.

(d) Provisions which provide for the suspension or expulsion of pupils who violate the policy.

3. The board of trustees of each school district may develop the policy required pursuant to subsection 1 in consultation with:

(a) Local law enforcement agencies;

(b) School police officers, if any;

(c) Persons who have experience regarding the actions and activities of criminal gangs;

(d) Organizations which are dedicated to alleviating criminal gangs or assisting members of criminal gangs who wish to disassociate from the gang; and

(e) Any other person deemed necessary by the board of trustees.

4. As used in this section, "criminal gang" has the meaning ascribed to it in NRS 213.1263.

Nev. Rev. Stat. Ann. § 392.4637. Policy concerning use and possession of pagers, cellular telephones and other electronic devices.

1. The board of trustees of each school district shall adopt a policy concerning the use and possession by pupils of a pager, cellular telephone or any other similar electronic device used for communication while on the premises of a public school or while at an activity sponsored by a public school.

2. The policy adopted pursuant to subsection 1 must:

(a) Prescribe appropriate measures for disciplining a pupil who violates the policy.

(b) Be included within each copy of the rules of behavior for pupils that the school district provides to pupils pursuant to NRS 392.463.

Prevention and Behavioral Interventions (Non-Punitive)

Prevention

STATUTES

Nev. Rev. Stat. Ann. § 388.133. Policy by Department concerning safe and respectful learning environment.

1. The Department shall, in consultation with the boards of trustees of school districts, educational personnel, local associations and organizations of parents whose children are enrolled in public schools throughout this State, and individual parents and legal guardians whose children are enrolled in public schools throughout this State, prescribe by regulation a policy for all school districts and public schools to provide a safe and respectful learning environment that is free of bullying, cyber-bullying, harassment and intimidation.

2. The policy must include, without limitation:

(a) Requirements and methods for reporting violations of NRS 388.135; and

(b) A policy for use by school districts to train administrators, principals, teachers and all other personnel employed by the board of trustees of a school district. The policy must include, without limitation:

(1) Training in the appropriate methods to facilitate positive human relations among pupils without the use of bullying, cyber-bullying, harassment and intimidation so that pupils may realize their full academic and personal potential;

(2) Methods to improve the school environment in a manner that will facilitate positive human relations among pupils; and

(3) Methods to teach skills to pupils so that the pupils are able to replace inappropriate behavior with positive behavior.

Nev. Rev. Stat. Ann. § 388.1325. Bullying Prevention Fund: Creation; acceptance of gifts and grants; credit of interest and income; authorized uses by school district that receives grant.

1. The Bullying Prevention Fund is hereby created in the State General Fund, to be administered by the Superintendent of Public Instruction. The Superintendent of Public Instruction may accept gifts and grants from any source for deposit into the Fund. The interest and income earned on the money in the Fund must be credited to the Fund.

2. In accordance with the regulations adopted by the State Board pursuant to NRS 388.1327, a school district that applies for and receives a grant of money from the Bullying Prevention Fund shall use the money for one or more of the following purposes:

(a) The establishment of programs to create a school environment that is free from bullying, cyber-bullying, harassment and intimidation; […]

Nev. Rev. Stat. Ann. § 392.4635. Policy for prohibition of activities of criminal gangs on school property.

1. The board of trustees of each school district shall establish a policy that prohibits the activities of criminal gangs on school property.

2. The policy established pursuant to subsection 1 may include, without limitation:

(a) The provision of training for the prevention of the activities of criminal gangs on school property.

Behavioral interventions and student support services

STATUTES

Nev. Rev. Stat. Ann. § 392.150. Appointment of attendance officer authorized; procedures to monitor attendance and truancy; consideration of employment of attendance clerk.

2. The board of trustees of each school district shall: [...]

(b) Coordinate efforts to refer pupils who are truant to appropriate providers of community services; and

(c) Determine, based on the attendance and truancy of pupils at each school within the school district, whether to employ an attendance clerk for a particular school or group of schools whose primary responsibility is to monitor the attendance and truancy of pupils.

Professional development

STATUTES

Nev. Rev. Stat. Ann. § 388.133. Policy by Department concerning safe and respectful learning environment.

1. The Department shall, in consultation with the boards of trustees of school districts, educational personnel, local associations and organizations of parents whose children are enrolled in public schools throughout this State, and individual parents and legal guardians whose children are enrolled in public schools throughout this State, prescribe by regulation a policy for all school districts and public schools to provide a safe and respectful learning environment that is free of bullying, cyber-bullying, harassment and intimidation.

2. The policy must include, without limitation:

(a) Requirements and methods for reporting violations of NRS 388.135; and

(b) A policy for use by school districts to train administrators, principals, teachers and all other personnel employed by the board of trustees of a school district. The policy must include, without limitation:

(1) Training in the appropriate methods to facilitate positive human relations among pupils without the use of bullying, cyber-bullying, harassment and intimidation so that pupils may realize their full academic and personal potential;

(2) Methods to improve the school environment in a manner that will facilitate positive human relations among pupils; and

(3) Methods to teach skills to pupils so that the pupils are able to replace inappropriate behavior with positive behavior.

Nev. Rev. Stat. Ann. § 388.134. Policy by school districts for provision of safe and respectful learning environment and policy for ethical, safe and secure use of computers; provision of training to school personnel; posting of policies on Internet website; annual review and update of policies.

2. Provide for the appropriate training of all administrators, principals, teachers and all other personnel employed by the board of trustees in accordance with the policies prescribed pursuant to NRS 388.133 and pursuant to subsection 2 of NRS 389.520.

Nev. Rev. Stat. Ann. § 392.4635. Policy for prohibition of activities of criminal gangs on school property.

1. The board of trustees of each school district shall establish a policy that prohibits the activities of criminal gangs on school property.

2. The policy established pursuant to subsection 1 may include, without limitation:

(a) The provision of training for the prevention of the activities of criminal gangs on school property.

(b) If the policy includes training:

(1) A designation of the grade levels of the pupils who must receive the training.

(2) A designation of the personnel who must receive the training, including, without limitation, personnel who are employed in schools at the grade levels designated pursuant to subparagraph (1).

The board of trustees of each school district shall ensure that the training is provided to the pupils and personnel designated in the policy.

(c) Provisions which prohibit:

(1) A pupil from wearing any clothing or carrying any symbol on school property that denotes membership in or an affiliation with a criminal gang; and

(2) Any activity that encourages participation in a criminal gang or facilitates illegal acts of a criminal gang.

(d) Provisions which provide for the suspension or expulsion of pupils who violate the policy.

Monitoring and Accountability

Formal incident reporting of conduct violations

STATUTES

Nev. Rev. Stat. Ann. § 388.1351. Staff member required to report violation to principal; time period for initiation and completion of investigation; authorization for parent to appeal disciplinary decision.

1. A teacher or other staff member who witnesses a violation of NRS 388.135 or receives information that a violation of NRS 388.135 has occurred shall verbally report the violation to the principal or his or her designee on the day on which the teacher or other staff member witnessed the violation or received information regarding the occurrence of a violation.

2. The principal or his or her designee shall initiate an investigation not later than 1 day after receiving notice of the violation pursuant to subsection 1. The investigation must be completed within 10 days after the date on which the investigation is initiated and, if a violation is found to have occurred, include recommendations concerning the imposition of disciplinary action or other measures to be imposed as a result of the violation, in accordance with the policy governing disciplinary action adopted by the board of trustees of the school district.

3. The parent or legal guardian of a pupil involved in the reported violation of NRS 388.135 may appeal a disciplinary decision of the principal or his or her designee, made against the pupil as a result of the violation, in accordance with the policy governing disciplinary action adopted by the board of trustees of the school district.

Parental notification

STATUTES

Nev. Rev. Stat. Ann. § 388.5275. Conditions under which physical restraint may be used; report required; requirements if pupil has three or five reports of use of restraint in 1 school year.

3. If physical restraint is used on a pupil with a disability in an emergency, the use of the procedure must be reported in the pupil's cumulative record and a confidential file maintained for the pupil not later than 1 working day after the procedure is used. A copy of the report must be provided to the board of trustees of the school district or its designee, the pupil's individualized education program team and the parent or guardian of the pupil. If the board of trustees or its designee determines that a denial of the pupil's rights has occurred, the board of trustees or its designee shall submit a report to the Department in accordance with NRS 388.5315.

Nev. Rev. Stat. Ann. § 388.528. Conditions under which mechanical restraint may be used; report required; requirements if pupil has three or five reports of use of restraint in 1 school year.

3. If mechanical restraint is used on a pupil with a disability in an emergency, the use of the procedure must be reported in the pupil's cumulative record and a confidential file maintained for the pupil not later than 1 working day after the procedure is used. A copy of the report must be provided to the board of trustees of the school district or its designee, the pupil's individualized education program team and the parent or guardian of the pupil. If the board of trustees or its designee determines that a denial of the pupil's rights has occurred, the board of trustees or its designee shall submit a report to the Department in accordance with NRS 388.5315.

Nev. Rev. Stat. Ann. § 392.140. Conditions under which pupil declared habitual truant; applicability.

1. Any child who has been declared a truant three or more times within one school year must be declared a habitual truant.

2. Any child who has once been declared a habitual truant and who in an immediately succeeding year is absent from school without the written:

(a) Approval of the child's teacher or the principal of the school pursuant to subsection 1 of NRS 392.130; or

(b) Notice of his or her parent or legal guardian or other person who has control or charge over the pupil pursuant to subsection 3 of NRS 392.130,

Nev. Rev. Stat. Ann. § 392.144. Duties of school if pupil is truant; reporting of habitual truant to law enforcement or referral to advisory board.

1. If a pupil has one or more unapproved absences from school, the school in which the pupil is enrolled shall take reasonable actions designed, as applicable, to encourage, enable or convince the pupil to attend school.

4. If the principal of a school makes an initial determination to submit a written referral of a pupil to the advisory board to review school attendance, the principal shall notify the parent or legal guardian of the pupil and request the parent or legal guardian to sign a written consent that authorizes the school and, if applicable, the school district to release the records of the pupil to the advisory board to the extent that such release is necessary for the advisory board to carry out its duties pursuant to NRS 392.146; and 392.147. The written consent must comply with the applicable requirements of 20 U.S.C. § 1232g(b) and 34 C.F.R. Part 99. If the parent or legal guardian refuses to sign the consent, the principal shall report the pupil to a school police officer or to a local law enforcement agency pursuant to paragraph (a) of subsection 2.

Nev. Rev. Stat. Ann. § 392.4645. Removal of pupil from classroom: Notice; assignment to temporary alternative placement; exceptions.

1. The plan established pursuant to NRS 392.4644 must provide for the temporary removal of a pupil from a classroom if, in the judgment of the teacher, the pupil has engaged in behavior that seriously interferes with the ability of the teacher to teach the other pupils in the classroom and with the ability of the other pupils to learn. The plan must provide that, upon the removal of a pupil from a classroom pursuant to this section, the principal of the school shall provide an explanation of the reason for the removal of the pupil to the pupil and offer the pupil an opportunity to respond to the explanation. Within 24 hours after the removal of a pupil pursuant to this section, the principal of the school shall notify the parent or legal guardian of the pupil of the removal.

Nev. Rev. Stat. Ann. § 392.4655. Conditions under which pupil deemed habitual disciplinary problem; plan of behavior to prevent pupil from being deemed habitual disciplinary problem.

1. Except as otherwise provided in this section, a principal of a school shall deem a pupil enrolled in the school a habitual disciplinary problem if the school has written evidence which documents that in 1 school year: […]

4. If a pupil is suspended for initiating a fight described in paragraph (b) of subsection 1 and the fight is the first such fight that the pupil has initiated during that school year, or if a pupil receives four suspensions on the pupil's record within 1 school year, the school in which the pupil is enrolled may develop, in consultation with the pupil and the parent or legal guardian of the pupil, a plan of behavior for

the pupil. Such a plan must be designed to prevent the pupil from being deemed a habitual disciplinary problem and may include, without limitation, a voluntary agreement by:

(a) The parent or legal guardian to attend school with his or her child.

(b) The pupil and the pupil's parent or legal guardian to attend counseling, programs or services available in the school district or community.

(c) The pupil and the pupil's parent or legal guardian that the pupil will attend summer school, intersession school or school on Saturday, if any of those alternatives are offered by the school district.

If the pupil commits the same act for which notice was provided pursuant to subsection 3 after he or she enters into a plan of behavior, the pupil shall be deemed a habitual disciplinary problem.

A school shall provide the notice required by this subsection for each suspension on the record of a pupil during a school year. A school may include the notice required by this subsection with notice that is otherwise provided to the parent or legal guardian of a pupil which informs the parent or legal guardian of the act committed by the pupil.

5. If a pupil commits an act the commission of which qualifies the pupil to be deemed a habitual disciplinary problem pursuant to subsection 1, the school shall provide written notice to the parent or legal guardian of the pupil that contains:

(a) A description of the qualifying act and any previous such acts committed by the pupil and the dates on which those acts were committed;

(b) An explanation that pursuant to subsection 3 of NRS 392.466, a pupil who is a habitual disciplinary problem must be suspended or expelled from school for a period equal to at least one school semester;

(c) If the pupil has a disability and is participating in a program of special education pursuant to NRS 388.520, an explanation of the effect of subsection 6 of NRS 392.466, including, without limitation, that if it is determined in accordance with 20 U.S.C. § 1415 that the pupil's behavior is not a manifestation of the pupil's disability, he or she may be suspended or expelled from school in the same manner as a pupil without a disability; and

(d) If applicable, a summary of the provisions of subsection 6.

The school shall provide the notice at least 7 days before the school deems the pupil a habitual disciplinary problem. A school may include the notice required by this subsection with notice that is otherwise provided to the parent or legal guardian of a pupil which informs the parent or legal guardian of the act committed by the pupil.

6. Before a school deems a pupil a habitual disciplinary problem and suspends or expels the pupil, the school may develop, in consultation with the pupil and the parent or legal guardian of the pupil, a plan of behavior for the pupil. Such a plan must be designed to prevent the pupil from being deemed a habitual disciplinary problem and may include, without limitation, a voluntary agreement by:

(a) The parent or legal guardian to attend school with his or her child.

(b) The pupil and the pupil's parent or legal guardian to attend counseling, programs or services available in the school district or community.

(c) The pupil and the pupil's parent or legal guardian that the pupil will attend summer school, intersession school or school on Saturday, if any of those alternatives are offered by the school district.

If the pupil violates the conditions of the plan or commits the same act for which notice was provided pursuant to subsection 5 after he or she enters into a plan of behavior, the pupil shall be deemed a habitual disciplinary problem.

7. A pupil may, pursuant to the provisions of this section, enter into one plan of behavior per school year.

8. The parent or legal guardian of a pupil who has entered into a plan of behavior with a school pursuant to this section may appeal to the board of trustees of the school district a determination made by the

school concerning the contents of the plan of behavior or action taken by the school pursuant to the plan of behavior. Upon receipt of such a request, the board of trustees of the school district shall review the determination in accordance with the procedure established by the board of trustees for such matters.

Reporting and referrals between schools and law enforcement

STATUTES

Nev. Rev. Stat. Ann. § 388.1352. Establishment of policy by school districts for employees to report violations to law enforcement.

The board of trustees of each school district, in conjunction with the school police officers of the school district, if any, and the local law enforcement agencies that have jurisdiction over the school district, shall establish a policy for the procedures which must be followed by an employee of the school district when reporting a violation of NRS 388.135 to a school police officer or local law enforcement agency.

Nev. Rev. Stat. Ann. § 392.144. Duties of school if pupil is truant; reporting of habitual truant to law enforcement or referral to advisory board.

1. If a pupil has one or more unapproved absences from school, the school in which the pupil is enrolled shall take reasonable actions designed, as applicable, to encourage, enable or convince the pupil to attend school.

2. If a pupil is a habitual truant pursuant to NRS 392.140, the principal of the school shall:

(a) Report the pupil to a school police officer or to the local law enforcement agency for investigation and issuance of a citation, if warranted, in accordance with NRS 392.149; or

(b) If the parent or legal guardian of a pupil has signed a written consent pursuant to subsection 4, submit a written referral of the pupil to the advisory board to review school attendance in the county in accordance with NRS 392.146.

3. The board of trustees of each school district shall adopt criteria to determine whether the principal of a school shall report a pupil to a school police officer or law enforcement agency pursuant to paragraph (a) of subsection 2 or refer a pupil to an advisory board to review school attendance pursuant to paragraph (b) of subsection 2.

4. If the principal of a school makes an initial determination to submit a written referral of a pupil to the advisory board to review school attendance, the principal shall notify the parent or legal guardian of the pupil and request the parent or legal guardian to sign a written consent that authorizes the school and, if applicable, the school district to release the records of the pupil to the advisory board to the extent that such release is necessary for the advisory board to carry out its duties pursuant to NRS 392.146; and 392.147. The written consent must comply with the applicable requirements of 20 U.S.C. § 1232g(b) and 34 C.F.R. Part 99. If the parent or legal guardian refuses to sign the consent, the principal shall report the pupil to a school police officer or to a local law enforcement agency pursuant to paragraph (a) of subsection 2.

Nev. Rev. Stat. Ann. § 392.850. Provision of information to certain employees regarding unlawful conduct of pupil; immunity from liability under certain circumstances; confidentiality of information.

1. The board of trustees of a county school district, or its designee, shall inform each employee of the district, including teachers, other licensed employees, drivers of school buses, instructional aides and office managers, who may have consistent contact with a pupil if that pupil has, within the preceding 3 years, unlawfully caused or attempted to cause serious bodily injury to any person. The district shall provide this information based upon any written records that the district maintains or which it receives

from a law enforcement agency or a court. The district need not initiate a request for such information from any source. […]

Nev. Rev. Stat. Ann. § 392.4633. Corporal punishment prohibited; report of violation; forwarding of complaint if determined to be substantiated.

1. Corporal punishment must not be administered upon a pupil in any public school.

2. Subsection 1 does not prohibit any teacher, principal or other licensed person from defending himself or herself if attacked by a pupil.

3. A person may report the use of corporal punishment on a pupil to the agency which provides child welfare services in the county in which the school district is located. If the agency determines that the complaint is substantiated, the agency shall forward the complaint to the Department, the appropriate local law enforcement agency within the county and the district attorney's office within the county for further investigation. […]

Nev. Rev. Stat. Ann. § 392.4638. Board of trustees authorized to adopt policy for pupils to report unlawful activity being conducted on school property, activity sponsored by public school or on school bus.

1. The board of trustees of each school district may adopt a policy that allows a pupil enrolled in a public school within the school district to report, anonymously if the pupil chooses, any unlawful activity which is being conducted on school property, at an activity sponsored by a public school or on a school bus. The policy may include, without limitation:

(a) The types of unlawful activities which a pupil may report; and

(b) The manner in which a pupil may report the unlawful activities.

2. The board of trustees of a school district may work in consultation with a local law enforcement agency or other governmental entity, corporation, business, organization or other entity to assist the board of trustees in the implementation of a policy adopted pursuant to subsection 1. […]

Disclosure of school records

STATUTES

Nev. Rev. Stat. Ann. § 392.850. Provision of information to certain employees regarding unlawful conduct of pupil; immunity from liability under certain circumstances; confidentiality of information.

1. The board of trustees of a county school district, or its designee, shall inform each employee of the district, including teachers, other licensed employees, drivers of school buses, instructional aides and office managers, who may have consistent contact with a pupil if that pupil has, within the preceding 3 years, unlawfully caused or attempted to cause serious bodily injury to any person. The district shall provide this information based upon any written records that the district maintains or which it receives from a law enforcement agency or a court. The district need not initiate a request for such information from any source.

2. A school district and the members of its board of trustees are not liable for failure strictly to comply with this section if a good faith effort to comply is made.

3. Except as otherwise provided in NRS 239.0115, any information received by an employee pursuant to this section is confidential and must not be further disseminated by the employee.

Data collection, review, and reporting of disciplinary policies and actions

STATUTES

Nev. Rev. Stat. Ann. § 388.134. Policy by school districts for provision of safe and respectful learning environment and policy for ethical, safe and secure use of computers; provision of training to school personnel; posting of policies on Internet website; annual review and update of policies.

5. Review the policies adopted pursuant to subsection 1 on an annual basis and update the policies if necessary. If the board of trustees of a school district updates the policies, the board of trustees must submit a copy of the updated policies to the Department within 30 days after the update.

Nev. Rev. Stat. Ann. § 388.1353. Principal required to submit report of violations for each semester to school district; review and compilation of reports by school district; submission of compilation to Department.

1. On or before January 1 and June 30 of each year, the principal of each public school shall submit to the board of trustees of the school district a report on the violations of NRS 388.135 which are reported during the previous school semester. The report must include, without limitation:

(a) The number of violations of NRS 388.135 occurring at the school or otherwise involving a pupil enrolled at the school which are reported during that period; and

(b) Any actions taken at the school to reduce the number of incidences of bullying, cyber-bullying, harassment and intimidation, including, without limitation, training that was offered or other policies, practices and programs that were implemented.

2. The board of trustees of each school district shall review and compile the reports submitted pursuant to subsection 1 and, on or before August 1, submit a compilation of the reports to the Department.

Nev. Rev. Stat. Ann. § 392.461. Code of honor relating to cheating; contents; distribution.

3. On or before July 1 of each year, the Department shall:

(a) Provide a copy of the code of honor to the board of trustees of each school district and the governing body of each charter school.

(b) Review and amend the code of honor as necessary.

Nev. Rev. Stat. Ann. § 392.4644. Plan for progressive discipline and on-site review of disciplinary decisions; annual review and revision of plan; posting and availability of plan; written reports by superintendent of schools, board of trustees and Superintendent of Public Instruction concerning compliance with section.

2. On or before October 1 of each year, the principal of each public school shall:

(a) Review the plan in consultation with the teachers and other educational personnel and support personnel who are employed at the school;

(b) Based upon the review, make revisions to the plan, as recommended by the teachers and other educational personnel and support personnel, if necessary; and

(c) Post a copy of the plan or the revised plan, as applicable, in a prominent place at the school for public inspection and otherwise make the plan available for public inspection at the administrative office of the school.

3. On or before October 1 of each year, the principal of each public school shall submit a copy of the plan established pursuant to subsection 1 or a revised plan, if applicable, to the superintendent of schools of

the school district. On or before November 1 of each year, the superintendent of schools of each school district shall submit a report to the board of trustees of the school district that includes:

(a) A compilation of the plans submitted pursuant to this subsection by each school within the school district.

(b) The name of each principal, if any, who has not complied with the requirements of this section.

4. On or before November 30 of each year, the board of trustees of each school district shall submit a written report to the Superintendent of Public Instruction based upon the compilation submitted pursuant to subsection 3 that reports the progress of each school within the district in complying with the requirements of this section.

5. On or before December 31 of each year, the Superintendent of Public Instruction shall submit a written report to the Director of the Legislative Counsel Bureau concerning the progress of the schools and school districts throughout this state in complying with this section. If the report is submitted during:

(a) An even-numbered year, the Director of the Legislative Counsel Bureau shall transmit it to the next regular session of the Legislature.

(b) An odd-numbered year, the Director of the Legislative Counsel Bureau shall transmit it to the Legislative Committee on Education

School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers

Authority and power to implement school arrest

STATUTES

Nev. Rev. Stat. Ann. § 392.150. Appointment of attendance officer authorized; procedures to monitor attendance and truancy; consideration of employment of attendance clerk.

1. The board of trustees of a school district may appoint an attendance officer for the school district, who need not be a licensed employee of the school district, except that in any school district where a system of classified employment is in effect, attendance officers must be classified employees of the school district. If the board of trustees appoints an attendance officer for the school district, the board of trustees may:

(a) Fix the compensation of the attendance officer;

(b) Prescribe the duties of the attendance officer; and

(c) Adopt regulations not inconsistent with law for the performance of the duties of the attendance officer.

Nev. Rev. Stat. Ann. § 392.160. Taking into custody child reported absent from school; persons or counseling agency to whom child may be delivered.

1. Any peace officer, the attendance officer or any other school officer shall, during school hours, take into custody without warrant:

(a) Any child between the ages of 7 and 18 years; and

(b) Any child who has arrived at the age of 6 years but not at the age of 7 years and is enrolled in a public school, who has been reported to the officer by the teacher, superintendent of schools or other school officer as an absentee from instruction upon which the child is lawfully required to attend.

2. Except as otherwise provided in subsection 3:

(a) During school hours, the officer having custody shall forthwith deliver the child to the superintendent of schools, principal or other school officer at the child's school of attendance.

(b) After school hours, the officer having custody shall deliver the child to the parent, guardian or other person having control or charge of the child.

Nev. Rev. Stat. Ann. § 392.855. Policy for procedures to be followed by peace officers in arresting pupil on school grounds during school hours.

1. The board of trustees of each school district, in conjunction with the school police officers of the school district, if any, and the local law enforcement agencies that have jurisdiction over the school district, shall establish a policy for the procedures which must be followed by a peace officer in arresting a pupil on school grounds during school hours. The policy must include the circumstances under which the chief administrative officer of a school must be notified of the arrest of a pupil.

2. Each law enforcement agency that has jurisdiction over any part of a school district shall adopt the policy which is established pursuant to subsection 1.

Certification or training

No relevant statutes found.

MOUs, authorization, and/or funding

No relevant statutes found.

State Education Agency Support

State model policies and implementation support

No relevant statutes found.

Funding appropriations

STATUTES

Nev. Rev. Stat. Ann. § 388.1325. Bullying Prevention Fund: Creation; acceptance of gifts and grants; credit of interest and income; authorized uses by school district that receives grant.

1. The Bullying Prevention Fund is hereby created in the State General Fund, to be administered by the Superintendent of Public Instruction. The Superintendent of Public Instruction may accept gifts and grants from any source for deposit into the Fund. The interest and income earned on the money in the Fund must be credited to the Fund.

2. In accordance with the regulations adopted by the State Board pursuant to NRS 388.1327, a school district that applies for and receives a grant of money from the Bullying Prevention Fund shall use the money for one or more of the following purposes:

(a) The establishment of programs to create a school environment that is free from bullying, cyber-bullying, harassment and intimidation;

(b) The provision of training on the policies adopted by the school district pursuant to NRS 388.134 and the provisions of NRS 388.121 to 388.139, inclusive; or

(c) The development and implementation of procedures by which the public schools of the school district and the pupils enrolled in those schools can discuss the policies adopted pursuant to NRS 388.134 and the provisions of NRS 388.121 to 388.139, inclusive.

Nev. Rev. Stat. Ann. § 388.1327. Regulations.

The State Board shall adopt regulations:

1. Establishing the process whereby school districts may apply to the State Board for a grant of money from the Bullying Prevention Fund pursuant to NRS 388.1325.

2. As are necessary to carry out the provisions of NRS 388.121 to 388.139, inclusive.

Other/Uncategorized

Professional immunity or liability

STATUTES

Nev. Rev. Stat. Ann. § 388.137. Immunity for reporting of violations; exceptions.

No cause of action may be brought against a pupil or an employee or volunteer of a school who reports a violation of NRS 388.135 unless the person who made the report acted with malice, intentional misconduct, gross negligence, or intentional or knowing violation of the law.

Nev. Rev. Stat. Ann. § 392.850. Provision of information to certain employees regarding unlawful conduct of pupil; immunity from liability under certain circumstances; confidentiality of information.

1. The board of trustees of a county school district, or its designee, shall inform each employee of the district, including teachers, other licensed employees, drivers of school buses, instructional aides and office managers, who may have consistent contact with a pupil if that pupil has, within the preceding 3 years, unlawfully caused or attempted to cause serious bodily injury to any person. The district shall provide this information based upon any written records that the district maintains or which it receives from a law enforcement agency or a court. The district need not initiate a request for such information from any source.

2. A school district and the members of its board of trustees are not liable for failure strictly to comply with this section if a good faith effort to comply is made.

3. Except as otherwise provided in NRS 239.0115, any information received by an employee pursuant to this section is confidential and must not be further disseminated by the employee.

Community input or involvement

STATUTES

Nev. Rev. Stat. Ann. § 388.133. Policy by Department concerning safe and respectful learning environment.

1. The Department shall, in consultation with the boards of trustees of school districts, educational personnel, local associations and organizations of parents whose children are enrolled in public schools throughout this State, and individual parents and legal guardians whose children are enrolled in public schools throughout this State, prescribe by regulation a policy for all school districts and public schools to provide a safe and respectful learning environment that is free of bullying, cyber-bullying, harassment and intimidation.

Nev. Rev. Stat. Ann. § 392.150. Appointment of attendance officer authorized; procedures to monitor attendance and truancy; consideration of employment of attendance clerk.

2. The board of trustees of each school district shall:

(b) Coordinate efforts to refer pupils who are truant to appropriate providers of community services; and

Nev. Rev. Stat. Ann. § 392.4635. Policy for prohibition of activities of criminal gangs on school property.

1. The board of trustees of each school district shall establish a policy that prohibits the activities of criminal gangs on school property.

3. The board of trustees of each school district may develop the policy required pursuant to subsection 1 in consultation with:

(a) Local law enforcement agencies;

(b) School police officers, if any;

(c) Persons who have experience regarding the actions and activities of criminal gangs;

(d) Organizations which are dedicated to alleviating criminal gangs or assisting members of criminal gangs who wish to disassociate from the gang; and

(e) Any other person deemed necessary by the board of trustees.

Other/Uncategorized

STATUTES

Nev. Rev. Stat. Ann. § 392.264. Offender prohibited from attending school victim attends without court approval; duty of superintendent of school district to negotiate agreement for attendance in another school district; termination of agreement.

1. If a superintendent of a school district receives notification and a victim identified in the notification is a pupil in the school district, the superintendent shall not permit an offender who is subject to the provisions of NRS 62F.100 to 62F.150, inclusive, to attend a public school that a victim is attending unless:

(a) An alternative plan of supervision is approved by the court pursuant to NRS 62F.130; or

(b) An alternative plan of attendance is approved by the court pursuant to NRS 62F.140.

2. If the court does not approve an alternative plan of supervision or an alternative plan of attendance for the offender and the school district in which the offender resides does not have another public school in the district for the offender to attend, the superintendent of the school district shall negotiate an agreement with:

(a) The superintendent of an adjoining school district within this state for the offender to attend a public school in that adjoining school district; or

(b) The superintendent, or another appropriate administrator, of an adjoining school district in an adjoining state for the offender to attend a public school in that adjoining school district.

3. The superintendent of the school district in which the offender resides shall inform the person with whom the superintendent is negotiating that the offender has been adjudicated delinquent for a sexual offense or a sexually motivated act, but the superintendent shall not disclose the name of a victim.

4. An agreement which is made pursuant to this section and which is presented to a board of trustees for approval:

(a) Must not contain the name of a victim;

(b) Must comply with the provisions of subsections 2 and 3 of NRS 392.010; and

(c) Must be approved by the Superintendent of Public Instruction.

5. A board of trustees may terminate an agreement entered into pursuant to this section if, because of a change in circumstances, the offender is able to attend a public school in the school district in which the offender resides without violating subsection 1.

For definitions pertaining to this statute see §392.521, §392.254, §392.258, §392.2583, §392.2587, and §392.261.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by Nevada provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
Website		
No relevant resources found		
Documents		
No relevant resources found		
Other Resources		
No relevant resources found		

New Hampshire Compilation of School Discipline Laws and Regulations

Prepared: August 12, 2013

Introduction

This compilation presents school discipline-related state statutes, school discipline-related regulations, and, where available, links to state-sponsored websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSLE). For example, one major category encompasses all state laws or regulations mandating specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of state legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in each state.

Discipline categories were not mutually exclusive. Statutes and regulations often appeared across multiple categories. For states with more extensive statutes covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. State laws, ordered by chapter and section number, appear first within each category followed by state regulations. All statutes and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists statutes by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to state-sponsored websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of May 2013, with the exception of the state laws related to seclusion and restraint, which are complete and current as of December 2012. Readers should also note that the information in this document was compiled from individual state sources that are created by each state and which are maintained and updated with varying frequencies. Readers should consult the source information provided for each state directly in order to check for updates to this state's laws and regulations or conduct further research.

For further information, including definitions of the different policy categories, please refer to the Discipline Laws and Regulations Compendium posted on the Center's website.

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Safe Supportive Learning
Engagement | Safety | Environment

Table of Contents

New Hampshire State Codes Cited **1**

General Provisions **3**

Authority to develop and establish rules of conduct 3
Scope 5
Communication of policy 5

In-School Discipline **6**

Use of multi-tiered discipline approaches 6
Teacher authority to remove students from classrooms 6
Alternatives to suspension 6
Use of corporal punishment 6
Use of student and locker searches 6
Other in-school disciplinary approaches 6

Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements **7**

Grounds for possible suspension or expulsion 7
Grounds for mandatory suspension or expulsion 7
Limitations, conditions or exclusions for use of suspension and expulsion 7
Administrative procedures related to suspension and expulsion 8
In-school suspension 10
Return to school following removal 11
Use of restraint and seclusion 11
Alternative placements 11

Disciplinary Approaches Addressing Specific Infractions and Conditions **12**

Firearms (as required by the Guns-Free Schools Act) 12
Other weapons 12
Students with chronic disciplinary issues 13
Attendance and truancy 13
Substance use 14
Bullying, harassment, or hazing 15
Other special infractions or conditions 18

Prevention and Behavioral Interventions (Non-Punitive) **20**

Prevention 20
Behavioral interventions and student support services 20
Professional development 20

Monitoring and Accountability **21**

Formal incident reporting of conduct violations 21
Parental notification 22
Reporting and referrals between schools and law enforcement 23
Disclosure of school records 24
Data collection, review, and reporting of disciplinary policies and actions 24

School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers 25
Authority and power to implement school arrest 25
Certification or training 25
MOUs, authorization, and/or funding 26
State Education Agency Support 27
State model policies and implementation support 27
Funding appropriations 28
Other/Uncategorized 29
Professional immunity or liability 29
Community input or involvement 29
Other/Uncategorized 29
State-Sponsored, Publicly Available Websites or Other Resources on School Discipline 30

New Hampshire State Codes Cited

New Hampshire Revised Statutes

Title XV. Education

Chapter 189. School Boards, Superintendents, Teachers, and Truant Officers; School Census

189:9-a.	Pupils prohibited for disciplinary reasons
189:34.	Appointment
189:35.	Term; removal
189:36.	Duties
189:37.	Additional officers
189:49-a.	Fingerprinting program

Chapter 193. Pupils

193:13.	Suspension and expulsion of pupils
193:15.	Penalty for unauthorized attendance, etc
193:16.	Bylaws as to nonattendance

Chapter 193-B. Drug-Free School Zones

193-B:1.	Definitions
193-B:2.	Drug-free school zones
193-B:3.	Maps of drug-free zones; exemption
193-B:4.	Rulemaking; notice; posting
193-B:5.	Toll-free hotline; rulemaking; local hotlines; notice
193-B:6.	Penalties
193-B:7.	Penalty Assessment

Chapter 193-D. Safe School Zones

193-D:1.	Definitions
193-D:2.	State board rulemaking authority; public school district policies
193-D:3.	Criminal penalties
193-D:4.	Written report required
193-D:7.	Confidentiality
193-D:8.	Transfer records; notice
193-D:9.	Liability for reporting

Chapter 193-F. Pupil Safety and Violence Prevention

193-F:2.	Purpose and intent
193-F:3.	Definitions
193-F:4.	Pupil safety and violence prevention
193-F:5.	Training and assessment
193-F:6.	Reporting
193-F:7.	Immunity

Title LXII. Criminal Code

Chapter 627. Justification

627:6. Physical force by persons with special responsibilities

Chapter 631. Assault and Related Offenses

631:7. Student hazing

New Hampshire Administrative Code

Education

Chapter Ed 300. Administration of Minimum Standards in Public Schools

Part Ed 317. Standards and Procedures for Suspension and Expulsion of Pupils Including Procedures Assuring Due Process

Ed 317.03. Standard for expulsion by local school board
Ed 317.04. Disciplinary procedures
Ed 317.05. Reporting procedures
Ed 317.06. Child with a disability

General Provisions

Authority to develop and establish rules of conduct

STATUTES

<u>193-D:2. State Board Rulemaking Authority; Public School District Policies.</u>

I. The state board of education shall adopt rules relative to safe school zones, under RSA 541-A, for public school pupils and public school employees regarding:

(a) Disciplinary proceedings, including procedures assuring due process.

(b) (1) Standards and procedures for suspension and expulsion of pupils, including procedures assuring due process.

(2) Standards and procedures which shall require expulsion of a pupil for knowingly possessing a firearm in a safe school zone without written authorization from the superintendent or designee.

(c) Procedures pertaining to discipline of pupils with special needs, including procedures assuring due process.

(d) Procedures for reporting acts of theft, destruction, or violence under RSA 193-D:4.

II. Nothing in this chapter shall prohibit local school boards from adopting and implementing policies relative to pupil conduct and disciplinary procedures.

<u>193-D:4. Written Report Required.</u>

I. (a) Any public or private school employee who has witnessed or who has information from the victim of an act of theft, destruction, or violence in a safe school zone shall report such act in writing immediately to a supervisor. A supervisor receiving such report shall immediately forward such information to the school principal who shall file it with the local law enforcement authority. Such report shall be made by the principal to the local law enforcement authority immediately, by telephone or otherwise, and shall be followed within 48 hours by a report in writing. If the alleged victim is a student, the principal shall also immediately notify the person responsible for the victim's welfare, as defined in RSA 169-C:3, XXII, that a report was made to the local law enforcement authority.

(b) The provisions of subparagraph (a) shall not apply to any simple assault involving pupils in kindergarten through grade 12 if the local school board has adopted a discipline policy which sets forth circumstances under which parents shall be notified of simple assaults.

(c) Each school district, in conjunction with the local law enforcement authority, shall establish a memorandum of understanding for administering the provisions of RSA 193-D:4, I(a)-(c).

<u>193-F:4. Pupil Safety and Violence Prevention.</u>

I. The school board of each school district and the board of trustees of a chartered public school shall, no later than 6 months after the effective date of this section, adopt a written policy prohibiting bullying and cyberbullying. Such policy shall include the definitions set forth in RSA 193-F:3. The policy shall contain, at a minimum, the following components:

(a) A statement prohibiting bullying or cyberbullying of a pupil.

(b) A statement prohibiting retaliation or false accusations against a victim, witness, or anyone else who in good faith provides information about an act of bullying or cyberbullying and, at the time a report is made, a process for developing, as needed, a plan to protect pupils from retaliation.

(c) A requirement that all pupils are protected regardless of their status under the law.

(d) A statement that there shall be disciplinary consequences or interventions, or both, for a pupil who commits an act of bullying or cyberbullying, or falsely accuses another of the same as a means of retaliation or reprisal.

(e) A statement indicating how the policy shall be made known to school employees, regular school volunteers, pupils, parents, legal guardians, or employees of a company under contract to a school, school district, or chartered public school. Recommended methods of communication include, but are not limited to, handbooks, websites, newsletters, and workshops.

(f) A procedure for reporting bullying or cyberbullying that identifies all persons to whom a pupil or another person may report bullying or cyberbullying.

(g) A procedure outlining the internal reporting requirements within the school or school district or chartered public school.

(h) A procedure for notification, within 48 hours of the incident report, to the parent or parents or guardian of a victim of bullying or cyberbullying and the parent or parents or guardian of the perpetrator of the bullying or cyberbullying. The content of the notification shall comply with the Family Educational Rights and Privacy Act, 20 U.S.C. 1232g.

(i) A provision that the superintendent or designee may, within the 48-hour period, grant the school principal or designee a waiver from the notification requirement if the superintendent or designee deems such waiver to be in the best interest of the victim or perpetrator. Any such waiver granted shall be in writing. Granting of a waiver shall not negate the school's responsibility to adhere to the remainder of its approved written policy.

(j) A written procedure for investigation of reports, to be initiated within 5 school days of the reported incident, identifying either the principal or the principal's designee as the person responsible for the investigation and the manner and time period in which the results of the investigation shall be documented. The superintendent or designee may grant in writing an extension of the time period for the investigation and documentation of reports for up to an additional 7 school days, if necessary. The superintendent or superintendent's designee shall notify in writing all parties involved of the granting of an extension.

(k) A requirement that the principal or designee develop a response to remediate any substantiated incident of bullying or cyberbullying, including imposing discipline if appropriate, to reduce the risk of future incidents and, where deemed appropriate, to offer assistance to the victim or perpetrator. When indicated, the principal or designee shall recommend a strategy for protecting all pupils from retaliation of any kind.

(l) A requirement that the principal or designee report all substantiated incidents of bullying or cyberbullying to the superintendent or designee.

(m) A written procedure for communication with the parent or parents or guardian of victims and perpetrators regarding the school's remedies and assistance, within the boundaries of applicable state and federal law. This communication shall occur within 10 school days of completion of the investigation.

(n) Identification, by job title, of school officials responsible for ensuring that the policy is implemented.

III. The department of education may develop a model policy in accordance with the requirements set forth in this chapter which may be used by schools, school districts, and chartered public schools as a basis for adopting a local policy.

IV. A school board or board of trustees of a chartered public school shall, to the greatest extent practicable, involve pupils, parents, administrators, school staff, school volunteers, community representatives, and local law enforcement agencies in the process of developing the policy. The policy

shall be adopted by all public schools within the school district and, to the extent possible, the policy should be integrated with the school's curriculum, discipline policies, behavior programs, and other violence prevention efforts.

Scope

STATUTES

193-F:4. Pupil Safety and Violence Prevention.

I. Bullying or cyberbullying shall occur when an action or communication as defined in RSA 193-F:3:

(a) Occurs on, or is delivered to, school property or a school-sponsored activity or event on or off school property; or

(b) Occurs off of school property or outside of a school-sponsored activity or event, if the conduct interferes with a pupil's educational opportunities or substantially disrupts the orderly operations of the school or school-sponsored activity or event.

Communication of policy

ADMINISTRATIVE CODE

Ed 317.03. Standard for Expulsion by Local School Board.

(b) School boards shall make certain that the pupil has received notice of the requirements of RSA 193-D and RSA 193:13 through announced, posted, or printed school rules.

Ed 317.04. Disciplinary Procedures.

(b) Prior to initiating any disciplinary action listed in paragraph (a), each school board shall adopt a policy under RSA 189:15 which prescribes the manner in which the student body shall be informed concerning the content of RSA 193:13 through announced, posted, or printed school rules.

In-School Discipline

Use of multi-tiered discipline approaches

No relevant statutes found.

Teacher authority to remove students from classrooms

No relevant statutes found.

Alternatives to suspension

No relevant statutes found.

Use of corporal punishment

STATUTES

627:6. Physical Force by Persons with Special Responsibilities.

II. (a) A teacher or person otherwise entrusted with the care or supervision of a minor for special purposes is justified on the premises in using necessary force against any such minor, when the minor creates a disturbance, or refuses to leave the premises or when it is necessary for the maintenance of discipline.

(b) In a child care program licensed or exempt from licensure under RSA 170-E, necessary force shall be limited to the minimum physical contact necessary to protect the child, other children present, the staff, or the general public from harm.

Use of student and locker searches

No relevant statutes found.

Other in-school disciplinary approaches

No relevant statutes found.

Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements

Grounds for possible suspension or expulsion

STATUTES

193:13. Suspension and Expulsion of Pupils.

I. (a) The superintendent or chief administering officer, or a representative designated in writing by the superintendent, is authorized to suspend pupils from school for a period not to exceed 10 school days for gross misconduct or for neglect or refusal to conform to the reasonable rules of the school. […]

II. Any pupil may be expelled from school by the local school board for gross misconduct, or for neglect or refusal to conform to the reasonable rules of the school, or for an act of theft, destruction, or violence as defined in RSA 193-D:1, or for possession of a pellet or BB gun, rifle, or paint ball gun, and the pupil shall not attend school until restored by the local board. […]

Grounds for mandatory suspension or expulsion

STATUTES

193:13. Suspension and Expulsion of Pupils.

III. Any pupil who brings or possesses a firearm as defined in section 921 of Title 18 of the United States Code in a safe school zone as defined in RSA 193-D:1 without written authorization from the superintendent or designee shall be expelled from school by the local school board for a period of not less than 12 months.

ADMINISTRATIVE CODE

Ed 317.03. Standard for Expulsion by Local School Board.

(e) If a pupil brings or possesses a firearm in a safe school zone without written authorization from the superintendent, the following shall apply:

(1) The superintendent shall suspend the pupil for a period not to exceed 10 days, pending a hearing by the local board; and

(2) The school board shall hold a hearing within 10 days to determine whether the student was in violation of RSA 193:13, III and therefore is subject to expulsion.

Limitations, conditions or exclusions for use of suspension and expulsion

STATUTES

189:9-a. Pupils Prohibited for Disciplinary Reasons.

Notwithstanding the provisions of RSA 189:6-8, the superintendent, or a representative as designated in writing, is authorized to suspend the right of pupils from riding in a school bus when said pupils fail to conform to the reasonable rules and regulations as may be promulgated by the school board. Any suspension to continue beyond 20 school days must be approved by the school board. Said suspension

shall not begin until the next school day following the day notification of suspension is sent to the pupil's parent or legal guardian.

I. If a pupil has been denied the right to ride a school bus for disciplinary reasons, the parent or guardian of that pupil has a right of appeal within 10 days of suspension to the authority that suspended this pupil's right.

II. Until the appeal is heard, or if the suspension of pupil's right to ride the school bus is upheld, it shall be the parents' or guardians' responsibility to provide transportation to and from school for that pupil for the period of the suspension.

193:13. Suspension and Expulsion of Pupils.

IV. The local school board shall adopt a policy which allows the superintendent or chief administering officer to modify the expulsion requirements set forth in paragraphs II and III on a case by case basis.

ADMINISTRATIVE CODE

Ed 317.06. Child with a Disability.

(a) Any suspension or expulsion of a child with a disability as defined in Ed 1102.09 shall be in accordance with Ed 1124.01.

(b) In the case of a child with a disability who is determined to have brought a firearm as defined in 18 USC 921(a)(3) the federal requirement of section 612(a)(1) of Public Law 105-17, 20 USC 1415 shall apply, and the child may be placed in an interim alternative educational setting for the time periods pursuant to federal law.

Administrative procedures related to suspension and expulsion

STATUTES

193:13. Suspension and Expulsion of Pupils.

I. (b) The school board or a representative designated in writing of the school board is authorized, following a hearing, to continue the suspension of a pupil for a period in excess of 10 school days. The school board's designee may be the superintendent or any other individual, but may not be the individual who suspended the pupil for the first 10 days under subparagraph (a). Any suspension shall be valid throughout the school districts of the state, subject to modification by the superintendent of the school district in which the pupil seeks to enroll.

(c) Any suspension in excess of 10 school days imposed under subparagraph (b) by any person other than the school board is appealable to the school board, provided that the superintendent received such appeal in writing within 10 days after the issuance of the decision being appealed. The school board shall hold a hearing on the appeal, but shall have discretion to hear evidence or to rely upon the record of a hearing conducted under subparagraph (b). The suspension under subparagraph (b) shall be enforced while that appeal is pending, unless the school board stays the suspension while the appeal is pending.

ADMINISTRATIVE CODE

Ed 317.03. Standard for Expulsion by Local School Board.

(a) A school board which expels a pupil under RSA 193:13, II or III, shall state in writing its reasons and shall provide a procedure for review as allowed under RSA 193:13, II. […]

(c) School boards shall comply with paragraph (a) by specifically naming:

(1) The act leading to expulsion; and

(2) The specific statutory reference prohibiting that act as listed in RSA 193-D:1, I. …

Ed 317.04. Disciplinary Procedures.

(a) There shall be the following levels of discipline available to school officials enforcing RSA 193:13 relative to the suspension and expulsion of pupils in a safe school zone:

(1) A suspension for gross misconduct or for neglect or refusal to conform to the reasonable rules of the school under RSA 193:13,I shall be considered a short-term suspension and shall be administered by a superintendent or designee for a period not to exceed 10 school days;

(2) A suspension for an act of theft, destruction, or violence as defined in RSA 193-D, or for possession of a pellet paint ball gun or BB gun or rifle under RSA 193:13,II shall be considered a long-term suspension and shall be administered by the school board or designee in order to continue the short term suspension for a period in excess of 10 school days, provided the designee is not the person who suspended the pupil for 10 school days under (1) above, and that designee provides a due process hearing under (d)(2) below;

(3) An expulsion by the local school board for a period determined in writing by the board under RSA 193:13, II; and

(4) An expulsion by the local school board for a period of not less than 12 months under RSA 193:13, III.

(b) Prior to initiating any disciplinary action listed in paragraph (a), each school board shall adopt a policy under RSA 189:15 which prescribes the manner in which the student body shall be informed concerning the content of RSA 193:13 through announced, posted, or printed school rules.

(c) If the school and school board have met the requirements of paragraph (b) a pupil appealing a local decision to the state board shall not be allowed to claim lack of knowledge of the state law requiring expulsion for bringing or possessing a firearm or other dangerous weapon as defined in these rules.

(d) Due process in disciplinary proceedings shall include, at a minimum, the following:

(1) In a short-term suspension:

a. The superintendent or designee shall inform the pupil of the purpose of the meeting;

b. Oral or written notice of the charges and an explanation of the evidence against the pupil;

c. An opportunity for the pupil to present his/her side of the story;

d. A written statement to the pupil and at least one of the pupil's parents or guardian explaining any disciplinary action taken against the student;

(2) In a long-term suspension of a pupil:

a. Written communication to the pupil and at least one of the pupil's parents or guardian, delivered in person or by mail to the pupil's last known address, of the charges and an explanation of the evidence against the pupil;

b. The superintendent's written or oral recommendation for student action to correct the discipline problem;

c. A hearing in accordance with Ed 317.04(d)(3)g. below;

d. A written decision which includes the legal and factual basis for the conclusion that the pupil should be suspended;

e. If the hearing was conducted by the school board's designee, the decision may be appealed to the local school board under RSA 193:13, I; and

f. If the hearing was conducted by the school board, the decision may be appealed to the state board;

(3) In an expulsion by the local school board, due process shall include the following minimal requirements:

a. A formal hearing shall be held before any expulsion;

b. Such hearing may be held either before or after the short-term suspension has expired and pending the expulsion hearing;

c. If the hearing is held after the expiration of a short-term suspension, the pupil shall be entitled to return to school after the short-term suspension has expired and pending the expulsion hearing;

d. The school board shall provide written notice to the pupil and at least one of the pupil's parents or guardian, delivered in person or by mail to the pupil's last known address, of the date, time and place for a hearing before the local board;

e. The written notice required by d. above shall include:

1. A written statement of the charges and the nature of the evidence against the pupil; and

2. A superintendent's written recommendation for school board action and a description of the process used by the superintendent to reach his/her recommendation;

f. This notice shall be delivered to the pupil and at least one of the pupil's parents or guardian at least 5 days prior to the hearing;

g. The following hearing procedures shall apply:

1. The pupil, together with a parent or guardian may waive the right to a hearing and admit to the charges made by the superintendent;

2. If the pupil is 18 years of age or older, the concurrence of a parent or guardian shall be unnecessary unless the pupil is subject to a guardianship which would prevent the pupil from waiving the right to a hearing;

3. Formal rules of evidence shall not be applicable, however, school officials shall present evidence in support of the charge(s) and the accused pupil or his/her parent or guardian shall have an opportunity to present any defense or reply;

4. The hearing shall be either public or private and the choice shall be that of the pupil or his parent or guardian; and

5. During the hearing, the pupil, parent, guardian or counsel representing the pupil, shall have the right to examine any and all witnesses;

h. The decision of the school board shall be based on a dispassionate and fair consideration of substantial evidence that the accused pupil committed the act for which expulsion is to imposed and that such acts are, in fact, a proper reason for expulsion;

i. The decision shall state whether the student is expelled and the length of the expulsion. If the decision is to expel the pupil the decision shall include the legal and factual basis for the decision; and

j. Any action the student may take to be restored by the board; and

(e) A decision shall include a statement that the pupil has the right to appeal the decision to the state board of education.

(f) All appeals to the state board allowed under RSA 193:13, II or III shall be filed within 20 calendar days of receipt of the written decision of the local school board and shall be in accordance with RSA 541-A and Ed 200.

In-school suspension

No relevant statutes found.

Return to school following removal

No relevant statutes found.

Use of restraint and seclusion

STATUTES

627:6. Physical Force by Persons With Special Responsibilities.

I. A parent, guardian or other person responsible for the general care and welfare of a minor is justified in using force against such minor when and to the extent that he reasonably believes it necessary to prevent or punish such minor's misconduct.

II. (a) A teacher or person otherwise entrusted with the care or supervision of a minor for special purposes is justified on the premises in using necessary force against any such minor, when the minor creates a disturbance, or refuses to leave the premises or when it is necessary for the maintenance of discipline.

(b) In a child care program licensed or exempt from licensure under RSA 170-E, necessary force shall be limited to the minimum physical contact necessary to protect the child, other children present, the staff, or the general public from harm.

IV. The justification extended in paragraphs I, II, and III does not apply to the malicious or reckless use of force that creates a risk of death, serious bodily injury, or substantial pain.

Alternative placements

STATUTES

193:13. Suspension and Expulsion of Pupils.

V. Any pupil expelled by a local school board under the provisions of the Gun-Free Schools Act of 1994 shall not be eligible to enroll in another school district in New Hampshire for the period of such expulsion. Nothing in this section shall be construed to prevent the local school district that expelled the student from providing educational services to such students in an alternative setting.

Disciplinary Approaches Addressing Specific Infractions and Conditions

Firearms (as required by the Guns-Free Schools Act)

STATUTES

193:13. Suspension and Expulsion of Pupils.

III. Any pupil who brings or possesses a firearm as defined in section 921 of Title 18 of the United States Code in a safe school zone as defined in RSA 193-D:1 without written authorization from the superintendent or designee shall be expelled from school by the local school board for a period of not less than 12 months.

IV. The local school board shall adopt a policy which allows the superintendent or chief administering officer to modify the expulsion requirements set forth in paragraphs II and III on a case by case basis.

V. Any pupil expelled by a local school board under the provisions of the Gun-Free Schools Act of 1994 shall not be eligible to enroll in another school district in New Hampshire for the period of such expulsion. Nothing in this section shall be construed to prevent the local school district that expelled the student from providing educational services to such students in an alternative setting.

VI. A pupil expelled from school in another state under the provisions of the Gun-Free Schools Act of 1994 shall not be eligible to enroll in a school district in New Hampshire for the period of such expulsion.

ADMINISTRATIVE CODE

Ed 317.03. Standard for Expulsion by Local School Board.

(d) If a student is subject to expulsion and a firearm is involved, the superintendent shall contact local law enforcement officials whenever there is any doubt concerning:

(1) Whether a firearm is legally licensed under RSA 159; or

(2) Whether the firearm is lawfully possessed, as opposed to unlawfully possessed, under the legal definitions of RSA 159.

(e) If a pupil brings or possesses a firearm in a safe school zone without written authorization from the superintendent, the following shall apply:

(1) The superintendent shall suspend the pupil for a period not to exceed 10 days, pending a hearing by the local board; and

(2) The school board shall hold a hearing within 10 days to determine whether the student was in violation of RSA 193:13, III and therefore is subject to expulsion.

Other weapons

STATUTES

193:13. Suspension and Expulsion of Pupils.

II. Any pupil may be expelled from school by the local school board for gross misconduct, or for neglect or refusal to conform to the reasonable rules of the school, or for an act of theft, destruction, or violence as defined in RSA 193-D:1, or for possession of a pellet or BB gun, rifle, or paint ball gun, and the pupil shall not attend school until restored by the local board. Any expulsion shall be subject to review if requested

prior to the start of each school year and further, any parent or guardian has the right to appeal any such expulsion by the local board to the state board of education. Any expulsion shall be valid throughout the school districts of the state.

Students with chronic disciplinary issues

No relevant statutes found.

Attendance and truancy

STATUTES

189:34. Truant Officer Appointment.

I. School boards shall appoint truant officers for their districts.

II. School board policies on truancy shall include but not be limited to:

(a) A definition of "excused absence" and a process for considering exceptions to absences not otherwise excused.

(b) A process for intervention designed to address individual cases of truancy as quickly as possible and to reduce the number of habitual truants in the school district. The board shall provide for the participation of parents in the development of the policy. The policy shall include early parental involvement in the intervention process. The policy shall also designate an employee in each school as the person responsible for truancy issues.

189:36. Truant Officer Duties.

I. Truant officers shall, when directed by the school board, enforce the laws and regulations relating to truants and children between the ages of 6 and 18 years not attending school or who are not participating in an alternative learning plan under RSA 193:1, I(h); and the laws relating to the attendance at school of children between the ages of 6 and 18 years; and shall have authority without a warrant to take and place in school any children found employed contrary to the laws relating to the employment of children, or violating the laws relating to the compulsory attendance at school of children under the age of 18 years, and the laws relating to child labor. No home school pupil nor any person between the ages of 6 and 18 who meets any of the requirements of RSA 193:1, I(c)-(h) shall be deemed a truant.

II. A truant officer or school official shall not file a petition alleging that the child is in need of services pursuant to RSA 169-D:2, II until all steps in the school district's intervention process under RSA 189:34, II have been followed.

193:15. Penalty for Unauthorized Attendance, etc.

Any pupil who, after notice, attends or visits a school which the pupil has no right to attend, or interrupts or disturbs such school, shall for the first offense be guilty of a violation, and shall for any subsequent offense be guilty of a misdemeanor.

193:16. Bylaws as to Nonattendance.

Districts may make bylaws, not repugnant to law, concerning habitual truants and children between the ages of 6 and 18 years not attending school or who are not participating in an alternative learning plan under RSA 193:1, I(h), and to compel the attendance of such children at school; failure to comply with such bylaws shall constitute a violation for each offense.

Substance use

STATUTES

193-B:1. Definitions.

I. "Controlled drug or its analog" means those drugs or substances included within the definitions provided in RSA 318-B:1, VI and VI-a.

II. "Drug-free school zone" means an area inclusive of any property used for school purposes by any school, whether or not owned by such school, within 1,000 feet of any such property, and within or immediately adjacent to school buses.

III. "School" means any public or private elementary, secondary, or secondary vocational-technical school or Head Start facility in New Hampshire.

IV. "School property" means all real property, physical plant and equipment used for school purposes, including but not limited to school playgrounds and buses, whether public or private.

193-B:2. Drug-Free School Zones.

Except as otherwise provided by law, it shall be unlawful for any person to manufacture, sell, prescribe, administer, dispense, or possess with intent to sell, dispense, or compound any controlled drug or its analog, within a drug-free school zone at any time of the year.

193-B:3. Maps of Drug-Free Zones; Exemption.

I. Each school administrative unit within the state shall, in consultation with the local police authority having jurisdiction over drug enforcement where each drug-free zone is located, publish a map clearly indicating the boundaries of each permanent drug-free school zone in accordance with the provisions of RSA 193-B:1, II. Such map shall be posted in a prominent place in the district or municipal court of jurisdiction, the local police department, and in all schools existing in the drug-free school zone.
II. The mapping requirements under paragraph I shall not apply to Head Start facilities.

193-B:4. Rulemaking; Notice; Posting.

The state board of education, in consultation with the New Hampshire Police Chiefs' Association, shall adopt rules pursuant to RSA 541-A relative to

I. Developing a procedure by which to mark drug-free zones, including the use of signs or other markings as appropriate. Such signs or other markings shall:

(a) Be posted in a prominent place:

(1) On or near each school;

(2) In each school bus; and

(3) On or near non-school-owned property serving as a temporary drug-free zone by virtue of its use for the school's instructional program, for the duration of such use;

(b) Indicate that the posted area is a drug-free zone which extends to 1,000 feet surrounding such property; and

(c) Warn that violation of this chapter shall subject the offender to severe penalties under the law.

II. Assisting each school administrative unit in providing for the posting required in this section.

193-B:5. Toll-Free Hotline; Rulemaking; Local Hotlines; Notice.

I. There is hereby established a toll-free statewide hotline for the purpose of reporting anonymous information on drug activity to local law enforcement agencies. The department of safety shall coordinate and adopt rules pursuant to RSA 541-A for the establishment and operation of the hotline.

II. The toll-free statewide telephone number established under paragraph I shall be displayed in the drug-free zone signs developed and posted pursuant to RSA 193-B:4, I. If a local police hotline telephone exists in a community, such telephone number shall be posted on relevant signs in lieu of the toll-free statewide telephone number.

193-B:6. Penalties.

I. It shall be a violation for any person to cover, remove, deface, alter or destroy any sign or other marking identifying a drug-free zone as provided in RSA 193-B:4, I.

II. Lack of knowledge that the prohibited act as defined in RSA 193-B:2 occurred on or within 1,000 feet of school property shall not be a defense.

III. A violation of RSA 193-B:2 shall not include an act which occurs entirely within a private residence wherein no person 17 years of age or under is present.

193-B:7. Penalty Assessment.

In addition to the penalties imposed under RSA 193-B:6, I and RSA 318-B:26, V, every court shall levy a penalty assessment of $100 for an offense in violation of RSA 193-B:2. The clerk of each court shall collect all penalty assessments and, notwithstanding RSA 6:11, shall transmit the amount collected to the general fund.

Bullying, harassment, or hazing

STATUTES

193-F:2. Purpose and Intent.

I. All pupils have the right to attend public schools, including chartered public schools, that are safe, secure, and peaceful environments. One of the legislature's highest priorities is to protect our children from physical, emotional, and psychological violence by addressing the harm caused by bullying and cyberbullying in our public schools.

II. Bullying in schools has historically included actions shown to be motivated by a pupil's actual or perceived race, color, religion, national origin, ancestry or ethnicity, sexual orientation, socioeconomic status, age, physical, mental, emotional, or learning disability, gender, gender identity and expression, obesity, or other distinguishing personal characteristics, or based on association with any person identified in any of the above categories.

III. It is the intent of the legislature to protect our children from physical, emotional, and psychological violence by addressing bullying and cyberbullying of any kind in our public schools, for all of the historical reasons set forth in this section, and to prevent the creation of a hostile educational environment.

IV. The sole purpose of this chapter is to protect all children from bullying and cyberbullying, and no other legislative purpose is intended, nor should any other intent be construed from the enactment of this chapter.

193-F:3. Definitions.

In this chapter:

I. (a) "Bullying" means a single significant incident or a pattern of incidents involving a written, verbal, or electronic communication, or a physical act or gesture, or any combination thereof, directed at another pupil which:

(1) Physically harms a pupil or damages the pupil's property;

(2) Causes emotional distress to a pupil;

(3) Interferes with a pupil's educational opportunities;

(4) Creates a hostile educational environment; or

(5) Substantially disrupts the orderly operation of the school.

(b) "Bullying" shall include actions motivated by an imbalance of power based on a pupil's actual or perceived personal characteristics, behaviors, or beliefs, or motivated by the pupil's association with another person and based on the other person's characteristics, behaviors, or beliefs.

II. "Cyberbullying" means conduct defined in paragraph I of this section undertaken through the use of electronic devices.

II. "Electronic devices" include, but are not limited to, telephones, cellular phones, computers, pagers, electronic mail, instant messaging, text messaging, and websites.

IV. "Perpetrator" means a pupil who engages in bullying or cyberbullying.

V. "School property" means all real property and all physical plant and equipment used for school purposes, including public or private school buses or vans.

VI. "Victim" means a pupil against whom bullying or cyberbullying has been perpetrated.

193-F:4. Pupil Safety and Violence Prevention.

I. Bullying or cyberbullying shall occur when an action or communication as defined in RSA 193-F:3:

(a) Occurs on, or is delivered to, school property or a school-sponsored activity or event on or off school property; or

(b) Occurs off of school property or outside of a school-sponsored activity or event, if the conduct interferes with a pupil's educational opportunities or substantially disrupts the orderly operations of the school or school-sponsored activity or event.

II. The school board of each school district and the board of trustees of a chartered public school shall, no later than 6 months after the effective date of this section, adopt a written policy prohibiting bullying and cyberbullying. Such policy shall include the definitions set forth in RSA 193-F:3. The policy shall contain, at a minimum, the following components:

(a) A statement prohibiting bullying or cyberbullying of a pupil.

(b) A statement prohibiting retaliation or false accusations against a victim, witness, or anyone else who in good faith provides information about an act of bullying or cyberbullying and, at the time a report is made, a process for developing, as needed, a plan to protect pupils from retaliation.

(c) A requirement that all pupils are protected regardless of their status under the law.

(d) A statement that there shall be disciplinary consequences or interventions, or both, for a pupil who commits an act of bullying or cyberbullying, or falsely accuses another of the same as a means of retaliation or reprisal.

(e) A statement indicating how the policy shall be made known to school employees, regular school volunteers, pupils, parents, legal guardians, or employees of a company under contract to a school, school district, or chartered public school. Recommended methods of communication include, but are not limited to, handbooks, websites, newsletters, and workshops.

(f) A procedure for reporting bullying or cyberbullying that identifies all persons to whom a pupil or another person may report bullying or cyberbullying.

(g) A procedure outlining the internal reporting requirements within the school or school district or chartered public school.

(h) A procedure for notification, within 48 hours of the incident report, to the parent or parents or guardian of a victim of bullying or cyberbullying and the parent or parents or guardian of the perpetrator of the bullying or cyberbullying. The content of the notification shall comply with the Family Educational Rights and Privacy Act, 20 U.S.C. 1232g.

(i) A provision that the superintendent or designee may, within the 48-hour period, grant the school principal or designee a waiver from the notification requirement if the superintendent or designee deems such waiver to be in the best interest of the victim or perpetrator. Any such waiver granted shall be in writing. Granting of a waiver shall not negate the school's responsibility to adhere to the remainder of its approved written policy.

(j) A written procedure for investigation of reports, to be initiated within 5 school days of the reported incident, identifying either the principal or the principal's designee as the person responsible for the investigation and the manner and time period in which the results of the investigation shall be documented. The superintendent or designee may grant in writing an extension of the time period for the investigation and documentation of reports for up to an additional 7 school days, if necessary. The superintendent or superintendent's designee shall notify in writing all parties involved of the granting of an extension.

(k) A requirement that the principal or designee develop a response to remediate any substantiated incident of bullying or cyberbullying, including imposing discipline if appropriate, to reduce the risk of future incidents and, where deemed appropriate, to offer assistance to the victim or perpetrator. When indicated, the principal or designee shall recommend a strategy for protecting all pupils from retaliation of any kind.

(l) A requirement that the principal or designee report all substantiated incidents of bullying or cyberbullying to the superintendent or designee.

(m) A written procedure for communication with the parent or parents or guardian of victims and perpetrators regarding the school's remedies and assistance, within the boundaries of applicable state and federal law. This communication shall occur within 10 school days of completion of the investigation.

(n) Identification, by job title, of school officials responsible for ensuring that the policy is implemented.

III. The department of education may develop a model policy in accordance with the requirements set forth in this chapter which may be used by schools, school districts, and chartered public schools as a basis for adopting a local policy.

IV. A school board or board of trustees of a chartered public school shall, to the greatest extent practicable, involve pupils, parents, administrators, school staff, school volunteers, community representatives, and local law enforcement agencies in the process of developing the policy. The policy shall be adopted by all public schools within the school district and, to the extent possible, the policy should be integrated with the school's curriculum, discipline policies, behavior programs, and other violence prevention efforts.

193-F:5. Training and Assessment.

I. Each school district and chartered public school shall provide:

(a) Training on policies adopted pursuant to this chapter, within 9 months of the effective date of this section and annually thereafter, for school employees, regular school volunteers, or employees of a

company under contract to a school, school district, or chartered public school who have significant contact with pupils for the purpose of preventing, identifying, responding to, and reporting incidents of bullying or cyberbullying; and

(b) Educational programs for pupils and parents in preventing, identifying, responding to, and reporting incidents of bullying or cyberbullying. Any such program for pupils shall be written and presented in age appropriate language.

II. The department of education shall provide evidence-based educational programs to support training as required under paragraph I.

III. Nothing in this chapter shall require the inclusion of any specific curriculum, textbook, or other material designed to prevent bullying or cyberbullying in any program or activity conducted by an educational institution. The omission of such subject matter from any curriculum, textbook, or other material in any program or activity conducted by an educational institution shall not constitute a violation of this chapter.

193-F:6. Reporting.

I. Each school district and chartered public school shall annually report substantiated incidents of bullying or cyberbullying to the department of education. Pursuant to the Family Educational Rights and Privacy Act, 20 U.S.C. 1232g, such reports shall not contain any personally identifiable information pertaining to any pupil. The department shall develop a form to facilitate the reporting by school districts and chartered public schools. The department shall maintain records of such reports.

II. The department of education shall prepare an annual report of substantiated incidents of bullying or cyberbullying in the schools. The report shall include the number and types of such incidents in the schools and shall be submitted to the president of the senate, the speaker of the house of representatives, and the chairpersons of the house and senate education committees. The department of education shall assist school districts with recommendations for appropriate actions to address identified problems with pupil safety and violence prevention.

193-F:7. Immunity.

A school administrative unit employee, school employee, chartered public school employee, regular school volunteer, pupil, parent, legal guardian, or employee of a company under contract to a school, school district, school administrative unit, or chartered public school, shall be immune from civil liability for good faith conduct arising from or pertaining to the reporting, investigation, findings, recommended response, or implementation of a recommended response under this chapter. The department of education shall be immune from civil liability for its good faith conduct in making recommendations under this chapter.

Other special infractions or conditions

STATUTES

193-D:3. Criminal Penalties.

Any person convicted of an act of theft, destruction, or violence as defined in RSA 193-D:1 committed in a safe school zone at any time of year may be subject to an extended term of imprisonment as provided in RSA 651:6.

193-D:1. Definitions

I. "Act of theft, destruction, or violence" means an act set forth in the following statutes regardless of the age of the perpetrator:

(a) Homicide under RSA 630.

(b) (1) Any first or second degree assault under RSA 631.

(2) Any simple assault under RSA 631:2-a.

(c) Any felonious or aggravated felonious sexual assault under RSA 632-A.

(d) Criminal mischief under RSA 634:2.

(e) Unlawful possession or sale of a firearm or other dangerous weapon under RSA 159.

(f) Arson under RSA 634:1.

(g) Burglary under RSA 635.

(h) Robbery under RSA 636.

(i) Theft under RSA 637.

(j) Illegal sale or possession of a controlled drug under RSA 318-B.

(k) Criminal threatening under RSA 631:4.

631:7. Student Hazing.

II. (a) A natural person is guilty of a class B misdemeanor if such person:

(1) Knowingly participates as actor in any student hazing; or

(2) Being a student, knowingly submits to hazing and fails to report such hazing to law enforcement or educational institution authorities; or

(3) Is present at or otherwise has direct knowledge of any student hazing and fails to report such hazing to law enforcement or educational institution authorities.

(b) An educational institution or an organization operating at or in conjunction with an educational institution is guilty of a misdemeanor if it:

(1) Knowingly permits or condones student hazing; or

(2) Knowingly or negligently fails to take reasonable measures within the scope of its authority to prevent student hazing; or

(3) Fails to report to law enforcement authorities any hazing reported to it by others or of which it otherwise has knowledge. …

For definitions related to hazing see, RSA 631:7 (2013), (I).

Prevention and Behavioral Interventions (Non-Punitive)

Prevention

No relevant statutes found.

Behavioral interventions and student support services

No relevant statutes found.

Professional development

STATUTES

<u>193-F:5. Training and Assessment.</u>

I. Each school district and chartered public school shall provide:

(a) Training on policies adopted pursuant to this chapter, within 9 months of the effective date of this section and annually thereafter, for school employees, regular school volunteers, or employees of a company under contract to a school, school district, or chartered public school who have significant contact with pupils for the purpose of preventing, identifying, responding to, and reporting incidents of bullying or cyberbullying; and

(b) Educational programs for pupils and parents in preventing, identifying, responding to, and reporting incidents of bullying or cyberbullying. Any such program for pupils shall be written and presented in age appropriate language.

II. The department of education shall provide evidence-based educational programs to support training as required under paragraph I.

III. Nothing in this chapter shall require the inclusion of any specific curriculum, textbook, or other material designed to prevent bullying or cyberbullying in any program or activity conducted by an educational institution. The omission of such subject matter from any curriculum, textbook, or other material in any program or activity conducted by an educational institution shall not constitute a violation of this chapter.

Monitoring and Accountability

Formal incident reporting of conduct violations

STATUTES

193-D:4. Written Report Required.

I. (a) Any public or private school employee who has witnessed or who has information from the victim of an act of theft, destruction, or violence in a safe school zone shall report such act in writing immediately to a supervisor. A supervisor receiving such report shall immediately forward such information to the school principal who shall file it with the local law enforcement authority. Such report shall be made by the principal to the local law enforcement authority immediately, by telephone or otherwise, and shall be followed within 48 hours by a report in writing. If the alleged victim is a student, the principal shall also immediately notify the person responsible for the victim's welfare, as defined in RSA 169-C:3, XXII, that a report was made to the local law enforcement authority.

(b) The provisions of subparagraph (a) shall not apply to any simple assault involving pupils in kindergarten through grade 12 if the local school board has adopted a discipline policy which sets forth circumstances under which parents shall be notified of simple assaults.

(c) Each school district, in conjunction with the local law enforcement authority, shall establish a memorandum of understanding for administering the provisions of RSA 193-D:4, I(a)-(c).

II. The report required under paragraph I shall include:

(a) The name and home address, if known, of any person suspected of committing an act of theft, destruction, or violence in a safe school zone.

(b) The name and home address, if known, of any witness to the act of theft, destruction, or violence in a safe school zone.

(c) Identification of the act of theft, destruction, or violence as defined in RSA 193-D:1 that was allegedly committed.

193-F:6. Reporting.

I. Each school district and chartered public school shall annually report substantiated incidents of bullying or cyberbullying to the department of education. Pursuant to the Family Educational Rights and Privacy Act, 20 U.S.C. 1232g, such reports shall not contain any personally identifiable information pertaining to any pupil. The department shall develop a form to facilitate the reporting by school districts and chartered public schools. The department shall maintain records of such reports.

II. The department of education shall prepare an annual report of substantiated incidents of bullying or cyberbullying in the schools. The report shall include the number and types of such incidents in the schools and shall be submitted to the president of the senate, the speaker of the house of representatives, and the chairpersons of the house and senate education committees. The department of education shall assist school districts with recommendations for appropriate actions to address identified problems with pupil safety and violence prevention.

ADMINISTRATIVE CODE

Ed 317.03. Standard for Expulsion by Local School Board.

(d) If a student is subject to expulsion and a firearm is involved, the superintendent shall contact local law enforcement officials whenever there is any doubt concerning:

(1) Whether a firearm is legally licensed under RSA 159; or

(2) Whether the firearm is lawfully possessed, as opposed to unlawfully possessed, under the legal definitions of RSA 159.

Parental notification

STATUTES

193-D:4. Written Report Required.

I. (a) Any public or private school employee who has witnessed or who has information from the victim of an act of theft, destruction, or violence in a safe school zone shall report such act in writing immediately to a supervisor. A supervisor receiving such report shall immediately forward such information to the school principal who shall file it with the local law enforcement authority. Such report shall be made by the principal to the local law enforcement authority immediately, by telephone or otherwise, and shall be followed within 48 hours by a report in writing. If the alleged victim is a student, the principal shall also immediately notify the person responsible for the victim's welfare, as defined in RSA 169-C:3, XXII, that a report was made to the local law enforcement authority.

(b) The provisions of subparagraph (a) shall not apply to any simple assault involving pupils in kindergarten through grade 12 if the local school board has adopted a discipline policy which sets forth circumstances under which parents shall be notified of simple assaults.

ADMINISTRATIVE CODE

Ed 317.04. Disciplinary Procedures.

(d) Due process in disciplinary proceedings shall include, at a minimum, the following:

(1) In a short-term suspension:[...]

[...]d. A written statement to the pupil and at least one of the pupil's parents or guardian explaining any disciplinary action taken against the student;

(2) In a long-term suspension of a pupil:[...]

a. Written communication to the pupil and at least one of the pupil's parents or guardian, delivered in person or by mail to the pupil's last known address, of the charges and an explanation of the evidence against the pupil;[...]

(3) In an expulsion by the local school board, due process shall include the following minimal requirements:[...]

[...]d. The school board shall provide written notice to the pupil and at least one of the pupil's parents or guardian, delivered in person or by mail to the pupil's last known address, of the date, time and place for a hearing before the local board;

e. The written notice required by d. above shall include:

1. A written statement of the charges and the nature of the evidence against the pupil; and

2. A superintendent's written recommendation for school board action and a description of the process used by the superintendent to reach his/her recommendation;

f. This notice shall be delivered to the pupil and at least one of the pupil's parents or guardian at least 5 days prior to the hearing;

g. The following hearing procedures shall apply:

1. The pupil, together with a parent or guardian may waive the right to a hearing and admit to the charges made by the superintendent;

2. If the pupil is 18 years of age or older, the concurrence of a parent or guardian shall be unnecessary unless the pupil is subject to a guardianship which would prevent the pupil from waiving the right to a hearing;

3. Formal rules of evidence shall not be applicable, however, school officials shall present evidence in support of the charge(s) and the accused pupil or his/her parent or guardian shall have an opportunity to present any defense or reply;

4. The hearing shall be either public or private and the choice shall be that of the pupil or his parent or guardian; and

5. During the hearing, the pupil, parent, guardian or counsel representing the pupil, shall have the right to examine any and all witnesses;[...]

Reporting and referrals between schools and law enforcement

STATUTES

193-D:4. Written Report Required.

I. (a) Any public or private school employee who has witnessed or who has information from the victim of an act of theft, destruction, or violence in a safe school zone shall report such act in writing immediately to a supervisor. A supervisor receiving such report shall immediately forward such information to the school principal who shall file it with the local law enforcement authority. Such report shall be made by the principal to the local law enforcement authority immediately, by telephone or otherwise, and shall be followed within 48 hours by a report in writing. If the alleged victim is a student, the principal shall also immediately notify the person responsible for the victim's welfare, as defined in RSA 169-C:3, XXII, that a report was made to the local law enforcement authority.

193-D:7. Confidentiality.

Notwithstanding any other provision of law, it shall be permissible for any law enforcement officer and any school administrator to exchange information relating only to acts of theft, destruction, or violence in a safe school zone regarding the identity of any juvenile, police records relating to a juvenile, or other relevant information when such information reasonably relates to delinquency or criminal conduct, suspected delinquency or suspected criminal conduct, or any conduct which would classify a pupil as a child in need of services under RSA 169-D or a child in need of protection under RSA 169-C.

193-D:8. Transfer Records; Notice.

All elementary and secondary educational institutions, including academies, private schools, and public schools, shall upon request of the parent, pupil, or former pupil, furnish a complete school record for the pupil transferring into a new school system. Such record shall include, but not be limited to, records relating to any incidents involving suspension or expulsion, or delinquent or criminal acts, or any incident reports in which the pupil was charged with any act of theft, destruction, or violence in a safe school zone.

ADMINISTRATIVE CODE

Ed 317.03. Standard for Expulsion by Local School Board.

(d) If a student is subject to expulsion and a firearm is involved, the superintendent shall contact local law enforcement officials whenever there is any doubt concerning:

(1) Whether a firearm is legally licensed under RSA 159; or

(2) Whether the firearm is lawfully possessed, as opposed to unlawfully possessed, under the legal definitions of RSA 159.

Ed 317.05. Reporting Procedures.

(a) In accordance with RSA 193-D:4, each written report by a supervisor to the principal relating to an act of theft, destruction, or violence in a safe school zone shall be on standardized form #Ed 317.

(b) The report by a supervisor to a principal on Form #Ed 317 shall contain all the statutory information required by RSA 193-D:4.

(c) Form #Ed 317 shall be completed and filed with the local law enforcement authority within 48 hours of such incident.

(e) A school district reporting a crime committed by a child with a disability shall ensure that copies of the relevant portions of the special education and disciplinary records of the child are made available in a manner that protects the privacy of student records for consideration by the appropriate authorities to whom it reports the crime.

(f) A school district shall complete and file Form Ed 317-Fed, Report on Students Disciplined Under the Gun Free School Act of 1994, with the commissioner on or before June 30 of each year.

Disclosure of school records

STATUTES

189:49-a. Fingerprinting Program.

IV. A principal or chief administrative officer of a public school, or any employee of a public school who is authorized to handle school records, shall provide access to the relevant records of a student to a law enforcement officer who indicates that an investigation is being conducted by such officer and that the student is or may be a missing child. Copies of information in the relevant records of a student shall be provided, upon request, to the law enforcement officer, if prior approval is given by the student's parent, guardian, or legal custodian. Information obtained by the officer shall be used solely in the investigation of the case. The information may be used by law enforcement agency personnel in any manner that is appropriate to solving the case, including, but not limited to, providing the information to other law enforcement officers and agencies and to the office of the attorney general, division of public protection, bureau of criminal justice, for purposes of computer integration pursuant to RSA 7:10-a.

193-D:7. Confidentiality.

Notwithstanding any other provision of law, it shall be permissible for any law enforcement officer and any school administrator to exchange information relating only to acts of theft, destruction, or violence in a safe school zone regarding the identity of any juvenile, police records relating to a juvenile, or other relevant information when such information reasonably relates to delinquency or criminal conduct, suspected delinquency or suspected criminal conduct, or any conduct which would classify a pupil as a child in need of services under RSA 169-D or a child in need of protection under RSA 169-C.

Data collection, review, and reporting of disciplinary policies and actions

No relevant statutes found.

School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers

Authority and power to implement school arrest

STATUTES

189:34. Truant Officer Appointment.

I. School boards shall appoint truant officers for their districts.

II. School board policies on truancy shall include but not be limited to:

(a) A definition of "excused absence" and a process for considering exceptions to absences not otherwise excused.

(b) A process for intervention designed to address individual cases of truancy as quickly as possible and to reduce the number of habitual truants in the school district. The board shall provide for the participation of parents in the development of the policy. The policy shall include early parental involvement in the intervention process. The policy shall also designate an employee in each school as the person responsible for truancy issues.

189:35. Term; Removal.

Truant officers shall hold office for one year and until their successors are appointed, but they may be removed by the school board at any time for cause.

189:36. Truant Officer Duties.

I. Truant officers shall, when directed by the school board, enforce the laws and regulations relating to truants and children between the ages of 6 and 18 years not attending school or who are not participating in an alternative learning plan under RSA 193:1, I(h); and the laws relating to the attendance at school of children between the ages of 6 and 18 years; and shall have authority without a warrant to take and place in school any children found employed contrary to the laws relating to the employment of children, or violating the laws relating to the compulsory attendance at school of children under the age of 18 years, and the laws relating to child labor. No home school pupil nor any person between the ages of 6 and 18 who meets any of the requirements of RSA 193:1, I(c)-(h) shall be deemed a truant.

II. A truant officer or school official shall not file a petition alleging that the child is in need of services pursuant to RSA 169-D:2, II until all steps in the school district's intervention process under RSA 189:34, II have been followed.

189:37. Additional Officers.

The state board may require school boards to appoint additional truant officers if in its judgment such additional officers are necessary; and may require the school board of any school district to remove any truant officer found by it to be incompetent, and to appoint a competent successor; and upon the failure or neglect of the school board to do so, it may appoint such truant officer and fix compensation, which shall be paid by the district.

Certification or training

No relevant statutes found.

MOUs, authorization, and/or funding

STATUTES

193-D:4. Written Report Required.

I. (c) Each school district, in conjunction with the local law enforcement authority, shall establish a memorandum of understanding for administering the provisions of RSA 193-D:4, I (a)-(c).

State Education Agency Support

State model policies and implementation support

STATUTES

<u>193-F:4. Pupil Safety and Violence Prevention.</u>

II. The school board of each school district and the board of trustees of a chartered public school shall, no later than 6 months after the effective date of this section, adopt a written policy prohibiting bullying and cyberbullying. Such policy shall include the definitions set forth in RSA 193-F:3. The policy shall contain, at a minimum, the following components:

(a) A statement prohibiting bullying or cyberbullying of a pupil.

(b) A statement prohibiting retaliation or false accusations against a victim, witness, or anyone else who in good faith provides information about an act of bullying or cyberbullying and, at the time a report is made, a process for developing, as needed, a plan to protect pupils from retaliation.

(c) A requirement that all pupils are protected regardless of their status under the law.

(d) A statement that there shall be disciplinary consequences or interventions, or both, for a pupil who commits an act of bullying or cyberbullying, or falsely accuses another of the same as a means of retaliation or reprisal.

(e) A statement indicating how the policy shall be made known to school employees, regular school volunteers, pupils, parents, legal guardians, or employees of a company under contract to a school, school district, or chartered public school. Recommended methods of communication include, but are not limited to, handbooks, websites, newsletters, and workshops.

(f) A procedure for reporting bullying or cyberbullying that identifies all persons to whom a pupil or another person may report bullying or cyberbullying.

(g) A procedure outlining the internal reporting requirements within the school or school district or chartered public school.

(h) A procedure for notification, within 48 hours of the incident report, to the parent or parents or guardian of a victim of bullying or cyberbullying and the parent or parents or guardian of the perpetrator of the bullying or cyberbullying. The content of the notification shall comply with the Family Educational Rights and Privacy Act, 20 U.S.C. 1232g.

(i) A provision that the superintendent or designee may, within the 48-hour period, grant the school principal or designee a waiver from the notification requirement if the superintendent or designee deems such waiver to be in the best interest of the victim or perpetrator. Any such waiver granted shall be in writing. Granting of a waiver shall not negate the school's responsibility to adhere to the remainder of its approved written policy.

(j) A written procedure for investigation of reports, to be initiated within 5 school days of the reported incident, identifying either the principal or the principal's designee as the person responsible for the investigation and the manner and time period in which the results of the investigation shall be documented. The superintendent or designee may grant in writing an extension of the time period for the investigation and documentation of reports for up to an additional 7 school days, if necessary. The superintendent or superintendent's designee shall notify in writing all parties involved of the granting of an extension.

(k) A requirement that the principal or designee develop a response to remediate any substantiated incident of bullying or cyberbullying, including imposing discipline if appropriate, to reduce the risk of

future incidents and, where deemed appropriate, to offer assistance to the victim or perpetrator. When indicated, the principal or designee shall recommend a strategy for protecting all pupils from retaliation of any kind.

(l) A requirement that the principal or designee report all substantiated incidents of bullying or cyberbullying to the superintendent or designee.

(m) A written procedure for communication with the parent or parents or guardian of victims and perpetrators regarding the school's remedies and assistance, within the boundaries of applicable state and federal law. This communication shall occur within 10 school days of completion of the investigation.

(n) Identification, by job title, of school officials responsible for ensuring that the policy is implemented.

III. The department of education may develop a model policy in accordance with the requirements set forth in this chapter which may be used by schools, school districts, and chartered public schools as a basis for adopting a local policy.

IV. A school board or board of trustees of a chartered public school shall, to the greatest extent practicable, involve pupils, parents, administrators, school staff, school volunteers, community representatives, and local law enforcement agencies in the process of developing the policy. The policy shall be adopted by all public schools within the school district and, to the extent possible, the policy should be integrated with the school's curriculum, discipline policies, behavior programs, and other violence prevention efforts.

Funding appropriations

No relevant statutes found.

Other/Uncategorized

Professional immunity or liability

STATUTES

193-D:9. Liability for Reporting.

Any public or private school employee or employee of a company under contract to a school or school district who in good faith has made a report under RSA 193-D shall not be subject to liability for making the report.

193-F:7. Immunity.

A school administrative unit employee, school employee, chartered public school employee, regular school volunteer, pupil, parent, legal guardian, or employee of a company under contract to a school, school district, school administrative unit, or chartered public school, shall be immune from civil liability for good faith conduct arising from or pertaining to the reporting, investigation, findings, recommended response, or implementation of a recommended response under this chapter. The department of education shall be immune from civil liability for its good faith conduct in making recommendations under this chapter.

Community input or involvement

STATUTES

193-F:4. Pupil Safety and Violence Prevention.

IV. A school board or board of trustees of a chartered public school shall, to the greatest extent practicable, involve pupils, parents, administrators, school staff, school volunteers, community representatives, and local law enforcement agencies in the process of developing the policy. The policy shall be adopted by all public schools within the school district and, to the extent possible, the policy should be integrated with the school's curriculum, discipline policies, behavior programs, and other violence prevention efforts.

Other/Uncategorized

No relevant statutes found.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by New Hampshire provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
Website		
No relevant resources found		
Documents		
Guidance on Considering the Use of Physical Restraints in New Hampshire School Settings	Provides guidance on using physical restraints in school settings	http://www.ldanh.org/docs/nhdoePhysicalRestraintDocument%5B1%5D.pdf
New Hampshire School Boards Association Sample Policy PUPIL SAFETY AND VIOLENCE PREVENTION - Bullying	Provides a model policy on bullying in New Hampshire	http://www.moultonborough.k12.nh.us/Draft_Bullying_Policy.pdf
Other Resources		
No relevant resources found		

New Jersey Compilation of School Discipline Laws and Regulations

Prepared: August 12, 2013

Introduction

This compilation presents school discipline-related state statutes, school discipline-related regulations, and, where available, links to state-sponsored websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSLE). For example, one major category encompasses all state laws or regulations mandating specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of state legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in each state.

Discipline categories were not mutually exclusive. Statutes and regulations often appeared across multiple categories. For states with more extensive statutes covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. State laws, ordered by chapter and section number, appear first within each category followed by state regulations. All statutes and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists statutes by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to state-sponsored websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of May 2013, with the exception of the state laws related to seclusion and restraint, which are complete and current as of December 2012. Readers should also note that the information in this document was compiled from individual state sources that are created by each state and which are maintained and updated with varying frequencies. Readers should consult the source information provided for each state directly in order to check for updates to this state's laws and regulations or conduct further research.

For further information, including definitions of the different policy categories, please refer to the Discipline Laws and Regulations Compendium posted on the Center's website.

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Safe Supportive Learning
Engagement | Safety | Environment

Table of Contents

New Jersey State Codes Cited **1**

General Provisions **4**

Authority to develop and establish rules of conduct 4
Scope 8
Communication of policy 9

In-School Discipline **11**

Use of multi-tiered discipline approaches 11
Teacher authority to remove students from classrooms 13
Alternatives to suspension 13
Use of corporal punishment 13
Use of student and locker searches 14
Other in-school disciplinary approaches 15

Out-of-School and Exclusionary Discipline: Suspension, Expulsion, Restraint and Seclusion, and Alternative Placements **16**

Grounds for possible suspension or expulsion 16
Grounds for mandatory suspension or expulsion 17
Limitations, conditions or exclusions for use of suspension or expulsion 17
Administrative procedures related to suspension and expulsion 17
In school suspension 25
Return to school following removal 25
Use of restraint and seclusion 26
Alternative placements 26

Disciplinary Approaches Addressing Specific Infractions and Conditions **31**

Firearms (as required by the Gun-Free Schools Act) 31
Other weapons 33
Students with chronic disciplinary issues 36
Attendance and truancy 36
Substance use 38
Bullying, harassment, or hazing 48
Other special infractions or conditions 59

Prevention and Behavioral Interventions (Non-Punitive) **63**

Prevention 63
Behavioral interventions and student support services 68
Professional development 72

Monitoring and Accountability **78**

Formal incident reporting of conduct violations 78
Parental notification 83
Reporting between schools and law enforcement 85
Disclosure of school records 90
Data collection, review, and reporting of disciplinary policies and actions 93

Student Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers 96
Authority and power to implement school arrest 96
Certification or training 96
MOUs, authorization, and/or funding 97
State Education Agency Support 98
State model policies and implementation support 98
Funding appropriations 98
Other/Uncategorized 100
Professional immunity or liability 100
Community input or involvement 100
Other/Uncategorized 103
State-Sponsored, Publicly Available Websites or Other Resources on School Discipline 104

New Jersey State Codes Cited

New Jersey Revised Statutes

Title 2A. Administration of Civil and Criminal Justice

2A:4A-22.	General definitions.

Title 2C. The New Jersey Code of Criminal Justice

2C:39-1.	Definitions.

Title 18A. Education

18A:6-1.	Corporal punishment of pupils
18A:6-112.	Instruction in suicide prevention for public school teaching staff
18A:12-33.	Training program; requirements
18A:17-46.	Reporting of certain acts by school employee; report; public hearing
18A:26-8.2.	"School leader" defined; training as part of professional development
18A:36-19.	Pupil records; creation, maintenance and retention, security and access; regulations; nonliability
18A:37-1.	Submission of pupils to authority
18A:37-2.	Causes for suspension, expulsion of pupils
18A:37-2.1.	Suspension, expulsion of pupil for assault, appeal; report
18A:37-2.2.	Offense by pupil involving assault, removal from school's regular education program
18A:37-2.3.	Responsibility for removal, report
18A:37-2.4.	Hearing
18A:37-2.5.	Determination of pupil's preparedness to return
18A:37-4.	Suspension of pupils by teacher or principal
18A:37-5.	Continuation of suspension; reinstatement or expulsion
18A:37-6.	Rules, regulations
18A:37-8.	Offense by pupil involving firearm, removal from school's regular education program
18A:37-9.	Responsibility for removal, report
18A:37-10.	Hearing
18A:37-11.	Determination of pupil's preparedness to return
18A:37-15.	Adoption of policy concerning harassment, intimidating or bullying by each school district
18A:37-16.	Reprisal, retaliation, false accusation prohibited
18A:37-17.	Establishment of bullying prevention programs or approaches
18A:37-22.	Program required for teaching certification
18A:38-25.	Attendance required of children between six and 16; exceptions
18A:38-26.	Days when attendance required; exceptions
18A:38-27.	Truancy and juvenile delinquency defined
18A:40A-1.	Instructional programs on drugs, alcohol, anabolic steroids, tobacco and controlled dangerous substances; curriculum guidelines
18A:40A-7.1.	Confidentiality of certain information provided by pupil; exceptions.
18A:40A-10.	Referral program in schools
18A:40A-11.	Policies for evaluations, referral, discipline
18A:40A-12.	Reporting of pupils under influence; examination; report; return home; evaluation of possible need for treatment; referral for treatment
18A:40A-13.	Immunity for personnel
18A:40A-14.	Civil immunity for reporting

18A:40A-15. Inservice training program
18A:40A-16. Guidelines, materials for program
18A:40A-17. Outreach program
18A:40A-18. Employment of student assistance coordinators in certain school districts

Title 47. Public Records

47:3-15. Short title
47:3-16. Terms defined
47:3-17. Consent of bureau to disposition or destruction of public records or documents
47:3-19. Schedules

Title 52. State Government, Departments and Officers

52:17B-71.8. Training course for safe schools resource officers, liaisons to law enforcement

New Jersey Administrative Code

Chapter 16. Programs to Support Student Development

Subchapter 4. Procedures for Alcohol and Other Drug Abuse Intervention

6A:16-4.1. Adoption of policies and procedures for the intervention of student alcohol and other drug abuse
6A:16-4.2. Review and availability of policies and procedures for the intervention of student alcohol or other drug abuse
6A:16-4.3. Reporting, notification and examination procedures for students suspected of being under the influence of alcohol or other drugs
6A:16-4.4. Voluntary policy for random testing of student alcohol or other drug use

Subchapter 5. School Safety and Security

6A:16-5.3. Incident reporting of violence, vandalism and alcohol and other drug abuse
6A:16-5.4. Access to juvenile justice information
6A:16-5.5. Removal of students for firearms offenses
6A:16-5.6. Removal of students for assaults with weapons offenses
6A:16-5.7. Assaults on district board of education members or employees
6A:16-5.8. Remotely activating paging devices

Subchapter 6. Law Enforcement Operations for Alcohol, Other Drugs, Weapons and Safety

6A:16-6.1. Adoption of policies and procedures
6A:16-6.2. Development and implementation of policies and procedures
6A:16-6.3. Reporting students or staff members to law enforcement authorities
6A:16-6.4. Handling of alcohol or other drugs, firearms and other items
6A:16-6.5. Confidentiality of student or staff member involvement in alcohol or other drug abuse intervention and treatment programs

Subchapter 7. Student Conduct

6A:16-7.1. Code of student conduct
6A:16-7.2. Short-term suspensions
6A:16-7.3. Long-term suspensions
6A:16-7.4. Mandated student removals from general education
6A:16-7.5. Expulsion

6A:16-7.6. Conduct away from school grounds
6A:16-7.7. Staff responsibilities
6A:16-7.8. Attendance
6A:16-7.9. Intimidation, harassment and bullying
6A:16-7.10. Student records and confidentiality

Subchapter 8. Intervention and Referral Services

6A:16-8.1. Establishment of intervention and referral services
6A:16-8.2. Functions of intervention and referral services
6A:16-8.3. School staff and community member roles for planning and implementing intervention and referral services

Subchapter 9. Alternative Education Programs

6A:16-9.1. Establishment of alternative education programs
6A:16-9.2. Program criteria
6A:16-9.3. Student placements

General Provisions

Authority to develop and establish rules of conduct

STATUTES

18A:36-19. Creation; Pupil records: Maintenance and retention, security and access; Regulations; Non-Liability; N.J.A.C. 6A:14-2.9, N.J.A.C. 6A:32 Student records; as well as other existing Federal and State laws pertaining to student protections.

4. A description of comprehensive behavioral supports that promote positive student development and the students' abilities to fulfill the behavioral expectations established by the district board of education, including:

i. Positive reinforcement for good conduct and academic success;

ii. Supportive interventions and referral services, including those at N.J.A.C. 6A:16-8;

iii. Remediation of problem behaviors that take into account the nature of the behaviors, the developmental ages of the students and the student's histories of problem behaviors and performance; and

iv. For students with disabilities, the behavior interventions and supports shall be determined and provided pursuant to the requirements of N.J.A.C. 6A:14;

5. A description of school responses to violations of the behavioral expectations established by the district board of education that, at a minimum, are graded according to the severity of the offenses, consider the developmental ages of the student offenders and students' histories of inappropriate behaviors that shall:

i. Include a continuum of actions designed to remediate and, where necessary or required by law, to impose sanctions;

ii. Be consistent with other responses, pursuant to N.J.A.C. 6A: 16-5.5, N.J.A.C. 6A:16-5.6 and N.J.A.C. 6A:16-5.7 above;

iii. Provide for the equitable application of the code of student conduct without regard to race, color, religion, ancestry, national origin, gender, sexual orientation, gender identity and expression, or a mental, physical or sensory disability or by any other distinguishing characteristic, pursuant to N.J.S.A. 10:5; and

iv. Be consistent with the provisions of N.J.S.A. 18A:6-1, Corporal punishment of pupils;

6. A policy and procedures regarding the attendance of students in accordance with N.J.S.A. 18A:38-25 through 31 and N.J.A.C. 6A:32-8 and 13.1 and 6A:16-7.8;

7. A policy and procedures regarding intimidation, harassment and bullying in accordance with N.J.S.A. 18A:37-13 et seq. and N.J.A.C. 6A:16-7.9; and

8. A current list of community-based health and social service provider agencies available to support a student and the student's family, as appropriate, and a list of legal resources available to serve the community.

(d) The code of student conduct shall include the due process procedures and policies for students and their families and shall include the provisions set forth at N.J.A.C. 6A:16-7.2 through 7.6.

(e) A district board of education may deny participation in extracurricular activities, school functions, sports or graduation exercises as disciplinary sanctions, where such measures are designed to maintain the order and integrity of the school environment.

18A:37-1. Submission of pupils to authority.

Pupils in the public schools shall comply with the rules established in pursuance of law for the government of such schools, pursue the prescribed course of study and submit to the authority of the teachers and others in authority over them.

18A:37-2. Causes for suspension, expulsion of pupils.

Any pupil who is guilty of continued and willful disobedience, or of open defiance of the authority of any teacher or person having authority over him, or of the habitual use of profanity or of obscene language, or who shall cut, deface or otherwise injure any school property, shall be liable to punishment and to suspension or expulsion from school.

18A:37-15. Adoption of policy concerning harassment, intimidating or bullying by each school district.

3. a. Each school district shall adopt a policy prohibiting harassment, intimidation or bullying on school property, at a school-sponsored function or on a school bus. The school district shall adopt the policy through a process that includes representation of parents or guardians, school employees, volunteers, students, administrators, and community representatives.

b. A school district shall have local control over the content of the policy, except that the policy shall contain, at a minimum, the following components:

(1) a statement prohibiting harassment, intimidation or bullying of a student;

(2) a definition of harassment, intimidation or bullying no less inclusive than that set forth in section 2 of P.L.2002, c.83 (C.18A:37-14);

(3) a description of the type of behavior expected from each student;

(4) consequences and appropriate remedial action for a person who commits an act of harassment, intimidation or bullying;

(5) a procedure for reporting an act of harassment, intimidation or bullying, including a provision that permits a person to report an act of harassment, intimidation or bullying anonymously; however, this shall not be construed to permit formal disciplinary action solely on the basis of an anonymous report.

18A:40A-10. Referral program in schools

Each local board of education shall, pursuant to guidelines developed by the Commissioner of Education, in consultation with the Commissioner of Health, establish a comprehensive substance abuse intervention, prevention and treatment referral program in the public elementary and secondary schools of the district. The purpose of the program shall be to identify pupils who are substance abusers, assess the extent of these pupils' involvement with these substances and, where appropriate, refer pupils and their families to organizations and agencies approved by the Department of Health to offer competent professional treatment. Treatment shall not be at the expense of the local board of education.

18A:40A-11. Policies for evaluations, referral, discipline.

Each board of education shall adopt and implement, in accordance with rules and regulations promulgated by the State board, policies and procedures for the evaluation, referral for treatment and discipline of pupils involved in incidents of possession or abuse of substances as defined in section 2 of this act, on school property or at school functions, or who show significant symptoms of the use of those substances on school property or at school functions. In adopting and implementing these policies and procedures, the board shall consult and work closely with a local organization involved with the prevention, detection and treatment of substance abuse approved by the Department of Health.

Each school district shall develop a clear written policy statement which outlines the district's program to combat substance abuse and which provides for the identification, evaluation, referral for treatment and discipline of pupils who are substance abusers. Copies of the policy statement shall be distributed to pupils and their parents at the beginning of each school year.

ADMINISTRATIVE CODE

6A:16-7.1. Code of student conduct.

(a) Each district board of education shall develop, adopt and implement a code of student conduct which establishes standards, policies and procedures for positive student development and student behavioral expectations on school grounds, including on school buses or at school-sponsored functions, and, as appropriate, for conduct away from school grounds, in accordance with N.J.A.C. 6A:16-7.2 through 7.5, 7.8 and 7.9.

1. The code of student conduct shall be based on parent, student and community involvement which represents, where possible, the composition of the schools and community.

2. The code of student conduct shall be based on locally determined and accepted core ethical values adopted by the district board of education.

3. The district board of education shall establish a process for the annual review and update of the code of student conduct that provides for:

   i. Parent, student and community involvement which represents, where possible, the composition of the schools and community; and

   ii. Consideration of the findings of the annual reports of student conduct, including suspensions and expulsions, pursuant to (a)5 and 6 below, and the incidences reported under the Electronic Violence and Vandalism Reporting System, in accordance with N.J.A.C. 6A:16-5.3.

4. The code of student conduct shall be disseminated annually to all school staff, students and parents;

5. The chief school administrator shall report annually on the implementation of the code of student conduct to the district board of education at a public meeting. The annual summary shall contain, at a minimum:

   i. A numerical inventory of all violations of the student behavioral expectations in the code of student conduct;

   ii. Associated school responses to the violations of the student behavioral expectations;

   iii. An explanation and evidence of the effectiveness of the code of student conduct. The explanation and evidence, at a minimum, shall address:

      (1) The degree of effectiveness of the school district's activities in achieving the purposes of the code of student conduct, pursuant to (b) below; and

      (2) The degree of implementation and effectiveness of the implementation of the contents of the code of student conduct, pursuant to (c) below; and

   iv. Any proposed changes to the school district's current policies, procedures, programs or initiatives, based on the report pursuant to (a)5 above.

6. The chief school administrator shall submit a report annually to the New Jersey Department of Education on student conduct, including all student suspensions and expulsions, and the implementation of the code of student conduct, pursuant to this section, in accordance with the format prescribed by the Commissioner of Education and the Electronic Violence and Vandalism Reporting System, pursuant to N.J.A.C. 6A:16-5.3(e).

7. For students with disabilities, subject to Individualized Education Programs in accordance with 20 U.S.C. § § 1400 et seq., the Individuals with Disabilities Education Improvement Act, and accommodation plans under 29 U.S.C. § § 794 and 705(20), the code of student conduct shall be implemented in accordance with the components of the applicable plans.

(b) The code of student conduct shall be established to achieve the following purposes:

1. Foster the health, safety and social and emotional well-being of students;

2. Support the establishment and maintenance of civil, safe, secure, supportive and disciplined school environments conducive to learning;

3. Promote achievement of high academic standards;

4. Prevent the occurrence of problem behaviors;

5. Establish parameters for the intervention and remediation of student problem behaviors at all stages of identification; and

6. Establish parameters for school responses to violations of the code of student conduct that take into account, at a minimum, the severity of the offenses, the developmental ages of the student offenders and students' histories of inappropriate behaviors in accordance with 7.2 through 7.5, and 7.6 as appropriate.

(c) The code of student conduct, at a minimum, shall include:

1. A description of student responsibilities that includes expectations for academic achievement, behavior and attendance, pursuant to N.J.A.C. 6A:32-8 and 13.1;

2. A description of the behaviors that will result in suspension or expulsion, pursuant to N.J.S.A. 18A:37-2;

3. A description of students' rights to:

i. Advance notice of behaviors that will result in suspensions and expulsions that have been identified under authority of N.J.S.A. 18A:37-2;

ii. Education that supports students' development into productive citizens;

iii. Attendance in safe and secure school environments;

iv. Attendance at school irrespective of students' marriage, pregnancy or parenthood;

v. Due process appeal procedures and policies, pursuant to N.J.A.C. 6A:3-1.3 through 1.17, N.J.A.C. 6A:4 and, where applicable, N.J.A.C. 6A:14-2.7 and 2.8, and 7.2 through 7.6;

vi. Parent notification consistent with the policies and procedures established pursuant to N.J.A.C. 6A:16-6.2(b)3, 7.2, 7.3 and 7.8; and

vii. Protections pursuant to 20 U.S.C. § 1232g and 34 CFR Part 99, Family Educational Rights and Privacy Act; 20 U.S.C. § 1232h and 34 CFR Part 98, Protection of Pupil Rights Amendment; N.J.A.C. 6A:32-7, Student Records; 45 CFR § 160, Health Insurance Portability and Accountability Act; 20 U.S.C. § 6301, Title IV(A)IV § 4155 of the Elementary and Secondary Education Act as reauthorized under the No Child Left Behind Act; 42 CFR Part 2, Confidentiality of Alcohol and Drug Abuse Patient Records; N.J.S.A.18A:40A-7.1, School-based drug and alcohol abuse counseling; information from participants; disclosure; N.J.A.C. 6A:16-3.2, Confidentiality of student alcohol and other drug information; N.J.S.A.

Scope

STATUTES

18A:37-2.1. Suspension, expulsion of pupil for assault, appeal; report.

2. a. Any pupil who commits an assault, as defined pursuant to N.J.S.2C:12-1, upon a teacher, administrator, board member or other employee of a board of education, acting in the performance of his duties and in a situation where his authority to so act is apparent, or as a result of the victim's relationship to an institution of public education of this State, not involving the use of a weapon or firearm, shall be immediately suspended from school consistent with procedural due process pending suspension or expulsion proceedings before the local board of education. Said proceedings shall take place no later than 30 calendar days following the day on which the pupil is suspended. The decision of the board shall be made within five days after the close of the hearing. Any appeal of the board's decision shall be made to the Commissioner of Education within 90 days of the board's decision. The provisions herein shall be construed in a manner consistent with 20 U.S.C. s.1400 et seq.

b. Whenever a teacher, administrator, board member, other employee of a board of education or a labor representative on behalf of an employee makes an allegation in writing that the board member or employee has been assaulted by a pupil, the principal shall file a written report of the alleged assault with the district's superintendent of schools. The superintendent to whom the alleged assault is reported or, if there is no superintendent in the district, the principal who received the allegation from the board member, employee, or labor representative shall report the alleged assault to the board of education of the district at its next regular meeting; provided that the name of the pupil who allegedly committed the assault, although it may be disclosed to the members of the board of education, shall be kept confidential at the public board of education meeting.

Any person who fails to file a report of an alleged assault as required pursuant to this subsection may be liable to disciplinary action by the board of education of the district.

18A:37-2.2. Offense by pupil involving assault, removal from school's regular education program.

1. Any pupil who commits an assault upon a teacher, administrator, board member, other employee of a school board or another student, with a weapon, on any school property, on a school bus, or at a school-sponsored function shall be immediately removed from the school's regular education program pending a hearing before the local board of education.

18A:37-8. Offense by pupil involving firearm, removal from school's regular education program.

2. Any pupil who is convicted or adjudicated delinquent for possession of a firearm or a crime while armed with a firearm or found knowingly in possession of a firearm on any school property, on a school bus, or at a school-sponsored function shall be immediately removed from the school's regular education program pending a hearing before the local board of education to remove the pupil from the regular education program for a period of not less than one calendar year subject to modification on a case-by-case basis by the chief school administrator

For the purposes of this section "firearm" means those items enumerated in N.J.S.2C:39-1f and 18 U.S.C. s.921.

Any pupil that is removed from the regular education program pursuant to this section shall be placed in an alternative education program. If placement in an alternative education program is not available, the pupil shall be provided home instruction or other suitable facilities and programs until placement is available. The provisions herein shall be construed in a manner consistent with 20 U.S.C. s.1400 et seq. Nothing herein shall be construed as prohibiting the expulsion of a pupil.

18A:37-15. Adoption of policy concerning harassment, intimidating or bullying by each school district.

3. a. Each school district shall adopt a policy prohibiting harassment, intimidation or bullying on school property, at a school-sponsored function or on a school bus.

ADMINISTRATIVE CODE

6A:16-7.1. Code of student conduct.

(a) Each district board of education shall develop, adopt and implement a code of student conduct which establishes standards, policies and procedures for positive student development and student behavioral expectations on school grounds, including on school buses or at school-sponsored functions, and, as appropriate, for conduct away from school grounds, in accordance with N.J.A.C. 6A:16-7.2 through 7.5, 7.8 and 7.9.

6A:16-7.6. Conduct away from school grounds.

(a) School authorities have the right to impose a consequence on a student for conduct away from school grounds, including on a school bus or at a school-sponsored function, that is consistent with the district board of education's code of student conduct, pursuant to N.J.A.C. 6A:16-7.1.

1. This authority shall be exercised only when it is reasonably necessary for the student's physical or emotional safety, security and well-being or for reasons relating to the safety, security and well-being of other students, staff or school grounds, pursuant to N.J.S.A. 18A:25-2 and 18A:37-2.
2. This authority shall be exercised only when the conduct which is the subject of the proposed consequence materially and substantially interferes with the requirements of appropriate discipline in the operation of the school.
3. The consequence pursuant to (a) above shall be handled in accordance with the district board of education approved code of student conduct, pursuant to N.J.A.C. 6A:16-7.1, and as appropriate, in accordance with N.J.A.C. 6A:16-7.2, 7.3 or 7.5.

Communication of policy

STATUTES

18A:37-15. Adoption of policy concerning harassment, intimidating or bullying by each school district.

(b) the results of the investigation shall be reported to the superintendent of schools within two school days of the completion of the investigation, and in accordance with regulations promulgated by the State Board of Education pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the superintendent may decide to provide intervention services, establish training programs to reduce harassment, intimidation, or bullying and enhance school climate, impose discipline, order counseling as a result of the findings of the investigation, or take or recommend other appropriate action;

(11) a requirement that a link to the policy be prominently posted on the home page of the school district's website and distributed annually to parents and guardians who have children enrolled in a school in the school district;

18A:40A-10. Referral program in schools.

Each local board of education shall, pursuant to guidelines developed by the Commissioner of Education, in consultation with the Commissioner of Health, establish a comprehensive substance abuse intervention, prevention and treatment referral program in the public elementary and secondary schools of

the district. The purpose of the program shall be to identify pupils who are substance abusers, assess the extent of these pupils' involvement with these substances and, where appropriate, refer pupils and their families to organizations and agencies approved by the Department of Health to offer competent professional treatment. Treatment shall not be at the expense of the local board of education.

Each school district shall develop a clear written policy statement which outlines the district's program to combat substance abuse and which provides for the identification, evaluation, referral for treatment and discipline of pupils who are substance abusers. Copies of the policy statement shall be distributed to pupils and their parents at the beginning of each school year.

ADMINISTRATIVE CODE

6A:16-7.1. Code of student conduct.

(a) Each district board of education shall develop, adopt and implement a code of student conduct which establishes standards, policies and procedures for positive student development and student behavioral expectations on school grounds, including on school buses or at school-sponsored functions, and, as appropriate, for conduct away from school grounds, in accordance with N.J.A.C. 6A:16-7.2 through 7.5, 7.8 and 7.9.

4. The code of student conduct shall be disseminated annually to all school staff, students and parents;

6A:16-7.9. Intimidation, harassment and bullying.

(d) The district board of education shall:

2. Develop a process for annually discussing the school district’s harassment, intimidation or bullying policy with students;

In-School Discipline

Use of multi-tiered discipline approaches

ADMINISTRATIVE CODE

6A:16-7.1. Code of student conduct.

(a) Each district board of education shall develop, adopt and implement a code of student conduct which establishes standards, policies and procedures for positive student development and student behavioral expectations on school grounds, including on school buses or at school-sponsored functions, and, as appropriate, for conduct away from school grounds, in accordance with N.J.A.C. 6A:16-7.2 through 7.5, 7.8 and 7.9.

1. The code of student conduct shall be based on parent, student and community involvement which represents, where possible, the composition of the schools and community.

2. The code of student conduct shall be based on locally determined and accepted core ethical values adopted by the district board of education.

3. The district board of education shall establish a process for the annual review and update of the code of student conduct that provides for:

   i. Parent, student and community involvement which represents, where possible, the composition of the schools and community; and

   ii. Consideration of the findings of the annual reports of student conduct, including suspensions and expulsions, pursuant to (a)5 and 6 below, and the incidences reported under the Electronic Violence and Vandalism Reporting System, in accordance with N.J.A.C. 6A:16-5.3.

4. The code of student conduct shall be disseminated annually to all school staff, students and parents;

5. The chief school administrator shall report annually on the implementation of the code of student conduct to the district board of education at a public meeting. The annual summary shall contain, at a minimum:

   i. A numerical inventory of all violations of the student behavioral expectations in the code of student conduct;

   ii. Associated school responses to the violations of the student behavioral expectations;

   iii. An explanation and evidence of the effectiveness of the code of student conduct. The explanation and evidence, at a minimum, shall address:

      (1) The degree of effectiveness of the school district's activities in achieving the purposes of the code of student conduct, pursuant to (b) below; and

      (2) The degree of implementation and effectiveness of the implementation of the contents of the code of student conduct, pursuant to (c) below; and

   iv. Any proposed changes to the school district's current policies, procedures, programs or initiatives, based on the report pursuant to (a)5 above.

6. The chief school administrator shall submit a report annually to the New Jersey Department of Education on student conduct, including all student suspensions and expulsions, and the implementation of the code of student conduct, pursuant to this section, in accordance with the format prescribed by the Commissioner of Education and the Electronic Violence and Vandalism Reporting System, pursuant to N.J.A.C. 6A:16-5.3(e).

7. For students with disabilities, subject to Individualized Education Programs in accordance with 20 U.S.C. § § 1400 et seq., the Individuals with Disabilities Education Improvement Act, and accommodation plans under 29 U.S.C. § § 794 and 705(20), the code of student conduct shall be implemented in accordance with the components of the applicable plans.

(b) The code of student conduct shall be established to achieve the following purposes:

1. Foster the health, safety and social and emotional well-being of students;

2. Support the establishment and maintenance of civil, safe, secure, supportive and disciplined school environments conducive to learning;

3. Promote achievement of high academic standards;

4. Prevent the occurrence of problem behaviors;

5. Establish parameters for the intervention and remediation of student problem behaviors at all stages of identification; and

6. Establish parameters for school responses to violations of the code of student conduct that take into account, at a minimum, the severity of the offenses, the developmental ages of the student offenders and students' histories of inappropriate behaviors in accordance with 7.2 through 7.5, and 7.6 as appropriate.

(c) The code of student conduct, at a minimum, shall include:

5. A description of school responses to violations of the behavioral expectations established by the district board of education that, at a minimum, are graded according to the severity of the offenses, consider the developmental ages of the student offenders and students' histories of inappropriate behaviors that shall:

i. Include a continuum of actions designed to remediate and, where necessary or required by law, to impose sanctions;

ii. Be consistent with other responses, pursuant to N.J.A.C. 6A: 16-5.5, N.J.A.C. 6A:16-5.6 and N.J.A.C. 6A:16-5.7 above;

iii. Provide for the equitable application of the code of student conduct without regard to race, color, religion, ancestry, national origin, gender, sexual orientation, gender identity and expression, or a mental, physical or sensory disability or by any other distinguishing characteristic, pursuant to N.J.S.A. 10:5; and

iv. Be consistent with the provisions of N.J.S.A. 18A:6-1, Corporal punishment of pupils;

6. A policy and procedures regarding the attendance of students in accordance with N.J.S.A. 18A:38-25 through 31 and N.J.A.C. 6A:32-8 and 13.1 and 6A:16-7.8;

7. A policy and procedures regarding intimidation, harassment and bullying in accordance with N.J.S.A. 18A:37-13 et seq. and N.J.A.C. 6A:16-7.9; and

8. A current list of community-based health and social service provider agencies available to support a student and the student's family, as appropriate, and a list of legal resources available to serve the community.

(d) The code of student conduct shall include the due process procedures and policies for students and their families and shall include the provisions set forth at N.J.A.C. 6A:16-7.2 through 7.6.

(e) A district board of education may deny participation in extracurricular activities, school functions, sports or graduation exercises as disciplinary sanctions, where such measures are designed to maintain the order and integrity of the school environment.

Teacher authority to remove students from classrooms

STATUTES

18A:37-1. Submission of pupils to authority.

Pupils in the public schools shall comply with the rules established in pursuance of law for the government of such schools, pursue the prescribed course of study and submit to the authority of the teachers and others in authority over them.

18A:37-2. Causes for suspension, expulsion of pupils.

Any pupil who is guilty of continued and willful disobedience, or of open defiance of the authority of any teacher or person having authority over him, or of the habitual use of profanity or of obscene language, or who shall cut, deface or otherwise injure any school property, shall be liable to punishment and to suspension or expulsion from school.

18A:37-4. Suspension of pupils by teacher or principal.

The teacher in a school having but one teacher or the principal in all other cases may suspend any pupil from school for good cause but such suspension shall be reported forthwith by the teacher or principal so doing to the superintendent of schools of the district if there be one. The superintendent to whom a suspension is reported or if there be no superintendent in the district, the teacher or principal suspending the pupil shall report the suspension to the board of education of the district at its next regular meeting. Such teacher, principal or superintendent may reinstate the pupil prior to the second regular meeting of the board of education of the district held after such suspension unless the board shall reinstate the pupil at such first regular meeting.

18A:37-9. Responsibility for removal, report.

The principal or his or her designee shall be responsible for the removal of any pupil pursuant to section 2 of P.L.1995, c.127 (C.18A:37-8). The principal or his or her designee shall immediately report the removal of any pupil to the district's chief school administrator. The district's chief school administrator may modify such removal of a pupil on a case-by-case basis. The principal shall also notify the appropriate law enforcement agency of a possible violation of the New Jersey Code of Criminal Justice.

Alternatives to suspension

No relevant statutes found.

Use of corporal punishment

STATUTES

18A:6-1. Corporal punishment of pupils.

No person employed or engaged in a school or educational institution, whether public or private, shall inflict or cause to be inflicted corporal punishment upon a pupil attending such school or institution; but any such person may, within the scope of his employment, use and apply such amounts of force as is reasonable and necessary:

(1) to quell a disturbance, threatening physical injury to others;

(2) to obtain possession of weapons or other dangerous objects upon the person or within the control of a pupil;

(3) for the purpose of self-defense; and

(4) for the protection of persons or property;

and such acts, or any of them, shall not be construed to constitute corporal punishment within the meaning and intendment of this section. Every resolution, bylaw, rule, ordinance, or other act or authority permitting or authorizing corporal punishment to be inflicted upon a pupil attending a school or educational institution shall be void.

Use of student and locker searches

STATUTES

18A:36-19.2. School locker inspection.

The principal or other official designated by the local board of education may inspect lockers or other storage facilities provided for use by students so long as students are informed in writing at the beginning of each school year that inspections may occur.

18A:40A-22. Findings, declarations relative to substance abuse testing policies in public school districts.

1. The Legislature finds and declares that there are many school districts within the State with a growing problem of drug abuse among their students. The Legislature further finds that federal and State courts have held that it may be appropriate for school districts to combat this problem through the random drug testing of students participating in extracurricular activities, including interscholastic athletics, and students who possess school parking permits. The Legislature also finds that a random drug testing program may have a positive effect on attaining the important objectives of deterring drug use and providing a means for the early detection of students with drug problems so that counseling and rehabilitative treatment may be offered.

18A:40A-23. Adoption of policy for random testing of certain students.

2. A board of education may adopt a policy, pursuant to rules and regulations adopted by the State Board of Education in consultation with the Department of Human Services, which are consistent with the New Jersey Constitution and the federal Constitution, for the random testing of the district's students in grades 9-12 who participate in extracurricular activities, including interscholastic athletics, or who possess school parking permits, for the use of controlled dangerous substances as defined in N.J.S.2C:35-2 and anabolic steroids. The testing shall be conducted by the school physician, school nurse or a physician, laboratory or health care facility designated by the board of education and the cost shall be paid by the board. Any disciplinary action taken against a student who tests positive for drug use or who refuses to consent to testing shall be limited to the student's suspension from or prohibition against participation in extracurricular activities, or revocation of the student's parking permits.

18A:40A-24. Public hearing prior to adoption of drug testing policy.

3. Each board of education shall hold a public hearing prior to the adoption of its drug testing policy. The policy shall be in written form and shall be distributed to students and their parents or guardians at the beginning of each school year. The policy shall include, but need not be limited to, the following:

a. notice that the consent of the student and his parent or guardian for random student drug testing is required for the student to participate in extracurricular activities and to possess a school parking permit;

b. the procedures for collecting and testing specimens;

c. the manner in which students shall be randomly selected for drug testing;

d. the procedures for a student or his parent or guardian to challenge a positive test result;

e. the standards for ensuring the confidentiality of test results;

f. the specific disciplinary action to be imposed upon a student who tests positive for drug use or refuses to consent to testing;

g. the guidelines for the referral of a student who tests positive for drug use to drug counseling or rehabilitative treatment; and

h. the scope of authorized disclosure of test results.

ADMINISTRATIVE CODE

6A:16-6.2. Development and implementation of policies and procedures.

(b) School district policies and procedures shall include the following components:

5. Specific procedures for and responsibilities of staff in initiating or conducting searches and seizures of students, their property and their personal effects.

i. All searches and seizures conducted by school staff shall comply with the standards prescribed by the United States Supreme Court in New Jersey v. T.L.O., 469 U.S. 325 (1985).

ii. Any question concerning searches conducted by school officials shall be directed to the appropriate county prosecutor.

iii. School officials may request that law enforcement authorities assume responsibility for conducting any search or seizure.

iv. No school staff member shall impede any law enforcement officer engaged in a lawful search, seizure or arrest whether pursuant to a warrant or otherwise.

v. School staff shall permit law enforcement authorities, upon their arrival, to assume responsibility for conducting any search or seizure.

vi. All inspections of lockers, desks or other objects or personal property on school grounds, including on a school bus or at a school-sponsored function, involving the use of law enforcement drug-detection canines only may be undertaken with the express permission of the county prosecutor or the Director of the Division of Criminal Justice or his or her designee in the New Jersey Department of Law and Public Safety.

vii. Any questions concerning the legality of any contemplated or ongoing search, seizure or arrest conducted by a law enforcement officer on school grounds, including on a school bus or at a school-sponsored function, shall be directed to the county prosecutor or, in the case of a search, seizure or arrest undertaken by the Division of Criminal Justice designee in the New Jersey Department of Law and Public Safety, to the assigned Assistant Attorney General;

Other in-school disciplinary approaches

ADMINISTRATIVE CODE

6A:16-7.1. Code of student conduct.

(e) A district board of education may deny participation in extracurricular activities, school functions, sports or graduation exercises as disciplinary sanctions, where such measures are designed to maintain the order and integrity of the school environment.

Out-of-School and Exclusionary Discipline: Suspension, Expulsion, Restraint and Seclusion, and Alternative Placements

Grounds for possible suspension or expulsion

STATUTES

18A:37-2. Causes for suspension, expulsion of pupils.

Any pupil who is guilty of continued and willful disobedience, or of open defiance of the authority of any teacher or person having authority over him, or of the habitual use of profanity or of obscene language, or who shall cut, deface or otherwise injure any school property, shall be liable to punishment and to suspension or expulsion from school.

Conduct which shall constitute good cause for suspension or expulsion of a pupil guilty of such conduct shall include, but not be limited to, any of the following:

a. Continued and willful disobedience;

b. Open defiance of the authority of any teacher or person, having authority over him;

c. Conduct of such character as to constitute a continuing danger to the physical well-being of other pupils;

d. Physical assault upon another pupil;

e. Taking, or attempting to take, personal property or money from another pupil, or from his presence, by means of force or fear;

f. Willfully causing, or attempting to cause, substantial damage to school property;

g. Participation in an unauthorized occupancy by any group of pupils or others of any part of any school or other building owned by any school district, and failure to leave such school or other facility promptly after having been directed to do so by the principal or other person then in charge of such building or facility;

h. Incitement which is intended to and does result in unauthorized occupation by any group of pupils or others of any part of a school or other facility owned by any school district;

i. Incitement which is intended to and does result in truancy by other pupils;

j. Knowing possession or knowing consumption without legal authority of alcoholic beverages or controlled dangerous substances on school premises, or being under the influence of intoxicating liquor or controlled dangerous substances while on school premises; and

k. Harassment, intimidation, or bullying.

18A:37-4. Suspension of pupils by teacher or principal.

The teacher in a school having but one teacher or the principal in all other cases may suspend any pupil from school for good cause but such suspension shall be reported forthwith by the teacher or principal so doing to the superintendent of schools of the district if there be one. The superintendent to whom a suspension is reported or if there be no superintendent in the district, the teacher or principal suspending the pupil shall report the suspension to the board of education of the district at its next regular meeting. Such teacher, principal or superintendent may reinstate the pupil prior to the second regular meeting of the board of education of the district held after such suspension unless the board shall reinstate the pupil at such first regular meeting.

Grounds for mandatory suspension or expulsion

STATUTES

18A:37-2.1. Suspension, expulsion of pupil for assault, appeal; report.

2. a. Any pupil who commits an assault, as defined pursuant to N.J.S.2C:12-1, upon a teacher, administrator, board member or other employee of a board of education, acting in the performance of his duties and in a situation where his authority to so act is apparent, or as a result of the victim's relationship to an institution of public education of this State, not involving the use of a weapon or firearm, shall be immediately suspended from school consistent with procedural due process pending suspension or expulsion proceedings before the local board of education. Said proceedings shall take place no later than 30 calendar days following the day on which the pupil is suspended. The decision of the board shall be made within five days after the close of the hearing. Any appeal of the board's decision shall be made to the Commissioner of Education within 90 days of the board's decision. The provisions herein shall be construed in a manner consistent with 20 U.S.C. s.1400 et seq.

b. Whenever a teacher, administrator, board member, other employee of a board of education or a labor representative on behalf of an employee makes an allegation in writing that the board member or employee has been assaulted by a pupil, the principal shall file a written report of the alleged assault with the district's superintendent of schools. The superintendent to whom the alleged assault is reported or, if there is no superintendent in the district, the principal who received the allegation from the board member, employee, or labor representative shall report the alleged assault to the board of education of the district at its next regular meeting; provided that the name of the pupil who allegedly committed the assault, although it may be disclosed to the members of the board of education, shall be kept confidential at the public board of education meeting.

Any person who fails to file a report of an alleged assault as required pursuant to this subsection may be liable to disciplinary action by the board of education of the district.

18A:37-8. Offense by pupil involving firearm, removal from school's regular education program.

2. Any pupil who is convicted or adjudicated delinquent for possession of a firearm or a crime while armed with a firearm or found knowingly in possession of a firearm on any school property, on a school bus, or at a school-sponsored function shall be immediately removed from the school's regular education program pending a hearing before the local board of education to remove the pupil from the regular education program for a period of not less than one calendar year subject to modification on a case-by-case basis by the chief school administrator.

Limitations, conditions or exclusions for use of suspension or expulsion

No relevant statutes found.

Administrative procedures related to suspension and expulsion

STATUTES

18A:37-2.1. Suspension, expulsion of pupil for assault, appeal; report.

2. a. Any pupil who commits an assault, as defined pursuant to N.J.S.2C:12-1, upon a teacher, administrator, board member or other employee of a board of education, acting in the performance of his duties and in a situation where his authority to so act is apparent, or as a result of the victim's relationship to an institution of public education of this State, not involving the use of a weapon or firearm, shall be immediately suspended from school consistent with procedural due process pending

suspension or expulsion proceedings before the local board of education. Said proceedings shall take place no later than 30 calendar days following the day on which the pupil is suspended. The decision of the board shall be made within five days after the close of the hearing. Any appeal of the board's decision shall be made to the Commissioner of Education within 90 days of the board's decision. The provisions herein shall be construed in a manner consistent with 20 U.S.C. s.1400 et seq.

b. Whenever a teacher, administrator, board member, other employee of a board of education or a labor representative on behalf of an employee makes an allegation in writing that the board member or employee has been assaulted by a pupil, the principal shall file a written report of the alleged assault with the district's superintendent of schools. The superintendent to whom the alleged assault is reported or, if there is no superintendent in the district, the principal who received the allegation from the board member, employee, or labor representative shall report the alleged assault to the board of education of the district at its next regular meeting; provided that the name of the pupil who allegedly committed the assault, although it may be disclosed to the members of the board of education, shall be kept confidential at the public board of education meeting.

Any person who fails to file a report of an alleged assault as required pursuant to this subsection may be liable to disciplinary action by the board of education of the district.

18A:37-2.2. Offense by pupil involving assault, removal from school's regular education program.

1. Any pupil who commits an assault upon a teacher, administrator, board member, other employee of a school board or another student, with a weapon, on any school property, on a school bus, or at a school-sponsored function shall be immediately removed from the school's regular education program pending a hearing before the local board of education.

For purposes of this section "assault" means those actions defined under subsection a.(1) of N.J.S.2C:12-1.

For purposes of this section "weapon" includes but is not limited to those items enumerated in subsection r. of N.J.S.2C:39-1, except a firearm as defined by N.J.S.2C:39-1f and 18 U.S.C. s.921.

Any student that is removed from the regular education program pursuant to this section shall be placed in an alternative education program. If placement in an alternative education program is not available, the pupil shall be provided home instruction or other suitable facilities and programs until placement is available. The provisions herein shall be construed in a manner consistent with 20 U.S.C. s.1400 et seq. Nothing herein shall be construed as prohibiting the expulsion of a pupil.

18A:37-2.4. Hearing.

3. a. Any pupil removed pursuant to section 1 of P.L.1995, c.128 (C.18A:37-2.2) shall be entitled to a hearing before the local board of education to determine if the pupil is guilty of committing an assault upon a teacher, administrator, board member, other employee of a school board or another student, with a weapon, on any school property, on a school bus, or at a school-sponsored function. If it is found that the pupil is not guilty of the offense the pupil shall be immediately returned to the regular education program.

b. The hearing shall take place no longer than 30 days following the day the pupil is removed from the regular education program. The hearing is not subject to the provisions of the "Open Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.).

c. The decision of the board shall be made within five days after the close of the hearing. Any appeal of the board's decision shall be made to the Commissioner of Education within 90 days of the board's decision.

18A:37-2.5. Determination of pupil's preparedness to return.

4. The chief school administrator shall determine when the pupil is prepared to return to the regular education program in accordance with procedures to be established by the Commissioner of Education.

18A:37-4. Suspension of pupils by teacher or principal.

The superintendent to whom a suspension is reported or if there be no superintendent in the district, the teacher or principal suspending the pupil shall report the suspension to the board of education of the district at its next regular meeting. Such teacher, principal or superintendent may reinstate the pupil prior to the second regular meeting of the board of education of the district held after such suspension unless the board shall reinstate the pupil at such first regular meeting.

18A:37-5. Continuation of suspension; reinstatement or expulsion.

No suspension of a pupil by a teacher or a principal shall be continued longer than the second regular meeting of the board of education of the district after such suspension unless the same is continued by action of the board, and the power to reinstate, continue any suspension reported to it or expel a pupil shall be vested in each board.

18A:37-9. Responsibility for removal, report.

The principal or his or her designee shall be responsible for the removal of any pupil pursuant to section 2 of P.L.1995, c.127 (C.18A:37-8). The principal or his or her designee shall immediately report the removal of any pupil to the district's chief school administrator. The district's chief school administrator may modify such removal of a pupil on a case-by-case basis. The principal shall also notify the appropriate law enforcement agency of a possible violation of the New Jersey Code of Criminal Justice.

18A:37-10. Hearing.

4. a. Any pupil removed pursuant to section 2 of P.L.1995, c.127 (C.18A:37-8) shall be entitled to a hearing before the local board of education to determine if the pupil was convicted or adjudicated delinquent for possession of a firearm or a crime while armed with a firearm or is guilty of knowingly possessing a firearm on any school property, on a school bus or at a school-sponsored function. If it is found that the pupil is not guilty of these offenses the pupil shall be immediately returned to the regular education program.

b. The hearing shall take place no later than 30 days following the day the pupil is removed from the regular education program. The hearing is not subject to the provisions of the "Open Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.).

c. The decision of the board shall be made within five days after the close of the hearing. Any appeal of the board's decision shall be made to the Commissioner of Education within 90 days of the board's decision.

18A:37-11. Determination of pupil's preparedness to return.

The chief school administrator shall determine whether the pupil is prepared to return to the regular education program or whether the pupil shall remain in an alternative education program, home instruction or other suitable facilities and programs, in accordance with procedures to be established by the Commissioner of Education.

18A:37-15. Adoption of policy concerning harassment, intimidating or bullying by each school district.

b. A school district shall have local control over the content of the policy, except that the policy shall contain, at a minimum, the following components:

(4) consequences and appropriate remedial action for a person who commits an act of harassment, intimidation or bullying;

(6) a procedure for prompt investigation of reports of violations and complaints, which procedure shall at a minimum provide that:

(a) the investigation shall be initiated by the principal or the principal's designee within one school day of the report of the incident and shall be conducted by a school anti-bullying specialist. The principal may appoint additional personnel who are not school anti-bullying specialists to assist in the investigation. The investigation shall be completed as soon as possible, but not later than 10 school days from the date of the written report of the incident of harassment, intimidation, or bullying. In the event that there is information relative to the investigation that is anticipated but not yet received by the end of the 10-day period, the school anti-bullying specialist may amend the original report of the results of the investigation to reflect the information;

(b) the results of the investigation shall be reported to the superintendent of schools within two school days of the completion of the investigation, and in accordance with regulations promulgated by the State Board of Education pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the superintendent may decide to provide intervention services, establish training programs to reduce harassment, intimidation, or bullying and enhance school climate, impose discipline, order counseling as a result of the findings of the investigation, or take or recommend other appropriate action;

(c) the results of each investigation shall be reported to the board of education no later than the date of the board of education meeting next following the completion of the investigation, along with information on any services provided, training established, discipline imposed, or other action taken or recommended by the superintendent;

(d) parents or guardians of the students who are parties to the investigation shall be entitled to receive information about the investigation, in accordance with federal and State law and regulation, including the nature of the investigation, whether the district found evidence of harassment, intimidation, or bullying, or whether discipline was imposed or services provided to address the incident of harassment, intimidation, or bullying. This information shall be provided in writing within 5 school days after the results of the investigation are reported to the board. A parent or guardian may request a hearing before the board after receiving the information, and the hearing shall be held within 10 days of the request. The board shall meet in executive session for the hearing to protect the confidentiality of the students. At the hearing the board may hear from the school anti-bullying specialist about the incident, recommendations for discipline or services, and any programs instituted to reduce such incidents;

(e) at the next board of education meeting following its receipt of the report, the board shall issue a decision, in writing, to affirm, reject, or modify the superintendent's decision. The board's decision may be appealed to the Commissioner of Education, in accordance with the procedures set forth in law and regulation, no later than 90 days after the issuance of the board's decision; and

(f) a parent, student, guardian, or organization may file a complaint with the Division on Civil Rights within 180 days of the occurrence of any incident of harassment, intimidation, or bullying based on membership in a protected group as enumerated in the "Law Against Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.);

ADMINISTRATIVE CODE

6A:16-7.2. Short-term suspensions.

(a) In each instance of a short-term suspension, a district board of education shall assure the rights of a student suspended for 10 consecutive school days or fewer by providing for the following:

1. As soon as practicable, oral or written notice of charges to the student.

   i. When charges are denied, an explanation of the evidence forming the basis of the charges also shall be provided;

2. An informal hearing prior to the suspension in which the student is given the opportunity to present the student's version of events regarding the student's actions leading to the short-term suspension and provided notice of the school district's actions taken pursuant to N.J.A.C. 6A:16-7.1(c)2 and 5:

   i. The informal hearing shall be conducted by a school administrator or his or her designee;

   ii. To the extent that a student's presence poses a continuing danger to persons or property or an ongoing threat of disrupting the educational process, the student may be immediately removed from the student's educational program and the informal hearing shall be held as soon as practical after the suspension;

   iii. The informal hearing should take place even when a school staff member has witnessed the conduct forming the basis of the charge; and

   iv. The informal hearing and the notice given may take place at the same time;

3. Oral or written notification to the student's parents of the student's removal from the student's educational program prior to the end of the school day on which the school administrator makes the decision to suspend the student, which shall include an explanation of:

   i. The specific charges;

   ii The facts on which the charges are based;

   iii. The provision(s) of the code of student conduct the student is accused of violating;

   iv. The student's due process rights, pursuant to N.J.A.C. 6A:16-7.1(c)3, and 7.2 through 7.6; and

   v. The terms and conditions of the suspension.

4. Appropriate supervision of the student while waiting for the student's parent to remove the student from school during the school day; and

5. Academic instruction either in school or out of school that addresses the Core Curriculum Content Standards, pursuant to N.J.A.C. 6A:8-3.1, which may include a public education program provided in accordance with the provisions of N.J.A.C. 6A:16-9 or 10.

   i. The instruction shall be provided within five school days of the suspension.

   ii. Educational services provided to a student with a disability shall be provided consistent with the student's Individualized Education Program in accordance with N.J.A.C. 6A:14.

   iii. At the completion of a short-term suspension, the district board of education shall return the general education student to the general education program.

(b) The suspending principal shall immediately report the suspension to the chief school administrator, who is required to report it to the district board of education at its next regular meeting, pursuant to N.J.S.A. 18A:37-4.

(c) For a student with a disability, the provisions set forth in this section shall be provided in addition to all procedural protections set forth in N.J.A.C. 6A:14.

6A:16-7.3. Long-term suspensions.

(a) In each instance of a long-term suspension, the district board of education shall assure the rights of a student suspended for more than 10 consecutive school days by providing the following:

1. Immediate notification to the student of the charges, prior to the student's removal from school;

2. An informal hearing prior to the suspension in which the student is given the opportunity to present the student's version of events regarding the student's actions leading to the long-term suspension and the school district's actions taken pursuant to N.J.A.C. 6A:16-7.1(c)2 and 5;

3. Immediate notification to the student's parents of the student's removal from school;

4. Appropriate supervision of the student while waiting for the student's parents to remove the student from school during the school day;

5. Written notification to the parents by the chief school administrator or his or her designee within two school days of the initiation of the suspension, stating:

i. The specific charges;

ii. The facts on which the charges are based;

iii. The student's due process rights, pursuant to N.J.A.C. 6A:16-7.3 through 7.6; and

iv. That further engagement by the student in conduct warranting expulsion, pursuant to N.J.S.A. 18A:37-2, shall amount to a knowing and voluntary waiver of the student's right to a free public education, in the event that a decision to expel the student is made by the district board of education, pursuant to N.J.S.A. 18A:37-2 and N.J.A.C. 6A:16-7.5.

(1) The district board of education shall request written acknowledgement of the notification of the provisions of (a)4iv above from the parents and the student subsequent to the removal from the student's educational program, pursuant to this section.

6. A list of witnesses and their statements or affidavits, if any, no later than five days prior to the formal hearing, pursuant to (a)10 below;

7. A student with a disability, a manifestation determination, pursuant to N.J.A.C. 6A:14-2.8 and the Federal regulations incorporated by reference therein;

8. Information on the right of the student to secure an attorney and legal resources available in the community identified pursuant to N.J.A.C. 6A:16-7.1(c)8;

9. Educational services, either in school or out of school, that are comparable to those provided in the public schools for students of similar grades and attainments, pursuant to N.J.S.A. 18A:38-25, which may include a public education program provided in accordance with the provisions of N.J.A.C. 6A:16-9 or 10.

i. The services shall be provided within five school days of the suspension.

ii. The district board of education shall make decisions regarding the appropriate educational program and support services for the suspended general education student, at a minimum, based on the following criteria:

(1) A behavioral assessment or evaluation including, but not limited to, a referral to the child study team, as appropriate;

(2) The results of any relevant testing, assessments or evaluations of the student;

(3) The student's academic, health and behavioral records;

(4) The recommendation of the chief school administrator, principal or other relevant school or community resource;

(5) Considerations of parental input; or

(6) Consultation with the Intervention and Referral Services team, in accordance with N.J.A.C. 6A:16-8, as appropriate.

iii. Educational services provided to a student with a disability shall be provided consistent with the student's Individualized Education Program, in accordance with N.J.A.C. 6A:14;

10. A formal hearing before the district board of education, which, at a minimum, shall:

i. Be conducted by the district board of education or delegated by the board to a board committee, a school administrator or an impartial hearing officer for the purpose of determining facts or making recommendations.

(1) The district board of education as a whole shall receive and consider either a transcript or detailed report on such hearing before taking final action;

ii. Include the opportunity for the student to:

(1) Confront and cross-examine witnesses, when there is a question of fact; and

(2) Present his or her own defense and produce oral testimony or written supporting affidavits.

iii. Take place no later than 30 calendar days following the day the student is suspended from the general education program; and

iv. Result in a decision by the district board of education, which at a minimum, shall be based on the preponderance of competent and credible evidence;

11. A written statement to the student's parents of the district board of education's decision within five school days after the close of the hearing that includes, at a minimum:

i. The charges considered;

ii. A summary of the documentary or testimonial evidence from both the student and the administration that was brought before the district board of education at the hearing;

iii. Factual findings relative to each charge and the district board of education's determination of each charge;

iv. Identification of the educational services to be provided to the student, pursuant to (a)9 above;

v. The terms and conditions of the suspension; and

vi. The right to appeal the district board of education's decision regarding the student's general education program to the Commissioner of Education in accordance with N.J.S.A. 18A:37-2.4 and N.J.A.C. 6A:3-1.3 through 1.17;

12. Immediate return to the general education program if at any time it is found that the general education student did not commit the offense;

13. For a student with a disability found not to have committed the offense, the student's program shall be determined in accordance with the provisions of N.J.A.C. 6A:14; and

14. At the completion of a long-term suspension, the district board of education shall return the general education student to the general education program.

(b) Any appeal of the district board of education's decision regarding the general education student's program shall be made to the Commissioner of Education, in accordance with N.J.S.A. 18A:37-2.4 and N.J.A.C. 6A:3-1.3 through 1.17.

(c) Suspension of general education students shall not be continued beyond the district board of education's second regular meeting following the suspension, unless the district board of education so determines, pursuant to N.J.S.A. 18A:37-5.

1. The district board of education shall determine whether to continue the suspension, pursuant to (a) above, based on the following criteria:

i. The nature and severity of the offense;

ii. The district board of education removal decision;

iii. The results of any relevant testing, assessments or evaluations of the student; and

iv. The recommendation of the chief school administrator, principal or director of the alternative education program or home or other in-school or out-of-school instruction program in which the student has been placed.

2. The district board of education shall develop and adopt policies and procedures providing for action on the continuation of student suspensions in the event of cancellation of the first or second regular board meeting pursuant to N.J.S.A. 18A:37-4 and 5.

(d) When the district board of education votes to continue the suspension of a general education student, the board of education, in consultation with the chief school administrator, shall review the case at each subsequent district board of education meeting for the purpose of determining:

1. The status of the student's suspension;

2. The appropriateness of the current educational program for the suspended student; and

3. Whether the suspended student's current placement, pursuant to (a)9 above, should continue or whether the student should return to the general education program.

(e) When the district board of education votes to continue the suspension of a general education student, the district board of education, in consultation with the chief school administrator, shall make the final determination on:

1. When the student is prepared to return to the general education program;

2. Whether the student shall remain in an alternative education program or receive home or other in-school or out-of-school instruction, based on the criteria set forth in (c)1i through iv above; or

3. Whether to initiate expulsion proceedings in accordance with N.J.S.A. 18A:37-2 and N.J.A.C. 6A:16-7.5.

(f) The district board of education shall provide a general education student suspended under this section with an appropriate educational program or appropriate educational services, based on the criteria set forth under (a)9ii above, until the student graduates from high school or reaches the age of 20, whichever comes first.

1. The educational program shall be consistent with the provisions of N.J.A.C. 6A:16-9.2 and 10.2 and N.J.A.C. 6A:14-2 and 4.3, whichever is applicable; or

2. The educational services provided, either in school or out of school, shall be comparable to those provided in the public schools for students of similar grades and attainments, pursuant to the provisions of N.J.S.A. 18A:38-25.

(g) For a student with a disability who receives a long-term suspension, the district board of education shall proceed in accordance with N.J.A.C. 6A:14 in determining or changing the student's educational placement to an interim or alternate educational setting.

1. All procedural protections set forth in N.J.A.C. 6A:14 and this section shall be afforded to each student with a disability who is subjected to a long-term suspension.

2. All decisions concerning the student's educational program or placement shall be made by the student's Individualized Education Program team.

3. The provisions of (b) through (f) above shall not apply to students with disabilities.

6A:16-7.4. Mandated student removals from general education.

(a) The district board of education shall follow N.J.A.C 6A:16-5.5 for student removals for firearms offenses.

(b) The district board of education shall follow N.J.A.C. 6A:16-5.6 for student removals for assaults with weapons offenses.

(c) The district board of education shall follow N.J.A.C. 6A:16-5.7 for student removals for assaults on district board of education members or employees.

6A:16-7.5. Expulsions.

(a) A district board of education may expel, that is discontinue the educational services or discontinue payment of educational services for, a general education student from school, pursuant to N.J.S.A. 18A:37-2, only after the district board of education has provided the following:

1. The procedural due process rights set forth at N.J.A.C. 6A:16-7.3 and 7.4, subsequent to a long-term suspension, pursuant to N.J.A.C. 6A:16-7.3; and
2. An appropriate educational program or appropriate educational services, based on the criteria set forth under N.J.A.C. 6A:16-7.3(f).
   i. The educational program shall be consistent with the provisions of N.J.A.C. 6A:16-9.2 and 10.2 and 6A:14; whichever are applicable; or
   ii. The educational services provided, either in school or out of school, shall be comparable to those provided in the public schools for students of similar grades and attainments, pursuant to the provisions of N.J.S.A. 18A:38-25.

(b) Any appeal of the district board of education's decision regarding the cessation of the student's general education program shall be made to the Commissioner of Education in accordance with N.J.S.A. 18A:37-2.4 and N.J.A.C. 6A:3-1.3 through 1.17.

1. A district board of education shall continue to provide an appropriate educational program or appropriate educational services, in accordance with N.J.A.C. 6A:16-7.5(a)2, until a final determination has been made on the appeal of the district board of education's action to expel a student.

(c) An expulsion of a student with a disability from a receiving school shall be handled in accordance with N.J.A.C. 6A:14.

In school suspension

No relevant statutes found.

Return to school following removal

STATUTES

18A:37-2.5. Determination of pupil's preparedness to return.

4. The chief school administrator shall determine when the pupil is prepared to return to the regular education program in accordance with procedures to be established by the Commissioner of Education.

18A:37-4. Suspension of pupils by teacher or principal.

The superintendent to whom a suspension is reported or if there be no superintendent in the district, the teacher or principal suspending the pupil shall report the suspension to the board of education of the district at its next regular meeting. Such teacher, principal or superintendent may reinstate the pupil prior

to the second regular meeting of the board of education of the district held after such suspension unless the board shall reinstate the pupil at such first regular meeting.

18A:37-5. Continuation of suspension; reinstatement or expulsion.

No suspension of a pupil by a teacher or a principal shall be continued longer than the second regular meeting of the board of education of the district after such suspension unless the same is continued by action of the board, and the power to reinstate, continue any suspension reported to it or expel a pupil shall be vested in each board.

18A:37-10. Hearing.

4. a. Any pupil removed pursuant to section 2 of P.L.1995, c.127 (C.18A:37-8) shall be entitled to a hearing before the local board of education to determine if the pupil was convicted or adjudicated delinquent for possession of a firearm or a crime while armed with a firearm or is guilty of knowingly possessing a firearm on any school property, on a school bus or at a school-sponsored function. If it is found that the pupil is not guilty of these offenses the pupil shall be immediately returned to the regular education program.

b. The hearing shall take place no later than 30 days following the day the pupil is removed from the regular education program. The hearing is not subject to the provisions of the "Open Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.).

c. The decision of the board shall be made within five days after the close of the hearing. Any appeal of the board's decision shall be made to the Commissioner of Education within 90 days of the board's decision.

18A:37-11. Determination of pupil's preparedness to return.

The chief school administrator shall determine whether the pupil is prepared to return to the regular education program or whether the pupil shall remain in an alternative education program, home instruction or other suitable facilities and programs, in accordance with procedures to be established by the Commissioner of Education.

18A:40A-12. Reporting of pupils under influence; examination; report; return home; evaluation of possible need for treatment; referral for treatment.

a. ... If it is determined that the pupil was under the influence of a substance [as defined pursuant to section 2 of this act], the pupil shall be returned to the pupil's home as soon as possible and shall not resume attendance at school until the pupil submits to the principal a written report certifying that the pupil is physically and mentally able to return thereto, which report shall be prepared by a personal physician, the medical inspector, or the physician who examined the pupil pursuant to the provisions of this act.

Use of restraint and seclusion

No relevant statutes found.

Alternative placements

STATUTES

18A:37-2.2. Offense by pupil involving assault, removal from school's regular education program.

1. Any pupil who commits an assault upon a teacher, administrator, board member, other employee of a school board or another student, with a weapon, on any school property, on a school bus, or at a school-

sponsored function shall be immediately removed from the school's regular education program pending a hearing before the local board of education.

For purposes of this section "assault" means those actions defined under subsection a.(1) of N.J.S.2C:12-1.

For purposes of this section "weapon" includes but is not limited to those items enumerated in subsection r. of N.J.S.2C:39-1, except a firearm as defined by N.J.S.2C:39-1f and 18 U.S.C. s.921.

Any student that is removed from the regular education program pursuant to this section shall be placed in an alternative education program. If placement in an alternative education program is not available, the pupil shall be provided home instruction or other suitable facilities and programs until placement is available. The provisions herein shall be construed in a manner consistent with 20 U.S.C. s.1400 et seq. Nothing herein shall be construed as prohibiting the expulsion of a pupil.

18A:37-8. Offense by pupil involving firearm, removal from school's regular education program.

Any pupil who is convicted or adjudicated delinquent for possession of a firearm or a crime while armed with a firearm or found knowingly in possession of a firearm on any school property, on a school bus, or at a school-sponsored function shall be immediately removed from the school's regular education program pending a hearing before the local board of education to remove the pupil from the regular education program for a period of not less than one calendar year subject to modification on a case-by-case basis by the chief school administrator.

For the purposes of this section "firearm" means those items enumerated in N.J.S.2C:39-1f and 18 U.S.C. s.921.

Any pupil that is removed from the regular education program pursuant to this section shall be placed in an alternative education program. If placement in an alternative education program is not available, the pupil shall be provided home instruction or other suitable facilities and programs until placement is available. The provisions herein shall be construed in a manner consistent with 20 U.S.C. s.1400 et seq. Nothing herein shall be construed as prohibiting the expulsion of a pupil.

18A:37-11. Determination of pupil's preparedness to return.

The chief school administrator shall determine whether the pupil is prepared to return to the regular education program or whether the pupil shall remain in an alternative education program, home instruction or other suitable facilities and programs, in accordance with procedures to be established by the Commissioner of Education.

ADMINISTRATIVE CODE

6A:16-9.1. Establishment of alternative education programs.

(a) Each district board of education choosing to operate an alternative education program, pursuant to N.J.A.C. 6A:16-1.3, shall approve the alternative education program.

(b) Any alternative education program, pursuant to N.J.A.C. 6A:16-1.3, within a State agency, public college operated program or department-approved school shall be approved by the Commissioner of Education.

1. The agency, pursuant to (b) above, shall submit an initial or renewal application, as appropriate, to the designated county office of education, in accordance with the format prescribed by the Commissioner of Education.

2. Each alternative education program established by an agency, pursuant to (b) above, shall be separate and distinct from the already existing programs operated by these agencies.

3. Annually, each agency, pursuant to (b) above, operating an alternative education program, pursuant to N.J.A.C. 6A:16-1.3, shall obtain certificates of fire inspection and, if applicable, health, sewerage plant and health, ventilation, and air conditioning (HVAC) inspections.

i. These certificates shall be maintained and available upon request for review by the Department of Education.

6A:16-9.2. Program criteria.

(a) Each alternative education program, pursuant to N.J.A.C. 6A:16-1.3, shall fulfill the following program criteria for both high school and middle school programs, unless otherwise noted:

1. A maximum student–teacher ratio of 12:1 for high school programs shall be maintained;

2. A maximum student–teacher ratio of 10:1 for middle school programs shall be maintained;

3. An Individualized Program Plan (IPP) shall be developed for each general education student enrolled in the program.

i. The IPP shall be developed by the school district in which the student is enrolled, in consultation with the student's parent and the receiving school district, pursuant to N.J.A.C. 6A:16-9.1(a), or other agency, pursuant to N.J.A.C. 6A:16-9.1(b), as appropriate.

ii. The IPP shall be developed by a multidisciplinary team of professionals with knowledge of the student's educational, behavioral, emotional, social and health needs.

iii. The IPP shall identify the appropriate instructional and support services for addressing the student's identified needs.

iv. The IPP shall be developed in accordance with the format prescribed by the Commissioner of Education and implemented within 30 calendar days of the student's placement in the alternative education program.

(1) The IPP may, but need not, be developed prior to the student's placement.

v. A multidisciplinary team shall review and, as appropriate, revise the IPP prior to the completion of the student's anticipated enrollment in the alternative education program or prior to the end of the school year, whichever occurs first.

(1) The multidisciplinary team shall review and revise the IPP, as needed, at any time during the student's enrollment in the alternative education program.

(2) The multidisciplinary team that reviews the IPP shall include staff from the sending school and the alternative education program who have knowledge of the student's educational, behavioral, emotional, social and health needs.

(3) The student's parent shall be advised of revisions to the IPP.

4. For a student with a disability, the alternative education program shall be consistent with the student's Individualized Education Program (IEP), pursuant to N.J.A.C. 6A:14, Special Education.

5. Individualized instruction to students shall address the Core Curriculum Content Standards, pursuant to N.J.A.C. 6A:8-3.1;

6. Instructional staff shall be appropriately certified, pursuant to N.J.A.C. 6A:9-3.3;

7. Compliance with attendance policies, pursuant to N.J.A.C. 6A:16-7.8 and 6A:32-8.3, shall be required;

8. Academic instruction sufficient to fulfill graduation requirements, pursuant to N.J.A.C. 6A:8-5.1, shall be provided to high school students;

9. Comprehensive support services and programs shall address each student's health, social and emotional development and behavior;

10. Case management services including, but not limited to, monitoring and evaluating student progress and coordinating instructional and support services, pursuant to (a)5, 8, and 9 above, shall be provided;

11. Services to facilitate the transition of students returning to the general or special education program shall be provided; and

12. A minimum student enrollment period of not less than two complete marking periods shall be required.

i. If the student is enrolled with less than two complete marking periods remaining prior to the end of the school year, the decision regarding continued placement in the alternative education program shall be made in accordance with N.J.A.C. 6A:16-9.3(a).

ii. If the student is removed from the general education program and placed in an alternative education program as a result of a firearm or assault with a weapon offense, the chief school administrator may modify the term of removal or placement on a case-by-case basis, pursuant to N.J.A.C. 6A:16-5.5(b)1 and 5.6(b)1.

iii. For the student with a disability, the enrollment period shall be determined by appropriate school personnel in accordance with the provisions of N.J.A.C. 6A:14, Special Education, and the Individuals with Disabilities Education Act of 2004, 20 U.S.C. § § 1400 et seq.

6A:16-9.3. Student placements.

(a) Student placement in an alternative education program, pursuant to N.J.A.C. 6A:16-1.3 and 9.1(a) and (b), shall be made as follows:

1. For the general education student, the district board of education shall make a determination of the student's risk for school failure and a decision regarding the student's placement in an alternative education program, at a minimum, based on the following:

i. The review of the student's academic, health and behavioral records , including the student's IPP, if one has been developed in accordance with N.J.A.C. 6A:16-9.2(a)3i through v, and the results of available testing, assessment or evaluation of the student;

ii. Consultation with and notice to the student's parent; and

iii. Information provided by the school-based multidisciplinary team responsible to provide intervention and referral services, pursuant to N.J.A.C. 6A:16-8, or other multidisciplinary team, as appropriate.

2. Decisions regarding the placement of the student with a disability in an alternative education program, pursuant to N.J.A.C. 6A:16-9.1(a) and (b), shall be based on the recommendation of appropriate personnel in accordance with N.J.A.C. 6A:14.

3. The district board of education shall provide mandatory placement for a student in an alternative education program for removal due to a firearms offense, pursuant to N.J.A.C. 6A:16-5.5 or an assault with weapons offense, pursuant to N.J.A.C. 6A:16-5.6.

i. If placement in an alternative education program, pursuant to N.J.A.C. 6A:16-9.1(a) or (b), is not available in the instance of a mandatory student placement, the student shall be provided home or out-of-school instruction, pursuant to N.J.A.C. 6A:16-10, until placement in an alternative education program is available.

ii. For the student with a disability, placement in an alternative education program for a firearm offense or an assault with a weapon offense shall occur only upon a determination by appropriate school personnel to place the student in accordance with the provisions of N.J.A.C. 6A:14, Special Education Programs and the Individuals with Disabilities Act of 2004, 20 U.S.C. § § 1400 et seq.

(b) If a district board of education places a student in an alternative education program approved by another district board of education, pursuant to N.J.A.C. 6A:16-9.1(a)1, or another approved agency,

pursuant to N.J.A.C. 6A:16-9.1(b), the district board of education of the sending school district shall be responsible for ensuring compliance with the requirements of this subchapter.

(c) Decisions regarding continued placement in an alternative education program or a change to a student's placement shall be made as follows:

1. For the general education student returning to the general education program, the continued placement decision shall be made in accordance with N.J.A.C. 6A:16-9.2(a)11, as appropriate, and (a)1 above.
2. For a student with disabilities, the continued placement decision shall be made in accordance with N.J.A.C. 6A:16-9.2(a)11, as appropriate, (a)2 above, and N.J.A.C. 6A:14, Special Education.

Disciplinary Approaches Addressing Specific Infractions and Conditions

Firearms (as required by the Gun-Free Schools Act)

STATUTES

2C:39-1. Definitions.

The following definitions apply to this chapter and to chapter 58:

f. "Firearm" means any handgun, rifle, shotgun, machine gun, automatic or semi-automatic rifle, or any gun, device or instrument in the nature of a weapon from which may be fired or ejected any solid projectable ball, slug, pellet, missile or bullet, or any gas, vapor or other noxious thing, by means of a cartridge or shell or by the action of an explosive or the igniting of flammable or explosive substances. It shall also include, without limitation, any firearm which is in the nature of an air gun, spring gun or pistol or other weapon of a similar nature in which the propelling force is a spring, elastic band, carbon dioxide, compressed or other gas or vapor, air or compressed air, or is ignited by compressed air, and ejecting a bullet or missile smaller than three-eighths of an inch in diameter, with sufficient force to injure a person.

18A:37-8. Offense by pupil involving firearm, removal from school's regular education program.

2. Any pupil who is convicted or adjudicated delinquent for possession of a firearm or a crime while armed with a firearm or found knowingly in possession of a firearm on any school property, on a school bus, or at a school-sponsored function shall be immediately removed from the school's regular education program pending a hearing before the local board of education to remove the pupil from the regular education program for a period of not less than one calendar year subject to modification on a case-by-case basis by the chief school administrator.

ADMINISTRATIVE CODE

6A:16-5.5. Removal of students for firearms offenses.

(a) Each district board of education shall adopt and implement policies and procedures regarding student offenses involving firearms, as defined in N.J.S.A. 2C:39-1(f) and 18 U.S.C. § 921, according to the requirements of the Zero Tolerance for Guns Act, pursuant to N.J.S.A. 18A:37-7 through 12. These policies and procedures shall apply to:

1. A student who is convicted or adjudicated delinquent for possession of a firearm on any school grounds, including on a school bus or at a school-sponsored function;
2. A student who is convicted or adjudicated delinquent for committing a crime while in possession of a firearm on school grounds, including on a school bus or at a school-sponsored function; and
3. A student who is found knowingly in possession of a firearm on any school grounds, including on a school bus or at a school-sponsored function.

(b) Each district board of education shall immediately remove any student, other than a student with a disability, as set forth in (a) above, from the school’s general education program for a period of not less than one calendar year.

1. The chief school administrator may modify the removal of a general education student on a case-by-case basis.

i. The chief school administrator shall develop and maintain a written record of any case-by-case modifications of the removal requirement in this subsection, which shall be made available to the Commissioner of Education upon request of the Commissioner.

2. Nothing in this section shall be construed to prohibit the expulsion of a general education student.

(c) A district board of education shall immediately remove students with disabilities for offenses involving firearms in accordance with the provisions of N.J.A.C. 6A:14 and the applicable Federal regulations incorporated therein.

(d) The principal or his or her designee shall:

1. Remove any student as set forth in (a) through (c) above;

2. Isolate the student and place the student under the supervision of school staff until such time as the student's parent or a law enforcement official takes custody of the student;

3. Immediately report the removal of the student to the chief school administrator;

4. Notify the appropriate law enforcement agency of a possible violation of the New Jersey Code of Criminal Justice; and

5. Notify the student's parent of the following information:

i. The removal action;

ii. The law enforcement notification;

iii. The change of custody, if it occurs; and

iv. The general education student's due process rights, as set forth in N.J.A.C. 6A:16-7.2 through 7.6 or, in the case of a student with a disability, the student's due process rights, as set forth in N.J.A.C. 6A:14-2.7 through 2.8 and 6A:16-7.2 through 7.6.

(e) Any student, other than a student with a disability, removed from the general education program pursuant to this section shall be placed in an alternative education program, according to the requirements of N.J.A.C. 6A:16-9.

1. If placement in an alternative education program is not available, the general education student shall be provided home or other out-of-school instruction, according to N.J.A.C. 6A:16-10, until placement is available.

(f) Any student with a disability removed pursuant to (a) and (c) above shall receive a placement in accordance with N.J.A.C. 6A:14.

(g) Any student removed pursuant to (b) above shall be entitled to a hearing before the district board of education in accordance with N.J.A.C. 6A:16-7.2 through 7.6.

(h) If it is found that the removed student did not commit the offenses in (a) and (c) above, the student shall be immediately returned to the program from which the student was removed.

(i) The chief school administrator shall make the final determination on whether the general education student is prepared to return to the general education program or whether the student shall remain in an alternative education program, pursuant to N.J.A.C. 6A:16-9, or receive home or other out-of-school instruction, pursuant to N.J.A.C. 6A:16-10, based on the following criteria:

1. The nature and severity of the offense;

2. The district board of education removal decision;

3. The results of any relevant testing, assessment or evaluation of the student; and

4. The recommendation of the principal or director of the alternative education program or home or other out-of-school instruction program in which the student has been placed.

(j) This section does not apply to a firearm that is lawfully stored in a locked vehicle on school grounds, or when it is for activities approved and authorized by the district board of education, so long as the district board of education adopts appropriate safeguards to ensure student safety.

1. All students must obtain written authorization from the chief school administrator to possess a firearm stored inside a locked vehicle on school grounds or used for participation in a school-sponsored function.

   i. The chief school administrator shall not provide such authorization to any student who has been convicted or adjudicated delinquent for possession of a firearm or for a crime involving the use of a firearm.

(k) Each chief school administrator shall submit a report annually to the Commissioner of Education on each incident under this section utilizing the Electronic Violence and Vandalism Reporting System, pursuant to N.J.A.C. 6A:16-5.3(e)1.

(l) Each district board of education shall annually disseminate its adopted policies and procedures for implementing this section to all school staff, students and parents.

6A:16-7.4. Mandated student removals from general education.

(a) The district board of education shall follow N.J.A.C 6A:16-5.5 for student removals for firearms offenses.

(b) The district board of education shall follow N.J.A.C. 6A:16-5.6 for student removals for assaults with weapons offenses.

(c) The district board of education shall follow N.J.A.C. 6A:16-5.7 for student removals for assaults on district board of education members or employees.

Other weapons

STATUTES

2C:39-1. Definitions.

The following definitions apply to this chapter and to chapter 58:

f. "Firearm" means any handgun, rifle, shotgun, machine gun, automatic or semi-automatic rifle, or any gun, device or instrument in the nature of a weapon from which may be fired or ejected any solid projectable ball, slug, pellet, missile or bullet, or any gas, vapor or other noxious thing, by means of a cartridge or shell or by the action of an explosive or the igniting of flammable or explosive substances. It shall also include, without limitation, any firearm which is in the nature of an air gun, spring gun or pistol or other weapon of a similar nature in which the propelling force is a spring, elastic band, carbon dioxide, compressed or other gas or vapor, air or compressed air, or is ignited by compressed air, and ejecting a bullet or missile smaller than three-eighths of an inch in diameter, with sufficient force to injure a person.

r. "Weapon" means anything readily capable of lethal use or of inflicting serious bodily injury. The term includes, but is not limited to, all (1) firearms, even though not loaded or lacking a clip or other component to render them immediately operable; (2) components which can be readily assembled into a weapon; (3) gravity knives, switchblade knives, daggers, dirks, stilettos, or other dangerous knives, billies, blackjacks, bludgeons, metal knuckles, sandclubs, slingshots, cesti or similar leather bands studded with metal filings or razor blades imbedded in wood; and (4) stun guns; and any weapon or other device which projects, releases, or emits tear gas or any other substance intended to produce temporary physical discomfort or permanent injury through being vaporized or otherwise dispensed in the air.

18A:37-2.1. Suspension, expulsion of pupil for assault, appeal; report.

2. a. Any pupil who commits an assault, as defined pursuant to N.J.S.2C:12-1, upon a teacher, administrator, board member or other employee of a board of education, acting in the performance of his duties and in a situation where his authority to so act is apparent, or as a result of the victim's relationship to an institution of public education of this State, not involving the use of a weapon or firearm, shall be immediately suspended from school consistent with procedural due process pending suspension or expulsion proceedings before the local board of education. Said proceedings shall take place no later than 30 calendar days following the day on which the pupil is suspended. The decision of the board shall be made within five days after the close of the hearing. Any appeal of the board's decision shall be made to the Commissioner of Education within 90 days of the board's decision. The provisions herein shall be construed in a manner consistent with 20 U.S.C. s.1400 et seq.

b. Whenever a teacher, administrator, board member, other employee of a board of education or a labor representative on behalf of an employee makes an allegation in writing that the board member or employee has been assaulted by a pupil, the principal shall file a written report of the alleged assault with the district's superintendent of schools. The superintendent to whom the alleged assault is reported or, if there is no superintendent in the district, the principal who received the allegation from the board member, employee, or labor representative shall report the alleged assault to the board of education of the district at its next regular meeting; provided that the name of the pupil who allegedly committed the assault, although it may be disclosed to the members of the board of education, shall be kept confidential at the public board of education meeting.

Any person who fails to file a report of an alleged assault as required pursuant to this subsection may be liable to disciplinary action by the board of education of the district.

ADMINISTRATIVE CODE

6A:16-5.6. Removal of students for assaults with weapons offenses.

(a) Each district board of education shall adopt and implement policies and procedures regarding any student who commits an assault, as defined under N.J.S.A. 2C:12-1(a)1, with a weapon, which includes, but is not limited to, those items enumerated in N.J.S.A. 2C:39-1(r), except a firearm as defined by N.J.S.A. 2C:39-1(f) and 18 U.S.C. § 921, upon a teacher, administrator, board member, other employee of a school board or another student on any school grounds, including on a school bus or at a school-sponsored function, according to the requirements of N.J.S.A. 18A:37-2.2 through 2.5.

(b) Any student as set forth in (a) above, other than a student with a disability, shall be immediately removed from the school's general education program for a period not exceeding one calendar year.

1. The chief school administrator may modify the removal of a general education student on a case-by-case basis.
2. Nothing in this section shall be construed to prohibit the expulsion of a general education student.

(c) District boards of education shall immediately remove students with disabilities for assaults with weapons offenses in accordance with the provisions of N.J.A.C. 6A:14 and the applicable Federal regulations incorporated therein.

(d) The principal or his or her designee shall:

1. Remove any student as set forth in (a) through (c) above;
2. Isolate the student and place the student under the supervision of school staff until such time as the student's parent or a law enforcement official takes custody of the student;
3. Immediately report the removal of the student to the school district's chief school administrator;

4. Notify the appropriate law enforcement agency of a possible violation of the New Jersey Code of Criminal Justice; and

5. Notify the student's parent of the following information:

i. The removal action;

ii. The law enforcement notification;

iii. The change of custody, if it occurs; and

iv. The general education student's due process rights, pursuant to N.J.A.C. 6A:16-7.2 through 7.6 or in the case of a student with a disability, the student's due process rights, as set forth in N.J.A.C. 6A:14-2.7 through 2.8 and 6A:16-7.2 through 7.6.

(e) Any student, other than a student with a disability, removed from the general education program pursuant to (b) above shall be placed in an alternative education program, according to the requirements of N.J.A.C.6A:16-9.

1. If placement in an alternative education program is not available, the general education student shall be provided home or other out-of-school instruction, according to N.J.A.C. 6A:16-10, until placement is available.

(f) A student with a disability removed pursuant to (a) and (c) above shall receive a placement in accordance with N.J.A.C. 6A:14.

(g) Any student removed pursuant to (b) above shall be entitled to a hearing before the district board of education, pursuant to the requirements set forth at N.J.A.C. 6A:16-7.2 and 7.3.

(h) If it is found that the removed student did not commit these offenses, the student shall be immediately returned to the program from which the student was removed.

(i) The chief school administrator shall make the final determination on when the general education student is prepared to return to the general education program or whether the student shall remain in an alternative education program or receive home or other out-of-school instruction based on the following criteria:

1. The nature and severity of the offense;

2. The district board of education removal decision;

3. The results of any relevant testing, assessment or evaluation of the student; and

4. The recommendation of the principal or director of the alternative education program or home or other out-of-school instruction program in which the student has been placed.

(j) This section does not apply to any student who has obtained the written authorization of the chief school administrator to lawfully possess a firearm or other weapon while participating in a school-sponsored function.

1. The chief school administrator shall not provide such authorization to any student who has been convicted or adjudicated delinquent for possession of a firearm or weapon or for a crime involving the use of a firearm.

(k) Each chief school administrator shall submit a report annually to the Commissioner of Education on each incident and the circumstances surrounding the removal of students pursuant to (b) above utilizing the Electronic Violence and Vandalism Reporting System pursuant to N.J.A.C. 6A:16-5.3(e)1.

(l) Each district board of education shall annually disseminate its adopted policies and procedures for implementing this section to all school staff, students and parents.

6A:16-7.4. Mandated student removals from general education.

(a) The district board of education shall follow N.J.A.C 6A:16-5.5 for student removals for firearms offenses.

(b) The district board of education shall follow N.J.A.C. 6A:16-5.6 for student removals for assaults with weapons offenses.

(c) The district board of education shall follow N.J.A.C. 6A:16-5.7 for student removals for assaults on district board of education members or employees.

Students with chronic disciplinary issues

No relevant statutes found.

Attendance and truancy

STATUTES

2A:4A-22. General definitions.

3. General definitions. As used in this act:

g. "Juvenile-family crisis" means behavior, conduct or a condition of a juvenile, parent or guardian or other family member which presents or results in (1) a serious threat to the well-being and physical safety of a juvenile, or (2) a serious conflict between a parent or guardian and a juvenile regarding rules of conduct which has been manifested by repeated disregard for lawful parental authority by a juvenile or misuse of lawful parental authority by a parent or guardian, or (3) unauthorized absence by a juvenile for more than 24 hours from his home, or (4) a pattern of repeated unauthorized absences from school by a juvenile subject to the compulsory education provision of Title 18A of the New Jersey Statutes, or (5) an act which if committed by an adult would constitute prostitution in violation of N.J.S.2C:34-1 or any offense which the juvenile alleges is related to the juvenile being a victim of human trafficking.

18A:38-25. Attendance required of children between six and 16; exceptions.

Every parent, guardian or other person having custody and control of a child between the ages of six and 16 years shall cause such child regularly to attend the public schools of the district or a day school in which there is given instruction equivalent to that provided in the public schools for children of similar grades and attainments or to receive equivalent instruction elsewhere than at school.

18A:38-26. Days when attendance required; exceptions.

Such regular attendance shall be during all the days and hours that the public schools are in session in the district, unless it is shown to the satisfaction of the board of education of the district that the mental condition of the child is such that he cannot benefit from instruction in the school or that the bodily condition of the child is such as to prevent his attendance at school, but nothing herein shall be construed as permitting the temporary or permanent exclusion from school by the board of education of any district of any child between the ages of five and 20, except as explicitly otherwise provided by law.

18A:38-27. Truancy and juvenile delinquency defined.

Any child between the ages of six and 16 years who shall repeatedly be absent from school, and any child of such age found away from school during school hours whose parent, guardian or other person having charge and control of the child is unable to cause him to attend school and any pupil who is incorrigible, actually vagrant, vicious, or immoral in conduct, shall be deemed to be a juvenile delinquent and shall be proceeded against as such.

ADMINISTRATIVE CODE

6A:16-7.8. Attendance.

(a) Each district board of education shall develop, adopt and implement policies and procedures regarding the attendance of students, pursuant to N.J.S.A. 18A:38-25 through 31 and N.J.A.C. 6A:32-8 and 13.1, at the public schools of the district or day schools in which students are provided with equivalent instruction, according to the requirements of N.J.S.A. 18A:38-25, that shall include, at a minimum:

1. The expectations and consequences regarding the timely arrival of students to school and classes;
2. The expectations and consequences regarding attendance at school and classes;
3. A definition of unexcused absence, for the purpose of this section, that, at a minimum, shall be based on the definition of a school day, pursuant to N.J.A.C. 6A:32-8.3, and the following considerations:
   i. Family illness or death;
   ii. Educational opportunities;
   iii. Written parental permission;
   iv. Excused religious observances, pursuant to N.J.S.A. 18A:36-14 through 16;
   v. Where appropriate, Individualized Education Programs pursuant to 20 U.S.C. § § 1400 et seq., the Individuals with Disabilities Education Improvement Act, accommodation plans under 29 U.S.C. § § 794 and 705(20), and individualized health care plans, pursuant to N.J.A.C. 6A:16-2.3(b)2ix; and
4. School staff responses for unexcused absences:
   i. For up to four cumulative unexcused absences, the school district shall:
      (1) Make a reasonable attempt to notify the student's parents of each unexcused absence prior to the start of the following school day;
      (2) Conduct an investigation to determine the cause of each unexcused absence, including contact with the student's parents;
      (3) Develop an action plan in consultation with the student's parents designed to address patterns of unexcused absences, if any, and to have the child return to school and maintain regular attendance;
      (4) Proceed in accordance with the provisions of N.J.S.A. 9:6-1 et seq. and N.J.A.C 6A:16-11, if a potential missing or abused child situation is detected; and
      (5) Cooperate with law enforcement and other authorities and agencies, as appropriate;
   ii. For between five and nine cumulative unexcused absences, the school district shall:
      (1) Make a reasonable attempt to notify the student's parents of each unexcused absence prior to the start of the following school day;
      (2) Conduct a follow-up investigation, including contact with the student's parents, to determine the cause of each unexcused absence;
      (3) Evaluate the appropriateness of the action plan developed pursuant to (a)4i(3) above;
      (4) Revise the action plan, as needed, to identify patterns of unexcused absences and establish outcomes based upon the student's needs and specify the interventions for achieving the outcomes, supporting the student's return to school and regular attendance that may include any or all of the following:
         (A) Refer or consult with the building's Intervention and Referral Services team, pursuant to N.J.A.C. 6A:16-8;

(B) Conduct testing, assessments or evaluations of the student's academic, behavioral and health needs;

(C) Consider an alternate educational placement;

(D) Make a referral to a community-based social and health provider agency or other community resource;

(E) Refer to the court program designated by the New Jersey Administrative Office of the Courts; and

(F) Proceed in accordance with the provisions of N.J.S.A. 9:6-1 et seq. and N.J.A.C. 6A:16-11, if a potential missing or abused child situation is detected; and

(5) Cooperate with law enforcement and other authorities and agencies, as appropriate.

iii. For cumulative unexcused absences of 10 or more, the student, between the ages of six and 16, is truant, pursuant to N.J.S.A. 18A:38-27, and the school district shall:

(1) Make a mandatory referral to the court program required by the New Jersey Administrative Office of the Courts;

(2) Make a reasonable attempt to notify the student's parents of the mandatory referral;

(3) Continue to consult with the parent and the involved agencies to support the student's return to school and regular attendance;

(4) Cooperate with law enforcement and other authorities and agencies, as appropriate; and

(5) Proceed in accordance with N.J.S.A. 18A:38-28 through 31, Article 3B, Compelling Attendance at School, and other applicable State and Federal statutes, as required.

(b) For students with disabilities, the attendance plan and punitive and remedial procedures set forth therein shall be applied, where applicable, in accordance with the students' Individualized Education Programs, pursuant to 20 U.S.C. § § 1400 et seq., the Individuals with Disabilities Education Improvement Act; the procedural protections set forth in N.J.A.C. 6A:14; accommodation plans under 29 U.S.C. § § 794 and 705(20); and individualized health care plans, pursuant to N.J.A.C. 6A:16-2.3(b)2ix.

(c) All receiving schools pursuant to N.J.A.C 6A:14-7.1(a), shall act in accordance with (a)4i above for each student with up to four cumulative unexcused absences.

1. For each student attending a receiving school with five or more cumulative unexcused absences, the absences shall be reported to the sending school district.

i. The sending school district shall proceed in accordance with the district board of education policies and procedures pursuant to (a) above and the provisions of (a)4ii through iii and (b) above, as appropriate.

(d) The chief school administrator shall submit annually a report to the Commissioner of Education containing information on student attendance, including, but not limited to, the district board of education's implementation of each of the requirements pursuant to this section.

Substance use

STATUTES

18A:37-2. Causes for suspension, expulsion of pupils.

Any pupil who is guilty of continued and willful disobedience, or of open defiance of the authority of any teacher or person having authority over him, or of the habitual use of profanity or of obscene language, or who shall cut, deface or otherwise injure any school property, shall be liable to punishment and to suspension or expulsion from school.

Conduct which shall constitute good cause for suspension or expulsion of a pupil guilty of such conduct shall include, but not be limited to, any of the following:

j. Knowing possession or knowing consumption without legal authority of alcoholic beverages or controlled dangerous substances on school premises, or being under the influence of intoxicating liquor or controlled dangerous substances while on school premises

18A:40A-1. Instructional programs on drugs, alcohol, anabolic steroids, tobacco and controlled dangerous substances; curriculum guidelines.

Instructional programs on the nature of drugs, alcohol, anabolic steroids, tobacco and controlled dangerous substances, as defined in section 2 of P.L.1970, c.226 (C.24:21-2), and their physiological, psychological, sociological and legal effects on the individual, the family and society shall be taught in each public school and in each grade from kindergarten through 12 in a manner adapted to the age and understanding of the pupils. The programs shall be based upon the curriculum guidelines established by the Commissioner of Education pursuant to section 2 of this act, and shall be included in the curriculum for each grade in such a manner as to provide a thorough and comprehensive treatment of the subject.

18A:40A-2. Curriculum guidelines; annual review and updating; minimum requirements.

The Commissioner of Education, in consultation with the Commissioner of Health, shall develop curriculum guidelines for education programs on drugs, alcohol, anabolic steroids, tobacco and controlled dangerous substances. These guidelines shall be reviewed annually, and shall be updated as necessary to insure that the curriculum reflects the most current information available on the nature and treatment of drug, alcohol, anabolic steroids, tobacco and controlled dangerous substance abuse and treatment. The guidelines shall provide for a sequential course of study for each grade, K-12, and shall, at a minimum, include:

a. Detailed, factual information regarding the physiological, psychological, sociological and legal aspects of substance abuse;

b. Detailed information concerning the availability of help and assistance for pupils and their families with chemical dependency problems;

c. Decision making and coping skills; and,

d. The development of activities and attitudes which are consistent with a healthy life style.

The guidelines shall include model instructional units, shall define specific behavioral and learning objectives and shall recommend instructional materials suitable for each grade level.

18A:40A-3. Initial inservice training programs; curriculum; availability.

a. Upon completion of the curriculum guidelines required pursuant to section 2 of this act, the Commissioner of Education, in consultation with the Commissioner of Health, shall establish inservice workshops and training programs to train selected public school teachers to teach an education program on drugs, alcohol, anabolic steroids, tobacco and controlled dangerous substances. The inservice training programs may utilize existing county or regional offices, or such other institutions, agencies or persons as the Commissioner of Education deems appropriate. The programs and workshops shall provide instructional preparation for the teaching of the drug, alcohol, anabolic steroids, tobacco and controlled dangerous substances curriculum, and shall, in addition to the curriculum material, include information on the history, pharmacology, physiology and psychosocial aspects of drugs, alcohol, anabolic steroids, tobacco and controlled dangerous substances, symptomatic behavior associated with substance abuse, the availability of rehabilitation and treatment programs, and the legal aspects of substance abuse. Each local board of education shall provide time for the inservice training during the usual school schedule in

order to insure that appropriate teaching staff members are prepared to teach the education program in each grade in each school district.

b. Upon completion of the initial inservice training program, the Commissioner of Education shall insure that programs and workshops that reflect the most current information on substance abuse are prepared and are made available to teaching staff members at regular intervals.

c. In addition to providing inservice training programs for teaching staff members who will provide instruction on substance abuse in the public schools, the Commissioner of Education shall make these training programs available to such other instructional and supervisory personnel as he deems necessary and appropriate.

18A:40A-4. Preservice training.

In addition to the provisions for inservice training established pursuant to this act, the commissioner shall insure that the preservice training of individuals intending to enter the teaching profession provides for an adequate treatment of the subject of substance abuse.

No certificate to teach in the public schools shall be issued to any teaching staff member who has not passed a satisfactory examination in (1) physiology and hygiene; and (2) substance abuse issues which includes material on the physiological, psychological, sociological and legal aspects of drug and alcohol abuse, methods of educating students on the negative effects of substance abuse, and intervention strategies for dealing with students engaged in substance abuse.

18A:40A-5. Loaning of educational materials.

The board of education in each school district in the State in which a nonpublic school is located shall have the power and duty to loan to all pupils attending nonpublic schools located within the district all educational materials developed by the Commissioner of Education pursuant to this act for the instruction of public school pupils on the nature and effects of drugs, alcohol, anabolic steroids, tobacco and controlled dangerous substances. The Commissioner of Education shall make these materials available so that the local board of education shall not be required to expend funds for the loan of these materials.

18A:40A-7.1. Confidentiality of certain information provided by pupil; exceptions.

1. a. Except as provided by section 3 of P.L.1971, c.437 (C.9:6-8.10), if a public or private elementary or secondary school pupil who is participating in a school-based drug and alcohol abuse counseling program provides information during the course of a counseling session in that program which indicates that the pupil's parent or guardian or other person residing in the pupil's household is dependent upon or illegally using a substance as that term is defined in section 2 of P.L.1987, c.387 (C.18A:40A-9), that information shall be kept confidential and may be disclosed only under the circumstances expressly authorized under subsection b. of this section.

   b. The information provided by a pupil pursuant to subsection a. of this section may be disclosed:

   (1) subject to the pupil's written consent, to another person or entity whom the pupil specifies in writing in the case of a secondary school pupil, or to a member of the pupil's immediate family or the appropriate school personnel in the case of an elementary school pupil;

   (2) pursuant to a court order;

   (3) to a person engaged in a bona fide research purpose, except that no names or other information identifying the pupil or the person with respect to whose substance abuse the information was provided, shall be made available to the researcher; or

   (4) to the Division of Child Protection and Permanency or to a law enforcement agency, if the information would cause a person to reasonably suspect that the elementary or secondary school pupil or another child may be an abused or neglected child as the terms are used in R.S.9:6-1, or as

the terms are defined in section 2 of P.L.1971, c.437 (C.9:6-8.9), or section 1 of P.L.1974, c.119 (C.9:6-8.21).

c. Any disclosure made pursuant to paragraph (1) or (2) of subsection b. of this section shall be limited to that information which is necessary to carry out the purpose of the disclosure, and the person or entity to whom the information is disclosed shall be prohibited from making any further disclosure of that information without the pupil's written consent. The disclosure shall be accompanied by a written statement advising the recipient that the information is being disclosed from records the confidentiality of which is protected by P.L.1997, c.362 (C.18A:40A-7.1 et seq.), and that this law prohibits any further disclosure of this information without the written consent of the person from whom the information originated. Nothing in P.L.1997, c.362 (C.18A:40A-7.1 et seq.) shall be construed as prohibiting the Division of Child Protection and Permanency or a law enforcement agency from using or disclosing the information in the course of conducting an investigation or prosecution. Nothing in P.L.1997, c.362 shall be construed as authorizing the violation of any federal law.

d. The prohibition on the disclosure of information provided by a pupil pursuant to subsection a. of this section shall apply whether the person to whom the information was provided believes that the person seeking the information already has it, has other means of obtaining it, is a law enforcement or other public official, has obtained a subpoena, or asserts any other justification for the disclosure of this information.

18A:40A-7.2. Violations, penalties.

2. Except as provided by section 6 of P.L.1971, c.437 (C.9:6-8.13), a person who discloses or willfully permits the disclosure of information provided by a pupil in violation of the provisions of section 1 of this act is subject to a fine of not more than $500 for a first offense and not more than $5,000 for a second and each subsequent offense. The penalty shall be collected and enforced in summary proceedings under "the penalty enforcement law" (N.J.S.2A:58-1 et seq.).

18A:40A-8. Findings, declarations.

The Legislature finds and declares that:

a. A significant number of young people are unfortunately already involved in the abuse of alcohol and other drugs;

b. Research indicates that particular groups of youngsters, such as the children of alcoholic parents, may in fact face an increased risk of developing alcohol and other substance abuse problems and that early intervention services can be critical in their prevention, detection and treatment; and,

c. School-based initiatives have proven particularly effective in identifying and assisting students at a high risk of developing alcohol and other drug disturbances and in reducing absenteeism, decreasing the consumption of alcohol and other drugs, and in lessening the problems associated with such addictions.

18A:40A-9. Definitions.

For the purposes of this act:

"Substance" shall mean alcoholic beverages, controlled dangerous substances as defined in section 2 of P.L.1970, c.266 (C.24:21-2), anabolic steroids or any chemical or chemical compound which releases vapors or fumes causing a condition of intoxication, inebriation, excitement, stupefaction or dulling of the brain or nervous system including, but not limited to, glue containing a solvent having the property of releasing toxic vapors or fumes as defined in section 1 of P.L.1965, c.41 (C.2A:170-25.9).

"Substance abuse" shall mean the consumption or use of any substance as defined herein for purposes other than for the treatment of sickness or injury as prescribed or administered by a person duly authorized by law to treat sick and injured human beings.

18A:40A-10. Referral program in schools.

Each local board of education shall, pursuant to guidelines developed by the Commissioner of Education, in consultation with the Commissioner of Health, establish a comprehensive substance abuse intervention, prevention and treatment referral program in the public elementary and secondary schools of the district. The purpose of the program shall be to identify pupils who are substance abusers, assess the extent of these pupils' involvement with these substances and, where appropriate, refer pupils and their families to organizations and agencies approved by the Department of Health to offer competent professional treatment. Treatment shall not be at the expense of the local board of education.

Each school district shall develop a clear written policy statement which outlines the district's program to combat substance abuse and which provides for the identification, evaluation, referral for treatment and discipline of pupils who are substance abusers. Copies of the policy statement shall be distributed to pupils and their parents at the beginning of each school year.

18A:40A-11. Policies for evaluations, referral, discipline.

Each board of education shall adopt and implement, in accordance with rules and regulations promulgated by the State board, policies and procedures for the evaluation, referral for treatment and discipline of pupils involved in incidents of possession or abuse of substances as defined in section 2 of this act, on school property or at school functions, or who show significant symptoms of the use of those substances on school property or at school functions. In adopting and implementing these policies and procedures, the board shall consult and work closely with a local organization involved with the prevention, detection and treatment of substance abuse approved by the Department of Health.

18A:40A-12. Reporting of pupils under influence; examination; report; return home; evaluation of possible need for treatment; referral for treatment.

a. Whenever it shall appear to any teaching staff member, school nurse or other educational personnel of any public school in this State that a pupil may be under the influence of substances as defined pursuant to section 2 of this act, other than anabolic steroids, that teaching staff member, school nurse, or other educational personnel shall report the matter as soon as possible to the school nurse or medical inspector, as the case may be, or to a student assistance coordinator, and to the principal or, in his absence, to his designee. The principal or his designee, shall immediately notify the parent or guardian and the superintendent of schools, if there be one, or the administrative principal and shall arrange for an immediate examination of the pupil by a doctor selected by the parent or guardian, or if that doctor is not immediately available, by the medical inspector, if he is available. If a doctor or medical inspector is not immediately available, the pupil shall be taken to the emergency room of the nearest hospital for examination accompanied by a member of the school staff designated by the principal and a parent or guardian of the pupil if available. The pupil shall be examined as soon as possible for the purpose of diagnosing whether or not the pupil is under such influence. A written report of that examination shall be furnished within 24 hours by the examining physician to the parent or guardian of the pupil and to the superintendent of schools or administrative principal. If it is determined that the pupil was under the influence of a substance, the pupil shall be returned to the pupil's home as soon as possible and shall not resume attendance at school until the pupil submits to the principal a written report certifying that the pupil is physically and mentally able to return thereto, which report shall be prepared by a personal physician, the medical inspector, or the physician who examined the pupil pursuant to the provisions of this act.

In addition, the pupil shall be interviewed by a student assistance coordinator or another appropriately trained teaching staff member for the purpose of determining the extent of the pupil's involvement with these substances and possible need for treatment. In order to make this determination the coordinator or other teaching staff member may conduct a reasonable investigation which may include interviews with the pupil's teachers and parents. The coordinator or other teaching staff member may also consult with experts in the field of substance abuse as may be necessary and appropriate. If it is determined that the pupil's involvement with and use of these substances represents a danger to the pupil's health and well-being, the coordinator or other teaching staff member shall refer the pupil to an appropriate treatment program which has been approved by the Commissioner of Health.

b. Whenever any teaching staff member, school nurse, or other educational personnel of any public school in this State shall have reason to believe that a pupil has used or may be using anabolic steroids, that teaching staff member, school nurse, or other educational personnel shall report the matter as soon as possible to the school nurse or medical inspector, as the case may be, or to a student assistance coordinator, and to the principal or, in his absence, to his designee. The principal or his designee, shall immediately notify the parent or guardian and the superintendent of schools, if there be one, or the administrative principal and shall arrange for an examination of the pupil by a doctor selected by the parent or guardian or by the medical inspector. The pupil shall be examined as soon as possible for the purpose of diagnosing whether or not the pupil has been using anabolic steroids. A written report of that examination shall be furnished by the examining physician to the parent or guardian of the pupil and to the superintendent of schools or administrative principal. If it is determined that the pupil has been using anabolic steroids, the pupil shall be interviewed by a student assistance coordinator or another appropriately trained teaching staff member for the purpose of determining the extent of the pupil's involvement with these substances and possible need for treatment. In order to make this determination the coordinator or other teaching staff member may conduct a reasonable investigation which may include interviews with the pupil's teachers and parents. The coordinator or other teaching staff member may also consult with experts in the field of substance abuse as may be necessary and appropriate. If it is determined that the pupil's involvement with and use of these substances represents a danger to the pupil's health and well-being, the coordinator or other teaching staff member shall refer the pupil to an appropriate treatment program which has been approved by the Commissioner of Health.

18A:40A-15. Inservice training program.

a. The Commissioner of Education, in consultation with the Commissioner of Health, shall develop an inservice training program for public school teachers to enable the teachers to recognize and respond to substance abuse by public school pupils. The program shall, at a minimum, include:

(1) Instruction to assist the teacher in the identification of the symptoms and behavioral patterns which might indicate that a child may be involved in substance abuse;

(2) Appropriate intervention strategies; and,

(3) Information on the State, local and community organizations which are available for the prevention, early intervention, treatment and rehabilitation of individuals who show symptoms of substance abuse.

The inservice training program required pursuant to this section shall be updated at regular intervals in order to insure that teaching staff members have the most current information available on this subject.

b. Each local board of education shall insure that all teaching staff members in the district who are involved in the instruction of pupils are provided with the inservice training program developed pursuant to this section. The inservice training program of the local board of education shall also include information concerning the policy of the board regarding the referral for treatment of pupils involved in substance abuse, as required pursuant to section 5 of this act.

18A:40A-16. Guidelines, materials for program.

a. The Commissioner of Education, in consultation with the Commissioner of Health, shall establish guidelines for substance abuse education programs to be offered by local boards of education to the parents or legal guardians of public school pupils. The program shall, at a minimum, provide:

(1) A thorough and comprehensive review of the substance abuse education curriculum which will be taught to the child of the parent or guardian during the school year, with recommendations as to the ways in which the parent or guardian may enhance, reinforce and supplement that program;

(2) Information on the pharmacology, physiology, psychosocial and legal aspects of substance abuse, and instruction to assist the parent or guardian in the identification of the symptoms and behavioral patterns which might indicate that a child may be involved in substance abuse; and

(3) Information on the State, local and community organizations which are available for the prevention, early intervention, treatment and rehabilitation of individuals who show symptoms of substanceabuse.

b. In addition to the guidelines required pursuant this section, the Commissioner of Education, in consultation with the Commissioner of Health, shall develop and provide to local boards of education suggested materials for the substance abuse education program for parents or legal guardians of school pupils, and shall maintain and continuously update a roster of individuals or groups available to assist boards of education in implementing this program and a list of State and local agencies and organizations which are approved by the Department of Health to provide services for the prevention, early intervention, treatment or rehabilitation of individuals who show symptoms of substance abuse.

18A:40A-17. Outreach program.

a. Under the guidelines established by the Commissioner of Education, each local board of education shall establish an outreach program to provide substance abuse education for the parents or legal guardians of the pupils of the district. In establishing the program, the local board of education shall consult with such local organizations and agencies as are recommended by the commissioner. The board of education shall insure that the program is offered at times and places convenient to the parents of the district on school premises, or in other suitable facilities.

b. In addition to the substance abuse education program required pursuant to this section, each local board of education shall establish policies and procedures to provide assistance to parents or legal guardians who believe that their child may be involved in substance abuse. These policies and procedures shall be consistent with the policies and procedures for intervention by school personnel developed pursuant to this act.

c. The board of education in each school district in the State in which a nonpublic school is located shall have the power and duty to loan to the parents or legal guardians of all pupils attending nonpublic schools located within the district all educational materials developed by the Commissioner of Education for the instruction of the parents or legal guardians of public school pupils on the nature and effects of substances and substance abuse. The Commissioner of Education shall make these materials available so that the local board of education shall not be required to expend funds for the loan of these materials.

18A:40A-18. Employment of student assistance coordinators in certain school districts.

The Commissioner of Education, in consultation with the Commissioner of Health, shall develop and administer a program which provides for the employment of student assistance coordinators in certain school districts.

a. Within 90 days of the effective date of this act, the Commissioner of Education shall forward to each local school board a request for a proposal for the employment of a student assistance coordinator. A board which wants to participate in the program shall submit a proposal to the commissioner which outlines the district's plan to provide substance abuse prevention, intervention, and treatment referral

services to students through the employment of a student assistance coordinator. Nothing shall preclude a district which employs a student assistance coordinator at the time of the effective date of this act from participating in this program. The commissioner shall select school districts to participate in the program through a competitive grant process. The participating districts shall include urban, suburban, and rural districts from the north, central, and southern geographic regions of the State with at least one school district per county. In addition to all other State aid to which the local district is entitled under the provisions of P.L.2007, c.260 (C.18A:7F-43 et al.) and other pertinent statutes, each board of education participating in the program shall receive from the State, for a three-year period, the amount necessary to pay the salary of its student assistance coordinator.

b. The position of student assistance coordinator shall be separate and distinct from any other employment position in the district, including, but not limited to district guidance counselors, school social workers, and school psychologists. The State Board of Education shall approve the education and experience criteria necessary for employment as a student assistance coordinator. The criteria shall include a requirement for certification by the State Board of Examiners. In addition to the criteria established by the State board, the Department of Education and the Department of Health shall jointly conduct orientation and training programs for student assistance coordinators, and shall also provide for continuing education programs for coordinators.

c. It shall be the responsibility of student assistance coordinators to assist local school districts in the effective implementation of this act. Coordinators shall assist with the in service training of school district staff concerning substance abuse issues and the district program to combat substance abuse; serve as an information resource for substance abuse curriculum development and instruction; assist the district in revising and implementing substance abuse policies and procedures; develop and administer intervention services in the district; provide counseling services to pupils regarding substance abuse problems; and, where necessary and appropriate, cooperate with juvenile justice officials in the rendering of substance abuse treatment services.

d. The Commissioner of Education, in consultation with the Commissioner of Health, shall implement a plan to collect data on the effectiveness of the program in treating problems associated with substance abuse and in reducing the incidence of substance abuse in local school districts. Six months prior to the expiration of the program authorized pursuant to this section, the Commissioner of Education shall submit to the Governor and the Legislature an evaluation of the program and a recommendation on the advisability of its continuation or expansion to all school districts in the State.

18A:40A-19. Pilot programs.

The Commissioner of Education is authorized to make grants to local school districts in such amounts as he shall determine, to assist the districts in the implementation of innovative pilot programs designed to educate pupils of elementary and secondary schools and members of the general public on the subject of substance abuse, and to prevent the abuse of those substances. Application for grants shall be made on forms furnished by the Commissioner of Education and shall set forth the program proposed and appropriate administrative procedures for the proper and efficient implementation of the program. These pilot programs shall, at a minimum, include:

a. An early intervention competitive grant pilot program to be established by the Commissioner of Education, in consultation with the Commissioner of Health and the Commissioner of Human Services, to enable local school districts to identify and assist elementary school pupils who are affected by family substance abuse problems or who are at risk of developing such problems themselves. The purpose of the program shall be to encourage the creation of effective model programs for the early identification of children at risk for substance abuse related problems and to provide for effective intervention when these children are identified.

Grants shall be awarded to boards of education through a competitive grant process based upon written applications submitted by local boards of education. The Commissioner of Education shall select not more than eight of the proposals submitted by boards of education for participation in the pilot program. The commissioner, in addition to considering the overall quality of each proposal and the likelihood that the proposal can be replicated in other districts, shall seek to achieve the broadest geographic distribution of recipients consistent with the purposes of this act.

b. The pilot program established in Ocean County by the Department of Education in conjunction with the Juvenile Services Unit in the Family Division of the Administrative Office of the Courts, to coordinate the efforts of school and juvenile justice personnel in the county to combat alcohol and substance abuse by students.

The commissioner shall evaluate the effectiveness of the model program developed and tested pursuant to this section and disseminate information about successful model programs to school districts that do not participate in the pilot program.

18A:40A-20. Annual report.

The Commissioner of Education, in consultation with the Commissioner of Health and the Commissioner of Human Services, shall develop procedures for the evaluation of the impact of the programs established pursuant to this act and shall report annually to the Governor and the Legislature on the effects of these programs. That report shall include data concerning the incidence of substance abuse in the public schools; the nature and scope of intervention, prevention and treatment referral programs; an assessment of the impact of those programs on the problem of substance abuse; and, any recommendations for modifications in the programs established pursuant to this act.

18A:40A-22. Findings, declarations relative to substance abuse testing policies in public school districts.

The Legislature finds and declares that there are many school districts within the State with a growing problem of drug abuse among their students. The Legislature further finds that federal and State courts have held that it may be appropriate for school districts to combat this problem through the random drug testing of students participating in extracurricular activities, including interscholastic athletics, and students who possess school parking permits. The Legislature also finds that a random drug testing program may have a positive effect on attaining the important objectives of deterring drug use and providing a means for the early detection of students with drug problems so that counseling and rehabilitative treatment may be offered.

18A:40A-23. Adoption of policy for random testing of certain students.

A board of education may adopt a policy, pursuant to rules and regulations adopted by the State Board of Education in consultation with the Department of Human Services, which are consistent with the New Jersey Constitution and the federal Constitution, for the random testing of the district's students in grades 9-12 who participate in extracurricular activities, including interscholastic athletics, or who possess school parking permits, for the use of controlled dangerous substances as defined in N.J.S.2C:35-2 and anabolic steroids. The testing shall be conducted by the school physician, school nurse or a physician, laboratory or health care facility designated by the board of education and the cost shall be paid by the board. Any disciplinary action taken against a student who tests positive for drug use or who refuses to consent to testing shall be limited to the student's suspension from or prohibition against participation in extracurricular activities, or revocation of the student's parking permits.

ADMINISTRATIVE CODE

6A:16-3.1. Establishment of comprehensive alcohol, tobacco and other drug abuse programs.

(a) Each district board of education shall establish a comprehensive program of prevention, intervention, referral for evaluation, referral for treatment and continuity of care for student alcohol, tobacco and other drug abuse in the public elementary and secondary schools of the district according to the requirements of N.J.S.A. 18A:40A-10.

1. The purpose of the prevention component of the program shall be to:

i. Keep students from using alcohol, tobacco or other drugs;

ii. Reduce or eliminate the incidence and prevalence of student alcohol, tobacco and other drug abuse;

iii. Increase the age of onset of students' first use of alcohol, tobacco or other drugs;

iv. Reduce the factors that place students at risk for involvement with alcohol, tobacco or other drugs through school and community-based planning processes;

v. Contribute to the development of school environments and alternative activities that are alcohol, tobacco and other drug-free;

vi. Increase the knowledge and skills of students, staff and community members for avoiding the harmful effects of alcohol, tobacco and other drug use; and

vii. Actively involve staff, parents and other community members in the development and implementation of prevention program plans.

2. The purpose of the intervention, referral for evaluation and referral for treatment components of the program shall be to:

i. Identify students who are at risk for, or who have exhibited, alcohol, tobacco or other drug abuse or related problems;

ii. Help students or their parents who have requested assistance for alcohol, tobacco or other drug abuse problems;

iii. Make a preliminary assessment of a student's need for educational programs, supportive services or treatment which extends beyond the general school program by virtue of the use of alcohol, tobacco or other drugs by the student or the student's parents;

iv. Refer students for evaluation to make a positive determination regarding a student's need for alcohol, tobacco or other drug treatment; and

v. Help a student or a student's parents follow through on the recommendations of an evaluation which has positively determined the harmful use of alcohol, tobacco or other drugs by the student or the student's parents.

3. The purpose of the continuity of care component of the program shall be to:

i. Assist with the provision of educational programs and services for students in treatment; and

ii. Plan and provide supportive services for students who are returning from treatment.

4. Each district board of education shall ensure that all educational staff members receive in-service training in alcohol, tobacco and other drug abuse prevention and intervention according to the requirements of N.J.S.A. 18A:40A-3 and 15.

i. The in-service training shall be updated annually in order to ensure educational staff members have the most current information available on the subject of substance abuse and the school district's comprehensive alcohol, tobacco and other drug abuse program, policies and procedures.

5. Substance awareness coordinators employed by district boards of education shall assist local school districts in the effective implementation of the requirements of N.J.S.A. 18A:40A-1 through 18 and N.J.A.C. 6A:9-13.2.

6. Each district board of education shall establish educational programs on alcohol, tobacco and other drug abuse for parents according to the requirements of N.J.S.A. 18A:40A-16 and 17(a) and offered at times and places convenient to the parents of enrolled students.

7. Each district board of education shall make and enforce regulations to prohibit the smoking of any substance and the use of tobacco products anywhere in its buildings or on school grounds, except as part of a classroom instruction or theatrical production, according to the requirements of N.J.S.A. 26:3D-17.

6A:16-3.2. Confidentiality of student alcohol and other drug information.

(a) Each district board of education shall assure compliance with the following confidentiality requirements:

1. Confidentiality of alcohol and drug abuse patient records, pursuant to 42 CFR Part 2; and

2. Confidentiality of information provided by an elementary or secondary school student while participating in a school-based drug and alcohol counseling program which indicates that the student's parent or other person residing in the student's household is dependent upon or illegally using substances pursuant to N.J.S.A. 18A:40A-7.1 and 7.2.

6A:16-6.2. Development and implementation of policies and procedures.

(a) School district policies and procedures developed pursuant to this subchapter shall be:

4. Consistent with reporting, notification and examination procedures of students suspected of being

(b) School district policies and procedures shall include the following components:

6. The procedures for and responsibilities of staff, with regard to interviews of students suspected of possessing or distributing a controlled dangerous substance, including anabolic steroids, drug paraphernalia or a firearm or other deadly weapon;

13. An agreement or memorandum of understanding with appropriate law enforcement authorities.

ii. The agreement or memorandum of understanding shall define the reciprocal rights and obligations of students, parents, school staff and law enforcement officials with respect to the possession, distribution and disposition of controlled dangerous substances, including anabolic steroids, drug paraphernalia, and firearms and other deadly weapons; with respect to the planning and conduct of law enforcement activities and operations occurring on school grounds, including on a school bus or at a school-sponsored function, including arrests and undercover school operations; and with respect to the participation of law enforcement officials in alcohol or other drug abuse prevention programs.

Bullying, harassment, or hazing

STATUTES

18A:37-2. Causes for suspension, expulsion of pupils.

Any pupil who is guilty of continued and willful disobedience, or of open defiance of the authority of any teacher or person having authority over him, or of the habitual use of profanity or of obscene language, or who shall cut, deface or otherwise injure any school property, shall be liable to punishment and to suspension or expulsion from school.

Conduct which shall constitute good cause for suspension or expulsion of a pupil guilty of such conduct shall include, but not be limited to, any of the following:

k. Harassment, intimidation, or bullying.

18A:37-13. Findings, declarations relative to adoption of harassment and bullying prevention policies.

The Legislature finds and declares that: a safe and civil environment in school is necessary for students to learn and achieve high academic standards; harassment, intimidation or bullying, like other disruptive or violent behaviors, is conduct that disrupts both a student's ability to learn and a school's ability to educate its students in a safe environment; and since students learn by example, school administrators, faculty, staff, and volunteers should be commended for demonstrating appropriate behavior, treating others with civility and respect, and refusing to tolerate harassment, intimidation or bullying.

18A:37-13.1. Findings, declarations relative to school bullying.

The Legislature finds and declares that:

a. A 2009 study by the United States Departments of Justice and Education, "Indicators of School Crime and Safety," reported that 32% of students aged 12 through 18 were bullied in the previous school year. The study reported that 25% of the responding public schools indicated that bullying was a daily or weekly problem;

b. A 2009 study by the United States Centers for Disease Control and Prevention, "Youth Risk Behavior Surveillance," reported that the percentage of students bullied in New Jersey is 1 percentage point higher than the national median;

c. In 2010, the chronic persistence of school bullying has led to student suicides across the country, including in New Jersey;

d. Significant research has emerged since New Jersey enacted its public school anti-bullying statute in 2002, and since the State amended that law in 2007 to include cyber-bullying and in 2008 to require each school district to post its anti-bullying policy on its website and distribute it annually to parents or guardians of students enrolled in the district;

e. School districts and their students, parents, teachers, principals, other school staff, and board of education members would benefit by the establishment of clearer standards on what constitutes harassment, intimidation, and bullying, and clearer standards on how to prevent, report, investigate, and respond to incidents of harassment, intimidation, and bullying;

f. It is the intent of the Legislature in enacting this legislation to strengthen the standards and procedures for preventing, reporting, investigating, and responding to incidents of harassment, intimidation, and bullying of students that occur in school and off school premises;

g. Fiscal responsibility requires New Jersey to take a smarter, clearer approach to fight school bullying by ensuring that existing resources are better managed and used to make our schools safer for students;

h. In keeping with the aforementioned goal of fiscal responsibility and in an effort to minimize any burden placed on schools and school districts, existing personnel and resources shall be utilized in every possible instance to accomplish the goals of increased prevention, reporting, and responsiveness to incidents of harassment, intimidation, or bullying, including in the appointment of school anti-bullying specialists and district anti-bullying coordinators;

i. By strengthening standards for preventing, reporting, investigating, and responding to incidents of bullying this act will help to reduce the risk of suicide among students and avert not only the needless loss of a young life, but also the tragedy that such loss represents to the student's family and the community at large; and

j. Harassment, intimidation, and bullying is also a problem which occurs on the campuses of institutions of higher education in this State, and by requiring the public institutions to include in their student codes of conduct a specific prohibition against bullying, this act will be a significant step in reducing incidents of such activity.

18A:37-13.2. Short title.

Sections 1, 2, and 16 through 30 of this act and P.L.2002, c.83 (C.18A:37-13 et seq.) shall be known and may be cited as the "Anti-Bullying Bill of Rights Act."

18A:37-14. Definitions relative to adoption of harassment and bullying prevention policies.

2. As used in this act:

"Electronic communication" means a communication transmitted by means of an electronic device, including, but not limited to, a telephone, cellular phone, computer, or pager;

"Harassment, intimidation or bullying" means any gesture, any written, verbal or physical act, or any electronic communication, whether it be a single incident or a series of incidents, that is reasonably perceived as being motivated either by any actual or perceived characteristic, such as race, color, religion, ancestry, national origin, gender, sexual orientation, gender identity and expression, or a mental, physical or sensory disability, or by any other distinguishing characteristic, that takes place on school property, at any school-sponsored function, on a school bus, or off school grounds as provided for in section 16 of P.L.2010, c.122 (C.18A:37-15.3), that substantially disrupts or interferes with the orderly operation of the school or the rights of other students and that:

a. a reasonable person should know, under the circumstances, will have the effect of physically or emotionally harming a student or damaging the student's property, or placing a student in reasonable fear of physical or emotional harm to his person or damage to his property;

b. has the effect of insulting or demeaning any student or group of students; or

c. creates a hostile educational environment for the student by interfering with a student's education or by severely or pervasively causing physical or emotional harm to the student.

18A:37-15. Adoption of policy concerning harassment, intimidating or bullying by each school district.

a. Each school district shall adopt a policy prohibiting harassment, intimidation or bullying on school property, at a school-sponsored function or on a school bus. The school district shall adopt the policy through a process that includes representation of parents or guardians, school employees, volunteers, students, administrators, and community representatives.

b. A school district shall have local control over the content of the policy, except that the policy shall contain, at a minimum, the following components:

(1) a statement prohibiting harassment, intimidation or bullying of a student;

(2) a definition of harassment, intimidation or bullying no less inclusive than that set forth in section 2 of P.L.2002, c.83 (C.18A:37-14);

(3) a description of the type of behavior expected from each student;

(4) consequences and appropriate remedial action for a person who commits an act of harassment, intimidation or bullying;

(5) a procedure for reporting an act of harassment, intimidation or bullying, including a provision that permits a person to report an act of harassment, intimidation or bullying anonymously; however, this shall not be construed to permit formal disciplinary action solely on the basis of an anonymous report.

All acts of harassment, intimidation, or bullying shall be reported verbally to the school principal on the same day when the school employee or contracted service provider witnessed or received reliable information regarding any such incident. The principal shall inform the parents or guardians of all students involved in the alleged incident, and may discuss, as appropriate, the availability of counseling and other intervention services. All acts of harassment, intimidation, or bullying shall be reported in writing to the school principal within two school days of when the school employee or contracted service provider witnessed or received reliable information that a student had been subject to harassment, intimidation, or bullying;

(6) a procedure for prompt investigation of reports of violations and complaints, which procedure shall at a minimum provide that:

(a) the investigation shall be initiated by the principal or the principal's designee within one school day of the report of the incident and shall be conducted by a school anti-bullying specialist. The principal may appoint additional personnel who are not school anti-bullying specialists to assist in the investigation. The investigation shall be completed as soon as possible, but not later than 10 school days from the date of the written report of the incident of harassment, intimidation, or bullying. In the event that there is information relative to the investigation that is anticipated but not yet received by the end of the 10-day period, the school anti-bullying specialist may amend the original report of the results of the investigation to reflect the information;

(b) the results of the investigation shall be reported to the superintendent of schools within two school days of the completion of the investigation, and in accordance with regulations promulgated by the State Board of Education pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the superintendent may decide to provide intervention services, establish training programs to reduce harassment, intimidation, or bullying and enhance school climate, impose discipline, order counseling as a result of the findings of the investigation, or take or recommend other appropriate action;

(c) the results of each investigation shall be reported to the board of education no later than the date of the board of education meeting next following the completion of the investigation, along with information on any services provided, training established, discipline imposed, or other action taken or recommended by the superintendent;

(d) parents or guardians of the students who are parties to the investigation shall be entitled to receive information about the investigation, in accordance with federal and State law and regulation, including the nature of the investigation, whether the district found evidence of harassment, intimidation, or bullying, or whether discipline was imposed or services provided to address the incident of harassment, intimidation, or bullying. This information shall be provided in writing within 5 school days after the results of the investigation are reported to the board. A parent or guardian may request a hearing before the board after receiving the information, and the hearing shall be held within 10 days of the request. The board shall meet in executive session for the hearing to protect the confidentiality of the students. At the hearing the board may hear from the school anti-bullying specialist about the incident, recommendations for discipline or services, and any programs instituted to reduce such incidents;

(e) at the next board of education meeting following its receipt of the report, the board shall issue a decision, in writing, to affirm, reject, or modify the superintendent's decision. The board's decision may be appealed to the Commissioner of Education, in accordance with the procedures set forth in law and regulation, no later than 90 days after the issuance of the board's decision; and

(f) a parent, student, guardian, or organization may file a complaint with the Division on Civil Rights within 180 days of the occurrence of any incident of harassment, intimidation, or bullying based on

membership in a protected group as enumerated in the "Law Against Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.);

(7) the range of ways in which a school will respond once an incident of harassment, intimidation or bullying is identified, which shall be defined by the principal in conjunction with the school anti-bullying specialist, but shall include an appropriate combination of services that are available within the district such as counseling, support services, intervention services, and other programs, as defined by the commissioner. In the event that the necessary programs and services are not available within the district, the district may apply to the Department of Education for a grant from the "Bullying Prevention Fund" established pursuant to section 25 of P.L.2010, c.122 (C.18A:37-28) to support the provision of out-of-district programs and services;

(8) a statement that prohibits reprisal or retaliation against any person who reports an act of harassment, intimidation or bullying and the consequence and appropriate remedial action for a person who engages in reprisal or retaliation;

(9) consequences and appropriate remedial action for a person found to have falsely accused another as a means of retaliation or as a means of harassment, intimidation or bullying;

(10) a statement of how the policy is to be publicized, including notice that the policy applies to participation in school-sponsored functions;

(11) a requirement that a link to the policy be prominently posted on the home page of the school district's website and distributed annually to parents and guardians who have children enrolled in a school in the school district; and

(12) a requirement that the name, school phone number, school address and school email address of the district anti-bullying coordinator be listed on the home page of the school district's website and that on the home page of each school's website the name, school phone number, school address and school email address of the school anti-bullying specialist and the district anti-bullying coordinator be listed. The information concerning the district anti-bullying coordinator and the school anti-bullying specialists shall also be maintained on the department's website.

c. A school district shall adopt a policy and transmit a copy of its policy to the appropriate executive county superintendent of schools by September 1, 2003. A school district shall annually conduct a re-evaluation, reassessment, and review of its policy, making any necessary revisions and additions. The board shall include input from the school anti-bullying specialists in conducting its re-evaluation, reassessment, and review. The district shall transmit a copy of the revised policy to the appropriate executive county superintendent of schools within 30 school days of the revision. The first revised policy following the effective date of P.L.2010, c.122 (C.18A:37-13.1 et al.) shall be transmitted to the executive county superintendent of schools by September 1, 2011.

d. (1) To assist school districts in developing policies for the prevention of harassment, intimidation, or bullying, the Commissioner of Education shall develop a model policy applicable to grades kindergarten through 12. This model policy shall be issued no later than December 1, 2002.

(2) The commissioner shall adopt amendments to the model policy which reflect the provisions of P.L.2010, c.122 (C.18A:37-13.1 et al.) no later than 90 days after the effective date of that act and shall subsequently update the model policy as the commissioner deems necessary.

e. Notice of the school district's policy shall appear in any publication of the school district that sets forth the comprehensive rules, procedures and standards of conduct for schools within the school district, and in any student handbook.

f. Nothing in this section shall prohibit a school district from adopting a policy that includes components that are more stringent than the components set forth in this section.

18A:37-15.2. Actions required relative to bullying policy.

Within 60 days of the effective date of this section each school district shall amend its bullying policy in accordance with section 3 of P.L.2002, c.83 (C.18A:37-15) as amended by section 7 of P.L.2007, c.303, make the policy available on the district's website, and notify students and parents that the policy is available on the district's website.

18A:37-15.3. Policy to include certain incidents occurring off school grounds.

The policy adopted by each school district pursuant to section 3 of P.L.2002, c.83 (C.18A:37-15) shall include provisions for appropriate responses to harassment, intimidation, or bullying, as defined in section 2 of P.L.2002, c.83 (C.18A:37-14), that occurs off school grounds, in cases in which a school employee is made aware of such actions. The responses to harassment, intimidation, or bullying that occurs off school grounds shall be consistent with the board of education's code of student conduct and other provisions of the board's policy on harassment, intimidation, or bullying.

18A:37-16. Reprisal, retaliation, false accusation prohibited.

a. A member of a board of education, school employee, student or volunteer shall not engage in reprisal, retaliation or false accusation against a victim, witness or one with reliable information about an act of harassment, intimidation or bullying.

b. A member of a board of education, school employee, contracted service provider, student or volunteer who has witnessed, or has reliable information that a student has been subject to, harassment, intimidation or bullying shall report the incident to the appropriate school official designated by the school district's policy, or to any school administrator or safe schools resource officer, who shall immediately initiate the school district's procedures concerning school bullying.

c. A member of a board of education or a school employee who promptly reports an incident of harassment, intimidation or bullying, to the appropriate school official designated by the school district's policy, or to any school administrator or safe schools resource officer, and who makes this report in compliance with the procedures in the district's policy, is immune from a cause of action for damages arising from any failure to remedy the reported incident.

d. A school administrator who receives a report of harassment, intimidation, or bullying from a district employee, and fails to initiate or conduct an investigation, or who should have known of an incident of harassment, intimidation, or bullying and fails to take sufficient action to minimize or eliminate the harassment, intimidation, or bullying, may be subject to disciplinary action.

18A:37-17. Establishment of bullying prevention programs or approaches.

a. Schools and school districts shall annually establish, implement, document, and assess bullying prevention programs or approaches, and other initiatives involving school staff, students, administrators, volunteers, parents, law enforcement and community members. The programs or approaches shall be designed to create school-wide conditions to prevent and address harassment, intimidation, and bullying. A school district may implement bullying prevention programs and approaches that may be available at no cost from the Department of Education, the New Jersey State Bar Foundation, or any other entity. A school district may, at its own discretion, implement bullying prevention programs and approaches which impose a cost on the district.

A school district may apply to the Department of Education for a grant to be used for programs, approaches, or personnel established pursuant to this act, to the extent funds are appropriated for these purposes or funds are made available through the "Bullying Prevention Fund" established pursuant to section 25 of P.L.2010, c.122 (C.18A:37-28). A school district may make an application for a grant only after exploring bullying prevention programs and approaches that are available at no cost, and making an affirmative demonstration of that exploration in its grant application.

18A:37-20. Appointment of school anti-bullying specialists, coordinator.

a. The principal in each school in a school district shall appoint a school anti-bullying specialist. When a school guidance counselor, school psychologist, or another individual similarly trained is currently employed in the school, the principal shall appoint that individual to be the school anti-bullying specialist. If no individual meeting this criteria is currently employed in the school, the principal shall appoint a school anti-bullying specialist from currently employed school personnel. The school anti-bullying specialist shall:

(1) chair the school safety team as provided in section 18 of P.L.2010, c.122 (C.18A:37-21);

(2) lead the investigation of incidents of harassment, intimidation, and bullying in the school; and

(3) act as the primary school official responsible for preventing, identifying, and addressing incidents of harassment, intimidation, and bullying in the school.

b. The superintendent of schools shall appoint a district anti-bullying coordinator. The superintendent shall make every effort to appoint an employee of the school district to this position. The district anti-bullying coordinator shall:

(1) be responsible for coordinating and strengthening the school district's policies to prevent, identify, and address harassment, intimidation, and bullying of students;

(2) collaborate with school anti-bullying specialists in the district, the board of education, and the superintendent of schools to prevent, identify, and respond to harassment, intimidation, and bullying of students in the district;

(3) provide data, in collaboration with the superintendent of schools, to the Department of Education regarding harassment, intimidation, and bullying of students; and

(4) execute such other duties related to school harassment, intimidation, and bullying as requested by the superintendent of schools.

c. The district anti-bullying coordinator shall meet at least twice a school year with the school anti-bullying specialists in the district to discuss and strengthen procedures and policies to prevent, identify, and address harassment, intimidation, and bullying in the district.

18A:37-21. School safety teams.

a. A school district shall form a school safety team in each school in the district to develop, foster, and maintain a positive school climate by focusing on the on-going, systemic process and practices in the school and to address school climate issues such as harassment, intimidation, or bullying. A school safety team shall meet at least two times per school year.

b. A school safety team shall consist of the principal or his designee who, if possible, shall be a senior administrator in the school and the following appointees of the principal: a teacher in the school; a school anti-bullying specialist; a parent of a student in the school; and other members to be determined by the principal. The school anti-bullying specialist shall serve as the chair of the school safety team.

c. The school safety team shall:

(1) receive any complaints of harassment, intimidation, or bullying of students that have been reported to the principal;

(2) receive copies of any report prepared after an investigation of an incident of harassment, intimidation, or bullying;

(3) identify and address patterns of harassment, intimidation, or bullying of students in the school;

(4) review and strengthen school climate and the policies of the school in order to prevent and address harassment, intimidation, or bullying of students;

(5) educate the community, including students, teachers, administrative staff, and parents, to prevent and address harassment, intimidation, or bullying of students;

(6) participate in the training required pursuant to the provisions of P.L.2002, c.83 (C.18A:37-13 et seq.) and other training which the principal or the district anti-bullying coordinator may request;

(7) collaborate with the district anti-bullying coordinator in the collection of district-wide data and in the development of district policies to prevent and address harassment, intimidation, or bullying of students; and

(8) execute such other duties related to harassment, intimidation, and bullying as requested by the principal or district anti-bullying coordinator.

d. The members of a school safety team shall be provided professional development opportunities that address effective practices of successful school climate programs or approaches.

e. Notwithstanding any provision of this section to the contrary, a parent who is a member of the school safety team shall not participate in the activities of the team set forth in paragraph (1), (2), or (3) of subsection c. of this section or any other activities of the team which may compromise the confidentiality of a student.

18A:37-22. Program required for teaching certification.

a. Beginning with the 2012-2013 school year, all candidates for teaching certification who have completed a teacher preparation program at a regionally-accredited institution of higher education shall have satisfactorily completed a program on harassment, intimidation, and bullying prevention.

b. Beginning with the 2011-2012 school year, any person seeking certification through the alternate route shall, within one year of being employed, satisfactorily complete a program on harassment, intimidation, and bullying prevention.

c. The State Board of Education shall establish the appropriate requirements of the program on harassment, intimidation, and bullying prevention.

d. The State board shall, as part of the professional development requirement established by the State board for public school teachers, require each public school teacher to complete at least two hours of instruction on harassment, intimidation, or bullying prevention in each professional development period.

18A:37-23. Program required for administrative and supervisory certification.

Beginning with the 2012-2013 school year, all candidates for administrative and supervisory certification shall have satisfactorily completed a program on harassment, intimidation, and bullying prevention.

18A:37-24. Development of guidance document.

a. The Department of Education, in consultation with the Division on Civil Rights in the Department of Law and Public Safety shall develop a guidance document for use by parents or guardians, students, and school districts to assist in resolving complaints concerning student harassment, intimidation, or bullying behaviors and the implementation of P.L.2002, c.83 (C.18A:37-13 et seq.) by school districts. The document shall include:

(1) a school district's obligations under P.L.2002, c.83 (C.18A:37-13 et seq.);

(2) best practices for the prevention, intervention, and remediation of harassment, intimidation, or bullying in schools, including methods to identify and assist student populations at high risk for harassment, intimidation, or bullying;

(3) a clear explanation of the procedures for petitioning the Commissioner of Education to hear and decide disputes concerning P.L.2002, c.83 (C.18A:37-13 et seq.);

(4) a clear explanation of the Division on Civil Rights' jurisdiction and services in regard to specific types of harassment, intimidation, or bullying; and

(5) a clear explanation of the process for appealing final agency determinations to the Appellate Division of the Superior Court.

b. The guidance document shall be available on the Department of Education's and the Division on Civil Rights' Internet sites and on every school district's Internet site at an easily accessible location.

18A:37-26. Inservice workshops, training programs.

a. The Commissioner of Education, in consultation with recognized experts in school bullying from a cross section of academia, child advocacy organizations, nonprofit organizations, professional associations, and government agencies, shall establish inservice workshops and training programs to train selected public school employees to act as district anti-bullying coordinators and school anti-bullying specialists in accordance with the provisions of P.L.2010, c.122 (C.18A:37-13.1 et al.). The commissioner shall seek to make the workshops and training programs available and administered online through the department's website or other existing online resources. The commissioner shall evaluate the effectiveness of the consulting group on an annual basis. The inservice training programs may utilize the offices of the executive county superintendent of schools, or such other institutions, agencies, or persons as the commissioner deems appropriate. Each board of education shall provide time for the inservice training during the usual school schedule in order to ensure that appropriate personnel are prepared to act in the district as district anti-bullying coordinators and school anti-bullyingspecialists.

b. Upon completion of the initial inservice training program, the commissioner shall ensure that programs and workshops that reflect the most current information on harassment, intimidation, and bullying in schools are prepared and made available to district anti-bullying coordinators and school anti-bullying specialists at regular intervals.

18A:37-27. Development of online tutorial, test.

The Commissioner of Education shall develop, in consultation with the Division on Civil Rights, and make available on the Department of Education's Internet site, an online tutorial on harassment, intimidation, and bullying. The online tutorial shall, at a minimum, include best practices in the prevention of harassment, intimidation, and bullying, applicable laws, and such other information that the commissioner determines to be appropriate. The online tutorial shall be accompanied by a test to assess a person's understanding of the information provided in the tutorial.

18A:37-28. "Bullying Prevention Fund."

There is created a special fund in the Department of Education, which shall be designated the "Bullying Prevention Fund." The fund shall be maintained in a separate account and administered by the commissioner to carry out the provisions of this act. The fund shall consist of: (1) any monies appropriated by the State for the purposes of the fund; (2) any monies donated for the purposes of the fund; and (3) all interest and investment earnings received on monies in the fund. The fund shall be used to offer grants to school districts to provide training on harassment, intimidation, and bullying prevention and on the effective creation of positive school climates, and to help fund related personnel expenses.

18A:37-29. "Week of Respect"; designated.

The week beginning with the first Monday in October of each year is designated as a "Week of Respect" in the State of New Jersey. School districts, in order to recognize the importance of character education, shall observe the week by providing age-appropriate instruction focusing on preventing harassment, intimidation, or bullying as defined in section 2 of P.L.2002, c.83 (C.18A:37-14). Throughout the school

year the school district shall provide ongoing age-appropriate instruction on preventing harassment, intimidation, and bullying in accordance with the core curriculum content standards.

ADMINISTRATIVE CODE

6A:16-7.9. Intimidation, harassment and bullying.

(a) Each district board of education shall develop, adopt and implement a policy prohibiting harassment, intimidation or bullying on school grounds, including on a school bus or at a school-sponsored function, pursuant to N.J.S.A. 18A:37-15.

1. Each district board of education shall develop the policy in consultation with parents and other community members, including appropriate community-based social and health provider agencies, law enforcement officials, school employees,

2. A district board of education shall have local control over the content of the policy, except that the policy shall contain, at a minimum, the following components:

i. A statement prohibiting harassment, intimidation or bullying of a student;

ii. A definition of harassment, intimidation or bullying no less inclusive than that set forth in the definition at N.J.S.A. 18A:37-14 and N.J.A.C. 6A:16-1.3;

iii. A description of the type of behavior expected from each student;

iv. Appropriate remedial action for a student who commits an act of harassment, intimidation or bullying that takes into account the nature of the behavior, the developmental age of the student and the student's history of problem behaviors and performance and that may include the following:

(1) A behavioral assessment or evaluation including, but not limited to, a referral to the child study team, as appropriate; and

(2) Supportive interventions and referral services, including those at N.J.A.C. 6A: 16-8;

v. Consequences for a student who commits an act of harassment, intimidation or bullying that is:

(1) Varied and graded according to the nature of the behavior, the developmental age of the student and the student's history of problem behaviors and performance; and

(2) Consistent with the provisions of N.J.A.C. 6A:16-7, as appropriate;

vi. Appropriate consequences and remedial action for any staff member who commits an act of harassment, intimidation or bullying;

vii. A procedure for reporting an act of harassment, intimidation or bullying, including a provision that permits a person to report anonymously an act of harassment, intimidation or bullying;

(1) The district board of education shall not take formal disciplinary action based solely on the anonymous report;

viii. A procedure for prompt investigation of reports of violations and complaints, identifying either the principal or the principal's designee as the person responsible for the investigation;

(1) Reports and complaints include, but are not limited to, oral reports, written reports or electronic reports;

ix. The range of ways in which a school will respond once an incident of harassment, intimidation or bullying is identified.

(1) The responses, at a minimum, shall include support for victims of harassment, intimidation or bullying and corrective actions for documented systemic problems related to harassment, intimidation or bullying;

x. A statement that prohibits reprisal or retaliation against any person who reports an act of harassment, intimidation or bullying.

(1) The statement shall include the consequence(s) and appropriate remedial action(s) for a person who engages in reprisal or retaliation;

xi. Consequences and appropriate remedial action for a person found to have falsely accused another as a means of retaliation or as a means of harassment, intimidation or bullying; and

xii. A statement of how the policy is to be publicized, including notice that the policy applies to participation in school-sponsored functions and on school buses.

(1) Notice of the district board of education's policy shall appear in any publication of the school district that sets forth the comprehensive rules, procedures and standards of student conduct, pursuant to N.J.A.C. 6A:16-7.1, for schools within the school district.

(b) A school employee, student or volunteer shall not engage in reprisal, retaliation or false accusation against a victim, witness or one with reliable information about an act of harassment, intimidation or bullying.

(c) A school employee, student or volunteer who has witnessed, or has reliable information that a student has been subject to harassment, intimidation or bullying shall report the incident to the appropriate school official designated by the district board of education's policy, pursuant to N.J.S.A. 18A:37-15 and (a) above.

1. A school employee who promptly reports an incident of harassment, intimidation or bullying to the appropriate school official designated by the district board of education's policy, and who makes this report in compliance with the procedures set forth in the district board of education's policy, is immune from a cause of action for damages arising from any failure to remedy the reported incident, as set forth in N.J.S.A. 18A:37-16(4)c.

(d) The district board of education shall:

1. Annually review the training needs of school district staff for the effective implementation of the harassment, intimidation and bullying policies, procedures, programs and initiatives of the district board of education and implement locally determined staff training programs consistent with the annual review of training needs and the findings of the annual review and update of the code of student conduct, pursuant to N.J.A.C. 6A:16-7.1(a)3, as determined appropriate by the district board of education.

i. Information regarding the district board of education's policy against harassment, intimidation, or bullying shall be incorporated into the school district's employee training program;

2. Develop a process for annually discussing the school district's harassment, intimidation or bullying policy with students; and

3. Annually review the extent and characteristics of harassment, intimidation and bullying behavior in the school buildings of the school district and implement locally determined programmatic or other responses, if determined appropriate by the district board of education.

i. The programs or other services shall be planned in consultation with parents, students and other community members, including appropriate community-based social and health provider agencies, law enforcement officials, school employees, school volunteers, students and school administrators, as appropriate.

(e) These requirements are promulgated pursuant to N.J.S.A. 18A:37-13 through 18 and shall not be interpreted to prevent a victim from seeking redress under any other available law either civil or criminal.

Other special infractions or conditions

STATUTES

18A:37-2.1. Suspension, expulsion of pupil for assault, appeal; report.

2. a. Any pupil who commits an assault, as defined pursuant to N.J.S.2C:12-1, upon a teacher, administrator, board member or other employee of a board of education, acting in the performance of his duties and in a situation where his authority to so act is apparent, or as a result of the victim's relationship to an institution of public education of this State, not involving the use of a weapon or firearm, shall be immediately suspended from school consistent with procedural due process pending suspension or expulsion proceedings before the local board of education. Said proceedings shall take place no later than 30 calendar days following the day on which the pupil is suspended. The decision of the board shall be made within five days after the close of the hearing. Any appeal of the board's decision shall be made to the Commissioner of Education within 90 days of the board's decision. The provisions herein shall be construed in a manner consistent with 20 U.S.C. s.1400 et seq.

b. Whenever a teacher, administrator, board member, other employee of a board of education or a labor representative on behalf of an employee makes an allegation in writing that the board member or employee has been assaulted by a pupil, the principal shall file a written report of the alleged assault with the district's superintendent of schools. The superintendent to whom the alleged assault is reported or, if there is no superintendent in the district, the principal who received the allegation from the board member, employee, or labor representative shall report the alleged assault to the board of education of the district at its next regular meeting; provided that the name of the pupil who allegedly committed the assault, although it may be disclosed to the members of the board of education, shall be kept confidential at the public board of education meeting.

Any person who fails to file a report of an alleged assault as required pursuant to this subsection may be liable to disciplinary action by the board of education of the district.

18A:37-2.2. Offense by pupil involving assault, removal from school's regular education program.

1. Any pupil who commits an assault upon a teacher, administrator, board member, other employee of a school board or another student, with a weapon, on any school property, on a school bus, or at a school-sponsored function shall be immediately removed from the school's regular education program pending a hearing before the local board of education.

For purposes of this section "assault" means those actions defined under subsection a.(1) of N.J.S.2C:12-1.

For purposes of this section "weapon" includes but is not limited to those items enumerated in subsection r. of N.J.S.2C:39-1, except a firearm as defined by N.J.S.2C:39-1f and 18 U.S.C. s.921.

Any student that is removed from the regular education program pursuant to this section shall be placed in an alternative education program. If placement in an alternative education program is not available, the pupil shall be provided home instruction or other suitable facilities and programs until placement is available. The provisions herein shall be construed in a manner consistent with 20 U.S.C. s.1400 et seq. Nothing herein shall be construed as prohibiting the expulsion of a pupil.

ADMINISTRATIVE CODE

6A:16-9.1. Establishment of alternative education programs.

(a) Each district board of education choosing to operate an alternative education program, pursuant to N.J.A.C. 6A:16-1.3, shall approve the alternative education program.

(b) Any alternative education program, pursuant to N.J.A.C. 6A:16-1.3, within a State agency, public college operated program or department-approved school shall be approved by the Commissioner of Education.

1. The agency, pursuant to (b) above, shall submit an initial or renewal application, as appropriate, to the designated county office of education, in accordance with the format prescribed by the Commissioner of Education.

2. Each alternative education program established by an agency, pursuant to (b) above, shall be separate and distinct from the already existing programs operated by these agencies.

3. Annually, each agency, pursuant to (b) above, operating an alternative education program, pursuant to N.J.A.C. 6A:16-1.3, shall obtain certificates of fire inspection and, if applicable, health, sewerage plant and health, ventilation, and air conditioning (HVAC) inspections.

i. These certificates shall be maintained and available upon request for review by the Department of Education.

6A:16-9.2. Program criteria.

(a) Each alternative education program, pursuant to N.J.A.C. 6A:16-1.3, shall fulfill the following program criteria for both high school and middle school programs, unless otherwise noted:

1. A maximum student–teacher ratio of 12:1 for high school programs shall be maintained;

2. A maximum student–teacher ratio of 10:1 for middle school programs shall be maintained;

3. An Individualized Program Plan (IPP) shall be developed for each general education student enrolled in the program.

i. The IPP shall be developed by the school district in which the student is enrolled, in consultation with the student's parent and the receiving school district, pursuant to N.J.A.C. 6A:16-9.1(a), or other agency, pursuant to N.J.A.C. 6A:16-9.1(b), as appropriate.

ii. The IPP shall be developed by a multidisciplinary team of professionals with knowledge of the student's educational, behavioral, emotional, social and health needs.

iii. The IPP shall identify the appropriate instructional and support services for addressing the student's identified needs.

iv. The IPP shall be developed in accordance with the format prescribed by the Commissioner of Education and implemented within 30 calendar days of the student's placement in the alternative education program.

(1) The IPP may, but need not, be developed prior to the student's placement.

v. A multidisciplinary team shall review and, as appropriate, revise the IPP prior to the completion of the student's anticipated enrollment in the alternative education program or prior to the end of the school year, whichever occurs first.

(1) The multidisciplinary team shall review and revise the IPP, as needed, at any time during the student's enrollment in the alternative education program.

(2) The multidisciplinary team that reviews the IPP shall include staff from the sending school and the alternative education program who have knowledge of the student's educational, behavioral, emotional, social and health needs.

(3) The student's parent shall be advised of revisions to the IPP.

4. For a student with a disability, the alternative education program shall be consistent with the student's Individualized Education Program (IEP), pursuant to N.J.A.C. 6A:14, Special Education.

5. Individualized instruction to students shall address the Core Curriculum Content Standards, pursuant to N.J.A.C. 6A:8-3.1;

6. Instructional staff shall be appropriately certified, pursuant to N.J.A.C. 6A:9-3.3;

7. Compliance with attendance policies, pursuant to N.J.A.C. 6A:16-7.8 and 6A:32-8.3, shall be required;

8. Academic instruction sufficient to fulfill graduation requirements, pursuant to N.J.A.C. 6A:8-5.1, shall be provided to high school students;

9. Comprehensive support services and programs shall address each student's health, social and emotional development and behavior;

10. Case management services including, but not limited to, monitoring and evaluating student progress and coordinating instructional and support services, pursuant to (a)5, 8, and 9 above, shall be provided;

11. Services to facilitate the transition of students returning to the general or special education program shall be provided; and

12. A minimum student enrollment period of not less than two complete marking periods shall be required.

i. If the student is enrolled with less than two complete marking periods remaining prior to the end of the school year, the decision regarding continued placement in the alternative education program shall be made in accordance with N.J.A.C. 6A:16-9.3(a).

ii. If the student is removed from the general education program and placed in an alternative education program as a result of a firearm or assault with a weapon offense, the chief school administrator may modify the term of removal or placement on a case-by-case basis, pursuant to N.J.A.C. 6A:16-5.5(b)1 and 5.6(b)1.

iii. For the student with a disability, the enrollment period shall be determined by appropriate school personnel in accordance with the provisions of N.J.A.C. 6A:14, Special Education, and the Individuals with Disabilities Education Act of 2004, 20 U.S.C. § § 1400 et seq.

6A:16-9.3. Student placements.

(a) Student placement in an alternative education program, pursuant to N.J.A.C. 6A:16-1.3 and 9.1(a) and (b), shall be made as follows:

1. For the general education student, the district board of education shall make a determination of the student's risk for school failure and a decision regarding the student's placement in an alternative education program, at a minimum, based on the following:

i. The review of the student's academic, health and behavioral records , including the student's IPP, if one has been developed in accordance with N.J.A.C. 6A:16-9.2(a)3i through v, and the results of available testing, assessment or evaluation of the student;

ii. Consultation with and notice to the student's parent; and

iii. Information provided by the school-based multidisciplinary team responsible to provide intervention and referral services, pursuant to N.J.A.C. 6A:16-8, or other multidisciplinary team, as appropriate.

2. Decisions regarding the placement of the student with a disability in an alternative education program, pursuant to N.J.A.C. 6A:16-9.1(a) and (b), shall be based on the recommendation of appropriate personnel in accordance with N.J.A.C. 6A:14.

3. The district board of education shall provide mandatory placement for a student in an alternative education program for removal due to a firearms offense, pursuant to N.J.A.C. 6A:16-5.5 or an assault with weapons offense, pursuant to N.J.A.C. 6A:16-5.6.

i. If placement in an alternative education program, pursuant to N.J.A.C. 6A:16-9.1(a) or (b), is not available in the instance of a mandatory student placement, the student shall be provided home or

out-of-school instruction, pursuant to N.J.A.C. 6A:16-10, until placement in an alternative education program is available.

ii. For the student with a disability, placement in an alternative education program for a firearm offense or an assault with a weapon offense shall occur only upon a determination by appropriate school personnel to place the student in accordance with the provisions of N.J.A.C. 6A:14, Special Education Programs and the Individuals with Disabilities Act of 2004, 20 U.S.C. § § 1400 et seq.

(b) If a district board of education places a student in an alternative education program approved by another district board of education, pursuant to N.J.A.C. 6A:16-9.1(a)1, or another approved agency, pursuant to N.J.A.C. 6A:16-9.1(b), the district board of education of the sending school district shall be responsible for ensuring compliance with the requirements of this subchapter.

(c) Decisions regarding continued placement in an alternative education program or a change to a student's placement shall be made as follows:

1. For the general education student returning to the general education program, the continued placement decision shall be made in accordance with N.J.A.C. 6A:16-9.2(a)11, as appropriate, and (a)1 above.

2. For a student with disabilities, the continued placement decision shall be made in accordance with N.J.A.C. 6A:16-9.2(a)11, as appropriate, (a)2 above, and N.J.A.C. 6A:14, Special Education.

Prevention and Behavioral Interventions (Non-Punitive)

Prevention

STATUTES

18A:37-15. Adoption of policy concerning harassment, intimidating or bullying by each school district.

b. A school district shall have local control over the content of the policy, except that the policy shall contain, at a minimum, the following components:

(7) the range of ways in which a school will respond once an incident of harassment, intimidation or bullying is identified, which shall be defined by the principal in conjunction with the school anti-bullying specialist, but shall include an appropriate combination of services that are available within the district such as counseling, support services, intervention services, and other programs, as defined by the commissioner. In the event that the necessary programs and services are not available within the district, the district may apply to the Department of Education for a grant from the "Bullying Prevention Fund" established pursuant to section 25 of P.L.2010, c.122 (C.18A:37-28) to support the provision of out-of-district programs and services;

(9) consequences and appropriate remedial action for a person found to have falsely accused another as a means of retaliation or as a means of harassment, intimidation or bullying;

18A:37-17. Establishment of bullying prevention programs or approaches.

a. Schools and school districts shall annually establish, implement, document, and assess bullying prevention programs or approaches, and other initiatives involving school staff, students, administrators, volunteers, parents, law enforcement and community members. The programs or approaches shall be designed to create school-wide conditions to prevent and address harassment, intimidation, and bullying. A school district may implement bullying prevention programs and approaches that may be available at no cost from the Department of Education, the New Jersey State Bar Foundation, or any other entity. A school district may, at its own discretion, implement bullying prevention programs and approaches which impose a cost on the district.

A school district may apply to the Department of Education for a grant to be used for programs, approaches, or personnel established pursuant to this act, to the extent funds are appropriated for these purposes or funds are made available through the "Bullying Prevention Fund" established pursuant to section 25 of P.L.2010, c.122 (C.18A:37-28). A school district may make an application for a grant only after exploring bullying prevention programs and approaches that are available at no cost, and making an affirmative demonstration of that exploration in its grant application.

b. A school district shall: (1) provide training on the school district's harassment, intimidation, or bullying policies to school employees and volunteers who have significant contact with students; (2) ensure that the training includes instruction on preventing bullying on the basis of the protected categories enumerated in section 2 of P.L.2002, c.83 (C.18A:37-14) and other distinguishing characteristics that may incite incidents of discrimination, harassment, intimidation, or bullying; and (3) develop a process for discussing the district's harassment, intimidation or bullying policy with students.

A school district may satisfy the training required pursuant to this subsection by utilizing training that may be provided at no cost by the Department of Education, the New Jersey State Bar Foundation, or any other entity. A school district may, at its own discretion, implement a training program which imposes a cost on the district.

c. Information regarding the school district policy against harassment, intimidation or bullying shall be incorporated into a school's employee training program and shall be provided to full-time and part-time staff, volunteers who have significant contact with students, and those persons contracted by the district to provide services to students.

18A:37-28. "Bullying Prevention Fund."

There is created a special fund in the Department of Education, which shall be designated the "Bullying Prevention Fund." The fund shall be maintained in a separate account and administered by the commissioner to carry out the provisions of this act. The fund shall consist of: (1) any monies appropriated by the State for the purposes of the fund; (2) any monies donated for the purposes of the fund; and (3) all interest and investment earnings received on monies in the fund. The fund shall be used to offer grants to school districts to provide training on harassment, intimidation, and bullying prevention and on the effective creation of positive school climates, and to help fund related personnel expenses.

18A:40A-1. Instructional programs on drugs, alcohol, anabolic steroids, tobacco and controlled dangerous substances; curriculum guidelines.

Instructional programs on the nature of drugs, alcohol, anabolic steroids, tobacco and controlled dangerous substances, as defined in section 2 of P.L.1970, c.226 (C.24:21-2), and their physiological, psychological, sociological and legal effects on the individual, the family and society shall be taught in each public school and in each grade from kindergarten through 12 in a manner adapted to the age and understanding of the pupils. The programs shall be based upon the curriculum guidelines established by the Commissioner of Education pursuant to section 2 of this act, and shall be included in the curriculum for each grade in such a manner as to provide a thorough and comprehensive treatment of the subject.

18A:40A-10. Referral program in schools.

Each local board of education shall, pursuant to guidelines developed by the Commissioner of Education, in consultation with the Commissioner of Health, establish a comprehensive substance abuse intervention, prevention and treatment referral program in the public elementary and secondary schools of the district. The purpose of the program shall be to identify pupils who are substance abusers, assess the extent of these pupils' involvement with these substances and, where appropriate, refer pupils and their families to organizations and agencies approved by the Department of Health to offer competent professional treatment. Treatment shall not be at the expense of the local board of education.

Each school district shall develop a clear written policy statement which outlines the district's program to combat substance abuse and which provides for the identification, evaluation, referral for treatment and discipline of pupils who are substance abusers. Copies of the policy statement shall be distributed to pupils and their parents at the beginning of each school year.

18A:40A-11. Policies for evaluations, referral, discipline.

Each board of education shall adopt and implement, in accordance with rules and regulations promulgated by the State board, policies and procedures for the evaluation, referral for treatment and discipline of pupils involved in incidents of possession or abuse of substances as defined in section 2 of this act, on school property or at school functions, or who show significant symptoms of the use of those substances on school property or at school functions. In adopting and implementing these policies and procedures, the board shall consult and work closely with a local organization involved with the prevention, detection and treatment of substance abuse approved by the Department of Health.

18A:40A-18. Employment of student assistance coordinators in certain school districts.

The Commissioner of Education, in consultation with the Commissioner of Health, shall develop and administer a program which provides for the employment of student assistance coordinators in certain school districts.

a. Within 90 days of the effective date of this act, the Commissioner of Education shall forward to each local school board a request for a proposal for the employment of a student assistance coordinator. A board which wants to participate in the program shall submit a proposal to the commissioner which outlines the district's plan to provide substance abuse prevention, intervention, and treatment referral services to students through the employment of a student assistance coordinator. Nothing shall preclude a district which employs a student assistance coordinator at the time of the effective date of this act from participating in this program. The commissioner shall select school districts to participate in the program through a competitive grant process. The participating districts shall include urban, suburban, and rural districts from the north, central, and southern geographic regions of the State with at least one school district per county. In addition to all other State aid to which the local district is entitled under the provisions of P.L.2007, c.260 (C.18A:7F-43 et al.) and other pertinent statutes, each board of education participating in the program shall receive from the State, for a three-year period, the amount necessary to pay the salary of its student assistance coordinator.

b. The position of student assistance coordinator shall be separate and distinct from any other employment position in the district, including, but not limited to district guidance counselors, school social workers, and school psychologists. The State Board of Education shall approve the education and experience criteria necessary for employment as a student assistance coordinator. The criteria shall include a requirement for certification by the State Board of Examiners. In addition to the criteria established by the State board, the Department of Education and the Department of Health shall jointly conduct orientation and training programs for student assistance coordinators, and shall also provide for continuing education programs for coordinators.

c. It shall be the responsibility of student assistance coordinators to assist local school districts in the effective implementation of this act. Coordinators shall assist with the in service training of school district staff concerning substance abuse issues and the district program to combat substance abuse; serve as an information resource for substance abuse curriculum development and instruction; assist the district in revising and implementing substance abuse policies and procedures; develop and administer intervention services in the district; provide counseling services to pupils regarding substance abuse problems; and, where necessary and appropriate, cooperate with juvenile justice officials in the rendering of substance abuse treatment services.

d. The Commissioner of Education, in consultation with the Commissioner of Health, shall implement a plan to collect data on the effectiveness of the program in treating problems associated with substance abuse and in reducing the incidence of substance abuse in local school districts. Six months prior to the expiration of the program authorized pursuant to this section, the Commissioner of Education shall submit to the Governor and the Legislature an evaluation of the program and a recommendation on the advisability of its continuation or expansion to all school districts in the State.

18A:40A-16. Guidelines, materials for program.

a. The Commissioner of Education, in consultation with the Commissioner of Health, shall establish guidelines for substance abuse education programs to be offered by local boards of education to the parents or legal guardians of public school pupils. The program shall, at a minimum, provide:

(1) A thorough and comprehensive review of the substance abuse education curriculum which will be taught to the child of the parent or guardian during the school year, with recommendations as to the ways in which the parent or guardian may enhance, reinforce and supplement that program;

(2) Information on the pharmacology, physiology, psychosocial and legal aspects of substance abuse, and instruction to assist the parent or guardian in the identification of the symptoms and behavioral patterns which might indicate that a child may be involved in substance abuse; and

(3) Information on the State, local and community organizations which are available for the prevention, early intervention, treatment and rehabilitation of individuals who show symptoms of substance abuse.

b. In addition to the guidelines required pursuant this section, the Commissioner of Education, in consultation with the Commissioner of Health, shall develop and provide to local boards of education suggested materials for the substance abuse education program for parents or legal guardians of school pupils, and shall maintain and continuously update a roster of individuals or groups available to assist boards of education in implementing this program and a list of State and local agencies and organizations which are approved by the Department of Health to provide services for the prevention, early intervention, treatment or rehabilitation of individuals who show symptoms of substance abuse.

18A:40A-17. Outreach program.

a. Under the guidelines established by the Commissioner of Education, each local board of education shall establish an outreach program to provide substance abuse education for the parents or legal guardians of the pupils of the district. In establishing the program, the local board of education shall consult with such local organizations and agencies as are recommended by the commissioner. The board of education shall insure that the program is offered at times and places convenient to the parents of the district on school premises, or in other suitable facilities.

b. In addition to the substance abuse education program required pursuant to this section, each local board of education shall establish policies and procedures to provide assistance to parents or legal guardians who believe that their child may be involved in substance abuse. These policies and procedures shall be consistent with the policies and procedures for intervention by school personnel developed pursuant to this act.

c. The board of education in each school district in the State in which a nonpublic school is located shall have the power and duty to loan to the parents or legal guardians of all pupils attending nonpublic schools located within the district all educational materials developed by the Commissioner of Education for the instruction of the parents or legal guardians of public school pupils on the nature and effects of substances and substance abuse. The Commissioner of Education shall make these materials available so that the local board of education shall not be required to expend funds for the loan of these materials.

18A:40A-18. Employment of student assistance coordinators in certain school districts.

The Commissioner of Education, in consultation with the Commissioner of Health, shall develop and administer a program which provides for the employment of student assistance coordinators in certain school districts.

a. Within 90 days of the effective date of this act, the Commissioner of Education shall forward to each local school board a request for a proposal for the employment of a student assistance coordinator. A board which wants to participate in the program shall submit a proposal to the commissioner which outlines the district's plan to provide substance abuse prevention, intervention, and treatment referral services to students through the employment of a student assistance coordinator. Nothing shall preclude a district which employs a student assistance coordinator at the time of the effective date of this act from participating in this program. The commissioner shall select school districts to participate in the program through a competitive grant process. The participating districts shall include urban, suburban, and rural districts from the north, central, and southern geographic regions of the State with at least one school district per county. In addition to all other State aid to which the local district is entitled under the provisions of P.L.2007, c.260 (C.18A:7F-43 et al.) and other pertinent statutes, each

board of education participating in the program shall receive from the State, for a three-year period, the amount necessary to pay the salary of its student assistance coordinator.

b. The position of student assistance coordinator shall be separate and distinct from any other employment position in the district, including, but not limited to district guidance counselors, school social workers, and school psychologists. The State Board of Education shall approve the education and experience criteria necessary for employment as a student assistance coordinator. The criteria shall include a requirement for certification by the State Board of Examiners. In addition to the criteria established by the State board, the Department of Education and the Department of Health shall jointly conduct orientation and training programs for student assistance coordinators, and shall also provide for continuing education programs for coordinators.

c. It shall be the responsibility of student assistance coordinators to assist local school districts in the effective implementation of this act. Coordinators shall assist with the in service training of school district staff concerning substance abuse issues and the district program to combat substance abuse; serve as an information resource for substance abuse curriculum development and instruction; assist the district in revising and implementing substance abuse policies and procedures; develop and administer intervention services in the district; provide counseling services to pupils regarding substance abuse problems; and, where necessary and appropriate, cooperate with juvenile justice officials in the rendering of substance abuse treatment services.

d. The Commissioner of Education, in consultation with the Commissioner of Health, shall implement a plan to collect data on the effectiveness of the program in treating problems associated with substance abuse and in reducing the incidence of substance abuse in local school districts. Six months prior to the expiration of the program authorized pursuant to this section, the Commissioner of Education shall submit to the Governor and the Legislature an evaluation of the program and a recommendation on the advisability of its continuation or expansion to all school districts in the State.

ADMINISTRATIVE CODE

6A:16-3.1. Establishment of comprehensive alcohol, tobacco and other drug abuse programs.

(a) Each district board of education shall establish a comprehensive program of prevention, intervention, referral for evaluation, referral for treatment and continuity of care for student alcohol, tobacco and other drug abuse in the public elementary and secondary schools of the district according to the requirements of N.J.S.A. 18A:40A-10.

1. The purpose of the prevention component of the program shall be to:

i. Keep students from using alcohol, tobacco or other drugs;

ii. Reduce or eliminate the incidence and prevalence of student alcohol, tobacco and other drug abuse;

iii. Increase the age of onset of students' first use of alcohol, tobacco or other drugs;

iv. Reduce the factors that place students at risk for involvement with alcohol, tobacco or other drugs through school and community-based planning processes;

v. Contribute to the development of school environments and alternative activities that are alcohol, tobacco and other drug-free;

vi. Increase the knowledge and skills of students, staff and community members for avoiding the harmful effects of alcohol, tobacco and other drug use; and

vii. Actively involve staff, parents and other community members in the development and implementation of prevention program plans.

2. The purpose of the intervention, referral for evaluation and referral for treatment components of the program shall be to:

i. Identify students who are at risk for, or who have exhibited, alcohol, tobacco or other drug abuse or related problems;

ii. Help students or their parents who have requested assistance for alcohol, tobacco or other drug abuse problems;

iii. Make a preliminary assessment of a student's need for educational programs, supportive services or treatment which extends beyond the general school program by virtue of the use of alcohol, tobacco or other drugs by the student or the student's parents;

iv. Refer students for evaluation to make a positive determination regarding a student's need for alcohol, tobacco or other drug treatment; and

v. Help a student or a student's parents follow through on the recommendations of an evaluation which has positively determined the harmful use of alcohol, tobacco or other drugs by the student or the student's parents.

3. The purpose of the continuity of care component of the program shall be to:

i. Assist with the provision of educational programs and services for students in treatment; and

ii. Plan and provide supportive services for students who are returning from treatment.

4. Each district board of education shall ensure that all educational staff members receive in-service training in alcohol, tobacco and other drug abuse prevention and intervention according to the requirements of N.J.S.A. 18A:40A-3 and 15.

i. The in-service training shall be updated annually in order to ensure educational staff members have the most current information available on the subject of substance abuse and the school district's comprehensive alcohol, tobacco and other drug abuse program, policies and procedures.

5. Substance awareness coordinators employed by district boards of education shall assist local school districts in the effective implementation of the requirements of N.J.S.A. 18A:40A-1 through 18 and N.J.A.C. 6A:9-13.2.

6. Each district board of education shall establish educational programs on alcohol, tobacco and other drug abuse for parents according to the requirements of N.J.S.A. 18A:40A-16 and 17(a) and offered at times and places convenient to the parents of enrolled students.

7. Each district board of education shall make and enforce regulations to prohibit the smoking of any substance and the use of tobacco products anywhere in its buildings or on school grounds, except as part of a classroom instruction or theatrical production, according to the requirements of N.J.S.A. 26:3D-17.

Behavioral interventions and student support services

STATUTES

18A:40A-11. Policies for evaluations, referral, discipline.

Each board of education shall adopt and implement, in accordance with rules and regulations promulgated by the State board, policies and procedures for the evaluation, referral for treatment and discipline of pupils involved in incidents of possession or abuse of substances as defined in section 2 of this act, on school property or at school functions, or who show significant symptoms of the use of those substances on school property or at school functions. In adopting and implementing these policies and procedures, the board shall consult and work closely with a local organization involved with the prevention, detection and treatment of substance abuse approved by the Department of Health.

18A:37-15. Adoption of policy concerning harassment, intimidating or bullying by each school district.

b. A school district shall have local control over the content of the policy, except that the policy shall contain, at a minimum, the following components:

(7) the range of ways in which a school will respond once an incident of harassment, intimidation or bullying is identified, which shall be defined by the principal in conjunction with the school anti-bullying specialist, but shall include an appropriate combination of services that are available within the district such as counseling, support services, intervention services, and other programs, as defined by the commissioner. In the event that the necessary programs and services are not available within the district, the district may apply to the Department of Education for a grant from the "Bullying Prevention Fund" established pursuant to section 25 of P.L.2010, c.122 (C.18A:37-28) to support the provision of out-of-district programs and services;

(9) consequences and appropriate remedial action for a person found to have falsely accused another as a means of retaliation or as a means of harassment, intimidation or bullying;

ADMINISTRATIVE CODE

6A:16-7.1. Code of student conduct.

(a) Each district board of education shall develop, adopt and implement a code of student conduct which establishes standards, policies and procedures for positive student development and student behavioral expectations on school grounds, including on school buses or at school-sponsored functions, and, as appropriate, for conduct away from school grounds, in accordance with N.J.A.C. 6A:16-7.2 through 7.5, 7.8 and 7.9.

1. The code of student conduct shall be based on parent, student and community involvement which represents, where possible, the composition of the schools and community.

2. The code of student conduct shall be based on locally determined and accepted core ethical values adopted by the district board of education.

3. The district board of education shall establish a process for the annual review and update of the code of student conduct that provides for:

i. Parent, student and community involvement which represents, where possible, the composition of the schools and community; and

ii. Consideration of the findings of the annual reports of student conduct, including suspensions and expulsions, pursuant to (a)5 and 6 below, and the incidences reported under the Electronic Violence and Vandalism Reporting System, in accordance with N.J.A.C. 6A:16-5.3.

4. The code of student conduct shall be disseminated annually to all school staff, students and parents;

5. The chief school administrator shall report annually on the implementation of the code of student conduct to the district board of education at a public meeting. The annual summary shall contain, at a minimum:

i. A numerical inventory of all violations of the student behavioral expectations in the code of student conduct;

ii. Associated school responses to the violations of the student behavioral expectations;

iii. An explanation and evidence of the effectiveness of the code of student conduct. The explanation and evidence, at a minimum, shall address:

(1) The degree of effectiveness of the school district's activities in achieving the purposes of the code of student conduct, pursuant to (b) below; and

(2) The degree of implementation and effectiveness of the implementation of the contents of the code of student conduct, pursuant to (c) below; and

iv. Any proposed changes to the school district's current policies, procedures, programs or initiatives, based on the report pursuant to (a)5 above.

6. The chief school administrator shall submit a report annually to the New Jersey Department of Education on student conduct, including all student suspensions and expulsions, and the implementation of the code of student conduct, pursuant to this section, in accordance with the format prescribed by the Commissioner of Education and the Electronic Violence and Vandalism Reporting System, pursuant to N.J.A.C. 6A:16-5.3(e).

7. For students with disabilities, subject to Individualized Education Programs in accordance with 20 U.S.C. § § 1400 et seq., the Individuals with Disabilities Education Improvement Act, and accommodation plans under 29 U.S.C. § § 794 and 705(20), the code of student conduct shall be implemented in accordance with the components of the applicable plans.

(b) The code of student conduct shall be established to achieve the following purposes:

1. Foster the health, safety and social and emotional well-being of students;

2. Support the establishment and maintenance of civil, safe, secure, supportive and disciplined school environments conducive to learning;

3. Promote achievement of high academic standards;

4. Prevent the occurrence of problem behaviors;

5. Establish parameters for the intervention and remediation of student problem behaviors at all stages of identification; and

6. Establish parameters for school responses to violations of the code of student conduct that take into account, at a minimum, the severity of the offenses, the developmental ages of the student offenders and students' histories of inappropriate behaviors in accordance with 7.2 through 7.5, and 7.6 as appropriate.

(c) The code of student conduct, at a minimum, shall include:

1. A description of student responsibilities that includes expectations for academic achievement, behavior and attendance, pursuant to N.J.A.C. 6A:32-8 and 13.1;

2. A description of the behaviors that will result in suspension or expulsion, pursuant to N.J.S.A. 18A:37-2;

3. A description of students' rights to:

i. Advance notice of behaviors that will result in suspensions and expulsions that have been identified under authority of N.J.S.A. 18A:37-2;

ii. Education that supports students' development into productive citizens;

iii. Attendance in safe and secure school environments;

iv. Attendance at school irrespective of students' marriage, pregnancy or parenthood;

v. Due process appeal procedures and policies, pursuant to N.J.A.C. 6A:3-1.3 through 1.17, N.J.A.C. 6A:4 and, where applicable, N.J.A.C. 6A:14-2.7 and 2.8, and 7.2 through 7.6;

vi. Parent notification consistent with the policies and procedures established pursuant to N.J.A.C. 6A:16-6.2(b)3, 7.2, 7.3 and 7.8; and

vii. Protections pursuant to 20 U.S.C. § 1232g and 34 CFR Part 99, Family Educational Rights and Privacy Act; 20 U.S.C. § 1232h and 34 CFR Part 98, Protection of Pupil Rights Amendment; N.J.A.C. 6A:32-7, Student Records; 45 CFR § 160, Health Insurance Portability and Accountability Act; 20 U.S.C. § 6301, Title IV(A)IV § 4155 of the Elementary and Secondary Education Act as reauthorized

under the No Child Left Behind Act; 42 CFR Part 2, Confidentiality of Alcohol and Drug Abuse Patient Records; N.J.S.A. 18A:40A-7.1, School-based drug and alcohol abuse counseling; information from participants; disclosure; N.J.A.C. 6A:16-3.2, Confidentiality of student alcohol and other drug information; N.J.S.A. 18A:36-19, Creation; Pupil Records: Maintenance and Retention, Security and Access; Regulations; Non-Liability; N.J.A.C. 6A:14-2.9, N.J.A.C. 6A:32 Student Records; as well as other existing Federal and State laws pertaining to student protections;

4. A description of comprehensive behavioral supports that promote positive student development and the students' abilities to fulfill the behavioral expectations established by the district board of education, including:

i. Positive reinforcement for good conduct and academic success;

ii. Supportive interventions and referral services, including those at N.J.A.C. 6A:16-8;

iii. Remediation of problem behaviors that take into account the nature of the behaviors, the developmental ages of the students and the student's histories of problem behaviors and performance; and

iv. For students with disabilities, the behavior interventions and supports shall be determined and provided pursuant to the requirements of N.J.A.C. 6A:14;

6A:16-8.1. Establishment of intervention and referral services.

(a) District boards of education shall establish and implement a coordinated system in each school building in which general education students are served, for the planning and delivery of intervention and referral services that are designed to assist students who are experiencing learning, behavior or health difficulties and to assist staff who have difficulties in addressing students' learning, behavior or health needs. District boards of education shall choose the appropriate multidisciplinary team approach for planning and delivering the services required under this subchapter.

1. The intervention and referral services shall be provided to aid students in the general education program; and

2. The intervention and referral services, pursuant to N.J.S.A. 18A:46-18.1 et seq. and this subchapter, may be provided for students who have been determined to be in need of special education programs and services.

i. The intervention and referral services provided for students who have been determined to be in need of special education programs and services shall be coordinated with the student's Individualized Education Program team, as appropriate.

6A:16-8.2. Functions of intervention and referral services.

(a) The functions of the system of intervention and referral services in each school building shall be to:

1. Identify learning, behavior and health difficulties of students;

2. Collect thorough information on the identified learning, behavior and health difficulties;

3. Develop and implement action plans which provide for appropriate school or community interventions or referrals to school and community resources, based on the collected data and desired outcomes for the identified learning, behavior and health difficulties;

4. Provide support, guidance and professional development to school staff who identify learning, behavior and health difficulties;

5. Provide support, guidance and professional development to school staff who participate in each building's system for planning and providing intervention and referral services;

6. Actively involve parents or guardians in the development and implementation of intervention and referral services action plans;

7. Coordinate the access to and delivery of school resources and services for achieving the outcomes identified in the intervention and referral services action plans;

8. Coordinate the services of community-based social and health provider agencies and other community resources for achieving the outcomes identified in the intervention and referral services action plans;

9. Maintain records of all requests for assistance and all intervention and referral services action plans and all related student information, according to the requirements of 20 U.S.C. § 1232g and 34 CFR Part 99, Family Educational Rights and Privacy Act; 20 U.S.C. § 1232h and 34 CFR Part 98, Protection of Pupil Rights Amendment; N.J.A.C. 6A:32-7, Student Records; 45 CFR § 160, Health Insurance Portability and Accountability Act; 20 U.S.C. § 6301, Title IV(A)IV § 4155 of the Elementary and Secondary Education Act as reauthorized under the No Child Left Behind Act; 42 CFR Part 2, Confidentiality of Alcohol and Drug Abuse Patient Records; N.J.S.A. 18A:40A-7.1, School-based drug and alcohol abuse counseling; information from participants; disclosure; N.J.A.C. 6A:16-3.2, Confidentiality of student alcohol and other drug information; N.J.S.A. 18A:36-19, Creation; Pupil Records: Maintenance and Retention, Security and Access; Regulations; Non-Liability; N.J.A.C. 6A:14-2.9, Student records; as well as other existing Federal and State laws pertaining to student records and confidentiality.

10. Review and assess the effectiveness of the provisions of each intervention and referral services action plan in achieving the outcomes identified in each action plan and modify each action plan to achieve the outcomes, as appropriate; and

11. At a minimum, annually review the intervention and referral services action plans and the actions taken as a result of the building's system of intervention and referral services and make recommendations to the principal for improving school programs and services, as appropriate.

6A:16-8.3. School staff and community member roles for planning and implementing intervention and referral services.

(a) The district board of education shall establish written guidelines for the involvement of school staff and community members in each building's system of intervention and referral services, which shall, at a minimum:

1. Identify the roles and responsibilities of the building staff who participate in each building's coordinated system for planning and providing intervention and referral services, including the roles and responsibilities of staff members who identify learning, behavior or health difficulties;

2. Identify the roles and responsibilities of other school district staff for aiding in the development and implementation of intervention and referral services action plans; and

3. Identify the roles, responsibilities and parameters for the participation of community members for aiding in the development and implementation of intervention and referral services action plans.

Professional development

STATUTES

18A:6-112. Instruction in suicide prevention for public school teaching staff.

The State Board of Education, in consultation with the New Jersey Youth Suicide Prevention Advisory Council established in the Department of Children and Families pursuant to P.L.2003, c.214 (C.30:9A-22 et seq.), shall, as part of the professional development requirement established by the State board for

public school teaching staff members, require each public school teaching staff member to complete at least two hours of instruction in suicide prevention, to be provided by a licensed health care professional with training and experience in mental health issues, in each professional development period. The instruction in suicide prevention shall include information on the relationship between the risk of suicide and incidents of harassment, intimidation, and bullying and information on reducing the risk of suicide in students who are members of communities identified as having members at high risk of suicide.

18A:12-33. Training program; requirements.

a. Each newly elected or appointed board member shall complete during the first year of the member's first term a training program to be prepared and offered by the New Jersey School Boards Association, in consultation with the New Jersey Association of School Administrators, the New Jersey Principals and Supervisors Association, and the Department of Education, regarding the skills and knowledge necessary to serve as a local school board member. The training program shall include information regarding the school district monitoring system established pursuant to P.L.2005, c.235, the New Jersey Quality Single Accountability Continuum, and the five key components of school district effectiveness on which school districts are evaluated under the monitoring system: instruction and program; personnel; fiscal management; operations; and governance.

The board member shall complete a training program on school district governance in each of the subsequent two years of the board member's first term.

b. Within one year after each re-election or re-appointment to the board of education, the board member shall complete an advanced training program to be prepared and offered by the New Jersey School Boards Association. This advanced training program shall include information on relevant changes to New Jersey school law and other information deemed appropriate to enable the board member to serve more effectively.

c. The New Jersey School Boards Association shall examine options for providing training programs to school board members through alternative methods such as on-line or other distance learning media or through regional-based training.

d. Within one year after being newly elected or appointed or being re-elected or re-appointed to the board of education, a board member shall complete a training program on harassment, intimidation, and bullying in schools, including a school district's responsibilities under P.L.2002, c.83 (C.18A:37-13 et seq.). A board member shall be required to complete the program only once.

e. Training on harassment, intimidation, and bullying in schools shall be provided by the New Jersey School Boards Association, in consultation with recognized experts in school bullying from a cross section of academia, child advocacy organizations, nonprofit organizations, professional associations, and government agencies.

18A:26-8.2. "School leader" defined; training as part of professional development.

a. As used in this section, "school leader" means a school district staff member who holds a position that requires the possession of a chief school administrator, principal, or supervisor endorsement.

b. A school leader shall complete training on issues of school ethics, school law, and school governance as part of the professional development for school leaders required pursuant to State Board of Education regulations. Information on the prevention of harassment, intimidation, and bullying shall also be included in the training. The training shall be offered through a collaborative training model as identified by the Commissioner of Education, in consultation with the State Advisory Committee on Professional Development for School Leaders.

18A:37-17. Establishment of bullying prevention programs or approaches.

a. Schools and school districts shall annually establish, implement, document, and assess bullying prevention programs or approaches, and other initiatives involving school staff, students, administrators, volunteers, parents, law enforcement and community members. The programs or approaches shall be designed to create school-wide conditions to prevent and address harassment, intimidation, and bullying. A school district may implement bullying prevention programs and approaches that may be available at no cost from the Department of Education, the New Jersey State Bar Foundation, or any other entity. A school district may, at its own discretion, implement bullying prevention programs and approaches which impose a cost on the district.

A school district may apply to the Department of Education for a grant to be used for programs, approaches, or personnel established pursuant to this act, to the extent funds are appropriated for these purposes or funds are made available through the "Bullying Prevention Fund" established pursuant to section 25 of P.L.2010, c.122 (C.18A:37-28). A school district may make an application for a grant only after exploring bullying prevention programs and approaches that are available at no cost, and making an affirmative demonstration of that exploration in its grant application.

b. A school district shall: (1) provide training on the school district's harassment, intimidation, or bullying policies to school employees and volunteers who have significant contact with students; (2) ensure that the training includes instruction on preventing bullying on the basis of the protected categories enumerated in section 2 of P.L.2002, c.83 (C.18A:37-14) and other distinguishing characteristics that may incite incidents of discrimination, harassment, intimidation, or bullying; and (3) develop a process for discussing the district's harassment, intimidation or bullying policy with students.

A school district may satisfy the training required pursuant to this subsection by utilizing training that may be provided at no cost by the Department of Education, the New Jersey State Bar Foundation, or any other entity. A school district may, at its own discretion, implement a training program which imposes a cost on the district.

c. Information regarding the school district policy against harassment, intimidation or bullying shall be incorporated into a school's employee training program and shall be provided to full-time and part-time staff, volunteers who have significant contact with students, and those persons contracted by the district to provide services to students.

18A:37-22. Program required for teaching certification.

d. The State board shall, as part of the professional development requirement established by the State board for public school teachers, require each public school teacher to complete at least two hours of instruction on harassment, intimidation, or bullying prevention in each professional development period.

18A:37-23. Program required for administrative and supervisory certification.

Beginning with the 2012-2013 school year, all candidates for administrative and supervisory certification shall have satisfactorily completed a program on harassment, intimidation, and bullying prevention.

18A:37-26. Inservice workshops, training programs.

a. The Commissioner of Education, in consultation with recognized experts in school bullying from a cross section of academia, child advocacy organizations, nonprofit organizations, professional associations, and government agencies, shall establish inservice workshops and training programs to train selected public school employees to act as district anti-bullying coordinators and school anti-bullying specialists in accordance with the provisions of P.L.2010, c.122 (C.18A:37-13.1 et al.). The commissioner shall seek to make the workshops and training programs available and administered online through the department's website or other existing online resources. The commissioner shall evaluate the effectiveness of the consulting group on an annual basis. The inservice training programs may utilize the offices of the

executive county superintendent of schools, or such other institutions, agencies, or persons as the commissioner deems appropriate. Each board of education shall provide time for the inservice training during the usual school schedule in order to ensure that appropriate personnel are prepared to act in the district as district anti-bullying coordinators and school anti-bullyingspecialists.

b. Upon completion of the initial inservice training program, the commissioner shall ensure that programs and workshops that reflect the most current information on harassment, intimidation, and bullying in schools are prepared and made available to district anti-bullying coordinators and school anti-bullying specialists at regular intervals.

18A:37-27. Development of online tutorial, test.

The Commissioner of Education shall develop, in consultation with the Division on Civil Rights, and make available on the Department of Education's Internet site, an online tutorial on harassment, intimidation, and bullying. The online tutorial shall, at a minimum, include best practices in the prevention of harassment, intimidation, and bullying, applicable laws, and such other information that the commissioner determines to be appropriate. The online tutorial shall be accompanied by a test to assess a person's understanding of the information provided in the tutorial.

18A:40A-3. Initial inservice training programs; curriculum; availability.

a. Upon completion of the curriculum guidelines required pursuant to section 2 of this act, the Commissioner of Education, in consultation with the Commissioner of Health, shall establish inservice workshops and training programs to train selected public school teachers to teach an education program on drugs, alcohol, anabolic steroids, tobacco and controlled dangerous substances. The inservice training programs may utilize existing county or regional offices, or such other institutions, agencies or persons as the Commissioner of Education deems appropriate. The programs and workshops shall provide instructional preparation for the teaching of the drug, alcohol, anabolic steroids, tobacco and controlled dangerous substances curriculum, and shall, in addition to the curriculum material, include information on the history, pharmacology, physiology and psychosocial aspects of drugs, alcohol, anabolic steroids, tobacco and controlled dangerous substances, symptomatic behavior associated with substance abuse, the availability of rehabilitation and treatment programs, and the legal aspects of substance abuse. Each local board of education shall provide time for the inservice training during the usual school schedule in order to insure that appropriate teaching staff members are prepared to teach the education program in each grade in each school district.

b. Upon completion of the initial inservice training program, the Commissioner of Education shall insure that programs and workshops that reflect the most current information on substance abuse are prepared and are made available to teaching staff members at regular intervals.

c. In addition to providing inservice training programs for teaching staff members who will provide instruction on substance abuse in the public schools, the Commissioner of Education shall make these training programs available to such other instructional and supervisory personnel as he deems necessary and appropriate.

18A:40A-4. Preservice training.

In addition to the provisions for inservice training established pursuant to this act, the commissioner shall insure that the preservice training of individuals intending to enter the teaching profession provides for an adequate treatment of the subject of substance abuse.

No certificate to teach in the public schools shall be issued to any teaching staff member who has not passed a satisfactory examination in (1) physiology and hygiene; and (2) substance abuse issues which includes material on the physiological, psychological, sociological and legal aspects of drug and alcohol

abuse, methods of educating students on the negative effects of substance abuse, and intervention strategies for dealing with students engaged in substance abuse.

18A:40A-15. Inservice training program.

a. The Commissioner of Education, in consultation with the Commissioner of Health, shall develop an inservice training program for public school teachers to enable the teachers to recognize and respond to substance abuse by public school pupils. The program shall, at a minimum, include:

(1) Instruction to assist the teacher in the identification of the symptoms and behavioral patterns which might indicate that a child may be involved in substance abuse;

(2) Appropriate intervention strategies; and,

(3) Information on the State, local and community organizations which are available for the prevention, early intervention, treatment and rehabilitation of individuals who show symptoms of substance abuse.

The inservice training program required pursuant to this section shall be updated at regular intervals in order to insure that teaching staff members have the most current information available on this subject.

b. Each local board of education shall insure that all teaching staff members in the district who are involved in the instruction of pupils are provided with the inservice training program developed pursuant to this section. The inservice training program of the local board of education shall also include information concerning the policy of the board regarding the referral for treatment of pupils involved in substance abuse, as required pursuant to section 5 of this act.

18A:40A-16. Guidelines, materials for program.

a. The Commissioner of Education, in consultation with the Commissioner of Health, shall establish guidelines for substance abuse education programs to be offered by local boards of education to the parents or legal guardians of public school pupils. The program shall, at a minimum, provide:

(1) A thorough and comprehensive review of the substance abuse education curriculum which will be taught to the child of the parent or guardian during the school year, with recommendations as to the ways in which the parent or guardian may enhance, reinforce and supplement that program;

(2) Information on the pharmacology, physiology, psychosocial and legal aspects of substance abuse, and instruction to assist the parent or guardian in the identification of the symptoms and behavioral patterns which might indicate that a child may be involved in substance abuse; and

(3) Information on the State, local and community organizations which are available for the prevention, early intervention, treatment and rehabilitation of individuals who show symptoms of substanceabuse.

b. In addition to the guidelines required pursuant this section, the Commissioner of Education, in consultation with the Commissioner of Health, shall develop and provide to local boards of education suggested materials for the substance abuse education program for parents or legal guardians of school pupils, and shall maintain and continuously update a roster of individuals or groups available to assist boards of education in implementing this program and a list of State and local agencies and organizations which are approved by the Department of Health to provide services for the prevention, early intervention, treatment or rehabilitation of individuals who show symptoms of substance abuse.

ADMINISTRATIVE CODE

6A:16-3.1. Establishment of comprehensive alcohol, tobacco and other drug abuse programs.

(a) 4. Each district board of education shall ensure that all educational staff members receive in-service training in alcohol, tobacco and other drug abuse prevention and intervention according to the requirements of N.J.S.A. 18A:40A-3 and 15.

i. The in-service training shall be updated annually in order to ensure educational staff members have the most current information available on the subject of substance abuse and the school district's comprehensive alcohol, tobacco and other drug abuse program, policies and procedures.

5. Substance awareness coordinators employed by district boards of education shall assist local school districts in the effective implementation of the requirements of N.J.S.A. 18A:40A-1 through 18 and N.J.A.C. 6A:9-13.2.

6A:16-6.2. Development and implementation of policies and procedures.

(b) School district policies and procedures shall include the following components:

12. Provisions for the in-service training of school staff concerning policies and procedures established in this subchapter, and the exchange of information regarding the practices of the education and law enforcement agencies;

6A:16-7.9. Intimidation, harassment and bullying.

(d) The district board of education shall:

1. Annually review the training needs of school district staff for the effective implementation of the harassment, intimidation and bullying policies, procedures, programs and initiatives of the district board of education and implement locally determined staff training programs consistent with the annual review of training needs and the findings of the annual review and update of the code of student conduct, pursuant to N.J.A.C. 6A:16-7.1(a)3, as determined appropriate by the district board of education.

i. Information regarding the district board of education’s policy against harassment, intimidation, or bullying shall be incorporated into the school district’s employee training program;

Monitoring and Accountability

Formal incident reporting of conduct violations

STATUTES

18A:37-2.1. Suspension, expulsion of pupil for assault, appeal; report.

b. Whenever a teacher, administrator, board member, other employee of a board of education or a labor representative on behalf of an employee makes an allegation in writing that the board member or employee has been assaulted by a pupil, the principal shall file a written report of the alleged assault with the district's superintendent of schools. The superintendent to whom the alleged assault is reported or, if there is no superintendent in the district, the principal who received the allegation from the board member, employee, or labor representative shall report the alleged assault to the board of education of the district at its next regular meeting; provided that the name of the pupil who allegedly committed the assault, although it may be disclosed to the members of the board of education, shall be kept confidential at the public board of education meeting.

Any person who fails to file a report of an alleged assault as required pursuant to this subsection may be liable to disciplinary action by the board of education of the district

18A:17-46. Reporting of certain acts by school employee; report; public hearing.

Any school employee observing or having direct knowledge from a participant or victim of an act of violence shall, in accordance with standards established by the commissioner, file a report describing the incident to the school principal in a manner prescribed by the commissioner, and copy of same shall be forwarded to the district superintendent.

The principal shall notify the district superintendent of schools of the action taken regarding the incident. Two times each school year, between September 1 and January 1 and between January 1 and June 30, at a public hearing, the superintendent of schools shall report to the board of education all acts of violence, vandalism, and harassment, intimidation, or bullying which occurred during the previous reporting period. The report shall include the number of reports of harassment, intimidation, or bullying, the status of all investigations, the nature of the bullying based on one of the protected categories identified in section 2 of P.L.2002, c.83 (C.18A:37-14), the names of the investigators, the type and nature of any discipline imposed on any student engaged in harassment, intimidation, or bullying, and any other measures imposed, training conducted, or programs implemented, to reduce harassment, intimidation, or bullying. The information shall also be reported once during each reporting period to the Department of Education. The report must include data broken down by the enumerated categories as listed in section 2 of P.L.2002, c.83 (C.18A:37-14), and data broken down by each school in the district, in addition to district-wide data. It shall be a violation to improperly release any confidential information not authorized by federal or State law for public release.

The report shall be used to grade each school for the purpose of assessing its effort to implement policies and programs consistent with the provisions of P.L.2002, c.83 (C.18A:37-13 et seq.). The district shall receive a grade determined by averaging the grades of all the schools in the district. The commissioner shall promulgate guidelines for a program to grade schools for the purposes of this section.

The grade received by a school and the district shall be posted on the homepage of the school's website. The grade for the district and each school of the district shall be posted on the homepage of the district's website. A link to the report shall be available on the district's website. The information shall be posted on the websites within 10 days of the receipt of a grade by the school and district.

Verification of the reports on violence, vandalism, and harassment, intimidation, or bullying shall be part of the State's monitoring of the school district, and the State Board of Education shall adopt regulations that impose a penalty on a school employee who knowingly falsifies the report. A board of education shall provide ongoing staff training, in cooperation with the Department of Education, in fulfilling the reporting requirements pursuant to this section. The majority representative of the school employees shall have access monthly to the number and disposition of all reported acts of school violence, vandalism, and harassment, intimidation, or bullying.

2b. Whenever a teacher, administrator, board member, other employee of a board of education or a labor representative on behalf of an employee makes an allegation in writing that the board member or employee has been assaulted by a pupil, the principal shall file a written report of the alleged assault with the district's superintendent of schools. The superintendent to whom the alleged assault is reported or, if there is no superintendent in the district, the principal who received the allegation from the board member, employee, or labor representative shall report the alleged assault to the board of education of the district at its next regular meeting; provided that the name of the pupil who allegedly committed the assault, although it may be disclosed to the members of the board of education, shall be kept confidential at the public board of education meeting.

Any person who fails to file a report of an alleged assault as required pursuant to this subsection may be liable to disciplinary action by the board of education of the district.

18A:40A-12. Reporting of pupils under influence; examination; report; return home; evaluation of possible need for treatment; referral for treatment.

a. Whenever it shall appear to any teaching staff member, school nurse or other educational personnel of any public school in this State that a pupil may be under the influence of substances as defined pursuant to section 2 of this act, other than anabolic steroids, that teaching staff member, school nurse, or other educational personnel shall report the matter as soon as possible to the school nurse or medical inspector, as the case may be, or to a student assistance coordinator, and to the principal or, in his absence, to his designee. The principal or his designee, shall immediately notify the parent or guardian and the superintendent of schools, if there be one, or the administrative principal and shall arrange for an immediate examination of the pupil by a doctor selected by the parent or guardian, or if that doctor is not immediately available, by the medical inspector, if he is available. If a doctor or medical inspector is not immediately available, the pupil shall be taken to the emergency room of the nearest hospital for examination accompanied by a member of the school staff designated by the principal and a parent or guardian of the pupil if available. The pupil shall be examined as soon as possible for the purpose of diagnosing whether or not the pupil is under such influence. A written report of that examination shall be furnished within 24 hours by the examining physician to the parent or guardian of the pupil and to the superintendent of schools or administrative principal. If it is determined that the pupil was under the influence of a substance, the pupil shall be returned to the pupil's home as soon as possible and shall not resume attendance at school until the pupil submits to the principal a written report certifying that the pupil is physically and mentally able to return thereto, which report shall be prepared by a personal physician, the medical inspector, or the physician who examined the pupil pursuant to the provisions of this act.

In addition, the pupil shall be interviewed by a student assistance coordinator or another appropriately trained teaching staff member for the purpose of determining the extent of the pupil's involvement with these substances and possible need for treatment. In order to make this determination the coordinator or other teaching staff member may conduct a reasonable investigation which may include interviews with the pupil's teachers and parents. The coordinator or other teaching staff member may also consult with experts in the field of substance abuse as may be necessary and appropriate. If it is determined that the pupil's involvement with and use of these substances represents a danger to the pupil's health and well-

being, the coordinator or other teaching staff member shall refer the pupil to an appropriate treatment program which has been approved by the Commissioner of Health.

b. Whenever any teaching staff member, school nurse, or other educational personnel of any public school in this State shall have reason to believe that a pupil has used or may be using anabolic steroids, that teaching staff member, school nurse, or other educational personnel shall report the matter as soon as possible to the school nurse or medical inspector, as the case may be, or to a student assistance coordinator, and to the principal or, in his absence, to his designee. The principal or his designee, shall immediately notify the parent or guardian and the superintendent of schools, if there be one, or the administrative principal and shall arrange for an examination of the pupil by a doctor selected by the parent or guardian or by the medical inspector. The pupil shall be examined as soon as possible for the purpose of diagnosing whether or not the pupil has been using anabolic steroids. A written report of that examination shall be furnished by the examining physician to the parent or guardian of the pupil and to the superintendent of schools or administrative principal. If it is determined that the pupil has been using anabolic steroids, the pupil shall be interviewed by a student assistance coordinator or another appropriately trained teaching staff member for the purpose of determining the extent of the pupil's involvement with these substances and possible need for treatment. In order to make this determination the coordinator or other teaching staff member may conduct a reasonable investigation which may include interviews with the pupil's teachers and parents. The coordinator or other teaching staff member may also consult with experts in the field of substance abuse as may be necessary and appropriate. If it is determined that the pupil's involvement with and use of these substances represents a danger to the pupil's health and well-being, the coordinator or other teaching staff member shall refer the pupil to an appropriate treatment program which has been approved by the Commissioner of Health.

ADMINISTRATIVE CODE

6A:16-6.3. Reporting students or staff members to law enforcement authorities.

(a) Subject to the provisions of N.J.A.C. 6A:16-6.5, any staff member who, in the course of his or her employment, has reason to believe that a student or staff member has unlawfully possessed or in any way been involved in the distribution of a controlled dangerous substance, including anabolic steroids, or drug paraphernalia, shall report the matter as soon as possible to the principal or, in the absence of the principal, to the staff member responsible at the time of the alleged violation.

1. Either the principal or the responsible staff member shall notify the chief school administrator, who in turn shall notify as soon as possible the appropriate county prosecutor or other law enforcement official designated by the county prosecutor to receive such information.

2. The chief school administrator or designee shall provide to the county prosecutor or designee all known information concerning the matter, including the identity of the student or staff member involved.

3. The chief school administrator or designee shall not disclose, however, the identity of any student or staff member who has voluntarily sought and participated in an appropriate treatment or counseling program for an alcohol or other drug abuse problem, provided the student or staff member is not reasonably believed to be involved or implicated in drug distribution activities.

   i. For the purpose of this section, an admission by a student or staff member in response to questioning initiated by the principal or teaching staff member, or following the discovery of a controlled dangerous substance, including anabolic steroids, or drug paraphernalia, by the principal or teaching staff member, shall not constitute a voluntary, self-initiated request for counseling and treatment.

4. The chief school administrator or designee may, but need not, disclose to law enforcement authorities the identity of a student suspected to be under the influence of alcohol and/or controlled

dangerous substances, pursuant to N.J.A.C. 6A:16-4.3(a), or a student suspected to have used or who may be using anabolic steroids, pursuant to N.J.A.C. 6A:16-4.3(b), and who is referred for a medical examination, pursuant to N.J.A.C. 6A:16-4.3(a) or (b), as appropriate, for the purposes of providing appropriate health care for the student and for determining whether the student is under the influence of alcohol or other drugs or has been using anabolic steroids, provided that the student is not reasonably believed to be in possession of a controlled dangerous substance or drug paraphernalia, and is not reasonably believed to be involved or implicated in drug distribution activities.

(b) Whenever any school employee develops reason to believe that a firearm, as defined in N.J.S.A. 2C:39-1(f) and 18 U.S.C.§ 921, or other deadly weapon, whether enumerated in N.J.S.A. 2C:39-1(r) or not, except a firearm as defined by N.J.S.A. 2C:39-1(f) and 18 U.S.C. § 921, has unlawfully been brought onto school grounds, including on a school bus or to a school-sponsored function, or that any student or other person is in unlawful possession of a firearm or other deadly weapon, whether on or off school grounds, including on a school bus or at a school-sponsored function, or that any student or other person has committed an offense with or while in possession of a firearm, whether or not such offense was committed on school grounds, including on a school bus or at a school-sponsored function, or during school operating hours, the matter shall be reported as soon as possible to the principal, or in the absence of the principal, to the staff member responsible at the time of the alleged violation.

1. Either the principal or the responsible staff member shall notify the chief school administrator, who in turn shall notify, as soon as possible, the county prosecutor or other law enforcement official designated by the county prosecutor to receive such information.

2. The chief school administrator or designee shall provide to the county prosecutor or designee all known information concerning the matter, including the identity of the student or staff member involved.

(c) The designated school official, as defined by (b)1 above, shall immediately notify the designated law enforcement official whenever any school employee in the course of his or her employment develops reason to believe that a student has threatened, is planning or otherwise intends to cause death, serious bodily injury or significant bodily injury to another person under circumstances in which a reasonable person would believe that the student genuinely intends at some time in the future to commit the violent act or carry out the threat.

(d) The designated school official, as defined by (b)1 above, shall immediately notify the designated law enforcement official whenever any school employee in the course of his or her employment develops reason to believe that a crime involving sexual penetration or criminal sexual conduct has been committed on school grounds, including on a school bus or at a school-sponsored function, or by or against a student during school operating hours or during school-related functions or activities.

(e) School employees shall immediately notify the building principal and chief school administrator when in the course of their employment they develop reason to believe that a hate crime has been committed or is about to be committed on school grounds, including on a school bus or at a school-sponsored function, or has been or is about to be committed by any student, whether on or off school grounds, including on a school bus or at a school-sponsored function, and whether or not such offense was or is to be committed during operating school hours, or a student enrolled in the school has been or is about to become the victim of a hate crime, whether committed on or off school grounds, including on a school bus or at a school-sponsored function, or during operating school hours.

1. The designated school official, as defined by (b)1 above, shall promptly notify the local police department and the bias investigation officer for the county prosecutor's office in the instances described above.

2. The designated school official, as defined by (b)1 above, shall immediately notify the local police department and the bias investigation officer for the county prosecutor's office where there is reason to believe that a hate crime that involves an act of violence has been or is about to be physically

committed against a student, or there is otherwise reason to believe that a life has been or will be threatened.

(f) All incidents shall be reported under this section utilizing the Electronic Violence and Vandalism Reporting System, pursuant to N.J.A.C. 6A:16-5.3(e)1, where appropriate.

6A:16-7.1. Code of student conduct.

(a) Each district board of education shall develop, adopt and implement a code of student conduct which establishes standards, policies and procedures for positive student development and student behavioral expectations on school grounds, including on school buses or at school-sponsored functions, and, as appropriate, for conduct away from school grounds, in accordance with N.J.A.C. 6A:16-7.2 through 7.5, 7.8 and 7.9.

1. The code of student conduct shall be based on parent, student and community involvement which represents, where possible, the composition of the schools and community.

2. The code of student conduct shall be based on locally determined and accepted core ethical values adopted by the district board of education.

3. The district board of education shall establish a process for the annual review and update of the code of student conduct that provides for:

i. Parent, student and community involvement which represents, where possible, the composition of the schools and community; and

ii. Consideration of the findings of the annual reports of student conduct, including suspensions and expulsions, pursuant to (a)5 and 6 below, and the incidences reported under the Electronic Violence and Vandalism Reporting System, in accordance with N.J.A.C. 6A:16-5.3.

4. The code of student conduct shall be disseminated annually to all school staff, students and parents;

5. The chief school administrator shall report annually on the implementation of the code of student conduct to the district board of education at a public meeting. The annual summary shall contain, at a minimum:

i. A numerical inventory of all violations of the student behavioral expectations in the code of student conduct;

ii. Associated school responses to the violations of the student behavioral expectations;

iii. An explanation and evidence of the effectiveness of the code of student conduct. The explanation and evidence, at a minimum, shall address:

(1) The degree of effectiveness of the school district's activities in achieving the purposes of the code of student conduct, pursuant to (b) below; and

(2) The degree of implementation and effectiveness of the implementation of the contents of the code of student conduct, pursuant to (c) below; and

iv. Any proposed changes to the school district's current policies, procedures, programs or initiatives, based on the report pursuant to (a)5 above.

6. The chief school administrator shall submit a report annually to the New Jersey Department of Education on student conduct, including all student suspensions and expulsions, and the implementation of the code of student conduct, pursuant to this section, in accordance with the format prescribed by the Commissioner of Education and the Electronic Violence and Vandalism Reporting System, pursuant to N.J.A.C. 6A:16-5.3(e).

Parental notification

STATUTES

18A:37-15. Adoption of policy concerning harassment, intimidating or bullying by each school district.

b. A school district shall have local control over the content of the policy, except that the policy shall contain, at a minimum, the following components:

(5) a procedure for reporting an act of harassment, intimidation or bullying, including a provision that permits a person to report an act of harassment, intimidation or bullying anonymously; however, this shall not be construed to permit formal disciplinary action solely on the basis of an anonymous report.

(6) a procedure for prompt investigation of reports of violations and complaints, which procedure shall at a minimum provide that:

(d) parents or guardians of the students who are parties to the investigation shall be entitled to receive information about the investigation, in accordance with federal and State law and regulation, including the nature of the investigation, whether the district found evidence of harassment, intimidation, or bullying, or whether discipline was imposed or services provided to address the incident of harassment, intimidation, or bullying. This information shall be provided in writing within 5 school days after the results of the investigation are reported to the board. A parent or guardian may request a hearing before the board after receiving the information, and the hearing shall be held within 10 days of the request. The board shall meet in executive session for the hearing to protect the confidentiality of the students. At the hearing the board may hear from the school anti-bullying specialist about the incident, recommendations for discipline or services, and any programs instituted to reduce such incidents;

18A:40A-12. Reporting of pupils under influence; examination; report; return home; evaluation of possible need for treatment; referral for treatment.

a. Whenever it shall appear to any teaching staff member, school nurse or other educational personnel of any public school in this State that a pupil may be under the influence of substances as defined pursuant to section 2 of this act, other than anabolic steroids, that teaching staff member, school nurse, or other educational personnel shall report the matter as soon as possible to the school nurse or medical inspector, as the case may be, or to a student assistance coordinator, and to the principal or, in his absence, to his designee. The principal or his designee, shall immediately notify the parent or guardian and the superintendent of schools, if there be one, or the administrative principal and shall arrange for an immediate examination of the pupil by a doctor selected by the parent or guardian, or if that doctor is not immediately available, by the medical inspector, if he is available. If a doctor or medical inspector is not immediately available, the pupil shall be taken to the emergency room of the nearest hospital for examination accompanied by a member of the school staff designated by the principal and a parent or guardian of the pupil if available. The pupil shall be examined as soon as possible for the purpose of diagnosing whether or not the pupil is under such influence. A written report of that examination shall be furnished within 24 hours by the examining physician to the parent or guardian of the pupil and to the superintendent of schools or administrative principal. If it is determined that the pupil was under the influence of a substance, the pupil shall be returned to the pupil's home as soon as possible and shall not resume attendance at school until the pupil submits to the principal a written report certifying that the pupil is physically and mentally able to return thereto, which report shall be prepared by a personal physician, the medical inspector, or the physician who examined the pupil pursuant to the provisions of this act.

In addition, the pupil shall be interviewed by a student assistance coordinator or another appropriately trained teaching staff member for the purpose of determining the extent of the pupil's involvement with

these substances and possible need for treatment. In order to make this determination the coordinator or other teaching staff member may conduct a reasonable investigation which may include interviews with the pupil's teachers and parents. The coordinator or other teaching staff member may also consult with experts in the field of substance abuse as may be necessary and appropriate. If it is determined that the pupil's involvement with and use of these substances represents a danger to the pupil's health and well-being, the coordinator or other teaching staff member shall refer the pupil to an appropriate treatment program which has been approved by the Commissioner of Health.

b. Whenever any teaching staff member, school nurse, or other educational personnel of any public school in this State shall have reason to believe that a pupil has used or may be using anabolic steroids, that teaching staff member, school nurse, or other educational personnel shall report the matter as soon as possible to the school nurse or medical inspector, as the case may be, or to a student assistance coordinator, and to the principal or, in his absence, to his designee. The principal or his designee, shall immediately notify the parent or guardian and the superintendent of schools, if there be one, or the administrative principal and shall arrange for an examination of the pupil by a doctor selected by the parent or guardian or by the medical inspector. The pupil shall be examined as soon as possible for the purpose of diagnosing whether or not the pupil has been using anabolic steroids. A written report of that examination shall be furnished by the examining physician to the parent or guardian of the pupil and to the superintendent of schools or administrative principal. If it is determined that the pupil has been using anabolic steroids, the pupil shall be interviewed by a student assistance coordinator or another appropriately trained teaching staff member for the purpose of determining the extent of the pupil's involvement with these substances and possible need for treatment. In order to make this determination the coordinator or other teaching staff member may conduct a reasonable investigation which may include interviews with the pupil's teachers and parents. The coordinator or other teaching staff member may also consult with experts in the field of substance abuse as may be necessary and appropriate. If it is determined that the pupil's involvement with and use of these substances represents a danger to the pupil's health and well-being, the coordinator or other teaching staff member shall refer the pupil to an appropriate treatment program which has been approved by the Commissioner of Health.

ADMINISTRATIVE CODE

6A:16-5.5. Removal of students for firearms offenses.

(a) Each district board of education shall adopt and implement policies and procedures regarding student offenses involving firearms, as defined in N.J.S.A. 2C:39-1(f) and 18 U.S.C. § 921, according to the requirements of the Zero Tolerance for Guns Act, pursuant to N.J.S.A. 18A:37-7 through 12. These policies and procedures shall apply to:

5. Notify the student’s parent of the following information:

i. The removal action;

ii. The law enforcement notification;

iii. The change of custody, if it occurs; and

iv. The general education student's due process rights, as set forth in N.J.A.C. 6A:16-7.2 through 7.6 or, in the case of a student with a disability, the student’s due process rights, as set forth in N.J.A.C. 6A:14-2.7 through 2.8 and 6A:16-7.2 through 7.6.

6A:16-6.2. Development and implementation of policies and procedures.

(b) School district policies and procedures shall include the following components:

3. Specific procedures and responsibilities of staff for notifying parents in instances of law enforcement interviews involving their children;

11. Provisions for notifying parents as soon as possible whenever a student is arrested for violating any law prohibiting the possession, sale or other distribution of any controlled dangerous substance, including anabolic steroids, drug paraphernalia, or a firearm or other deadly weapon;

6A:16-7.8. Attendance.

(a) Each district board of education shall develop, adopt and implement policies and procedures regarding the attendance of students, pursuant to N.J.S.A. 18A:38-25 through 31 and N.J.A.C. 6A:32-8 and 13.1, at the public schools of the district or day schools in which students are provided with equivalent instruction, according to the requirements of N.J.S.A. 18A:38-25, that shall include, at a minimum:

4. School staff responses for unexcused absences:

i. For up to four cumulative unexcused absences, the school district shall:

(1) Make a reasonable attempt to notify the student's parents of each unexcused absence prior to the start of the following school day;

ii. For between five and nine cumulative unexcused absences, the school district shall:

(1) Make a reasonable attempt to notify the student's parents of each unexcused absence prior to the start of the following school day;

(2) Conduct a follow-up investigation, including contact with the student's parents, to determine the cause of each unexcused absence;

iii. For cumulative unexcused absences of 10 or more, the student, between the ages of six and 16, is truant, pursuant to N.J.S.A. 18A:38-27, and the school district shall:

(1) Make a mandatory referral to the court program required by the New Jersey Administrative Office of the Courts;

(2) Make a reasonable attempt to notify the student's parents of the mandatory referral;

(3) Continue to consult with the parent and the involved agencies to support the student's return to school and regular attendance;

Reporting between schools and law enforcement

STATUTES

18A:37-2.3. Responsibility for removal, report.

2. The principal or his or her designee shall be responsible for the removal of any pupil pursuant to section 1 of P.L.1995, c.128 (C.18A:37-2.2). The principal or his or her designee shall immediately report the removal of any pupil to the district's chief school administrator. The principal shall also notify the appropriate law enforcement agency of a possible violation of the New Jersey Code of Criminal Justice.

18A:37-6. Rules, regulations.

The State Board of Education, in consultation and cooperation with the Attorney General, shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) rules and regulations regarding law enforcement activities on school grounds and the reporting of suspected offenses and acts of delinquency to law enforcement.

18A:37-9. Responsibility for removal, report.

The principal or his or her designee shall be responsible for the removal of any pupil pursuant to section 2 of P.L.1995, c.127 (C.18A:37-8). The principal or his or her designee shall immediately report the removal of any pupil to the district's chief school administrator. The district's chief school administrator may modify

such removal of a pupil on a case-by-case basis. The principal shall also notify the appropriate law enforcement agency of a possible violation of the New Jersey Code of Criminal Justice.

18A:40A-18(c). Employment of student assistance coordinators in certain school districts.

c. It shall be the responsibility of student assistance coordinators to assist local school districts in the effective implementation of this act. Coordinators shall assist with the in service training of school district staff concerning substance abuse issues and the district program to combat substance abuse; serve as an information resource for substance abuse curriculum development and instruction; assist the district in revising and implementing substance abuse policies and procedures; develop and administer intervention services in the district; provide counseling services to pupils regarding substance abuse problems; and, where necessary and appropriate, cooperate with juvenile justice officials in the rendering of substance abuse treatment services.

ADMINISTRATIVE CODE

6A:16-6.1. Adoption of policies and procedures.

(a) District boards of education shall adopt and implement policies and procedures to ensure cooperation between school staff and law enforcement authorities in all matters relating to:

1. The unlawful possession, distribution and disposition of the following:
   i. Controlled dangerous substances, including anabolic steroids, as defined in N.J.S.A. 24:21-2 and N.J.S.A. 2C:35-2;
   ii. Drug paraphernalia, as defined in N.J.S.A. 2C:36-1;
   iii. Alcoholic beverages;
   iv. Firearms, as defined in subsection f of N.J.S.A. 2C:39-1f; and
   v. Other deadly weapons, as defined in N.J.S.A. 2C:39-1r.
2. The planning and conduct of law enforcement activities and operations occurring on school grounds, including on a school bus or at a school-sponsored function, including arrest procedures and undercover school operations.

6A:16-6.2. Development and implementation of policies and procedures.

(a) School district policies and procedures developed pursuant to this subchapter shall be:

1. Developed, implemented and revised, as necessary, in consultation with the county prosecutor and such other law enforcement officials as may be designated by the county prosecutor;
2. Reviewed and approved by the county superintendent;
3. Made available annually to all school staff, students and parents;
4. Consistent with reporting, notification and examination procedures of students suspected of being under the influence of alcohol and other drugs according to the requirements of N.J.A.C. 6A:16-4.3; and
5. Consistent with N.J.A.C. 6A:16-7, as appropriate.

(b) School district policies and procedures shall include the following components:

1. The designation of liaisons to law enforcement agencies and the description of their roles and responsibilities by the chief school administrator;
2. Specific procedures for and responsibilities of staff in summoning appropriate law enforcement authorities onto school grounds, including on a school bus or at a school-sponsored function, for the purpose of conducting law enforcement investigations, searches, seizures and arrests;

3. Specific procedures and responsibilities of staff for notifying parents in instances of law enforcement interviews involving their children;

4. Specific procedures for and responsibilities of staff in cooperating with arrests made by law enforcement authorities on school grounds, including on a school bus or at a school-sponsored function;

5. Specific procedures for and responsibilities of staff in initiating or conducting searches and seizures of students, their property and their personal effects.

i. All searches and seizures conducted by school staff shall comply with the standards prescribed by the United States Supreme Court in New Jersey v. T.L.O., 469 U.S. 325 (1985).

ii. Any question concerning searches conducted by school officials shall be directed to the appropriate county prosecutor.

iii. School officials may request that law enforcement authorities assume responsibility for conducting any search or seizure.

iv. No school staff member shall impede any law enforcement officer engaged in a lawful search, seizure or arrest whether pursuant to a warrant or otherwise.

v. School staff shall permit law enforcement authorities, upon their arrival, to assume responsibility for conducting any search or seizure.

vi. All inspections of lockers, desks or other objects or personal property on school grounds, including on a school bus or at a school-sponsored function, involving the use of law enforcement drug-detection canines only may be undertaken with the express permission of the county prosecutor or the Director of the Division of Criminal Justice or his or her designee in the New Jersey Department of Law and Public Safety.

vii. Any questions concerning the legality of any contemplated or ongoing search, seizure or arrest conducted by a law enforcement officer on school grounds, including on a school bus or at a school-sponsored function, shall be directed to the county prosecutor or, in the case of a search, seizure or arrest undertaken by the Division of Criminal Justice designee in the New Jersey Department of Law and Public Safety, to the assigned Assistant Attorney General;

6. The procedures for and responsibilities of staff, with regard to interviews of students suspected of possessing or distributing a controlled dangerous substance, including anabolic steroids, drug paraphernalia or a firearm or other deadly weapon;

7. Procedures for planning, approving and conducting undercover school operations.

i. The chief school administrator and school principal shall cooperate with law enforcement authorities in the planning and conduct of undercover school operations. The chief school administrator shall approve such undercover operations without prior notification to the district board of education.

ii. All information concerning requests to undertake any undercover school operation, information supplied by law enforcement authorities to justify or explain the need for and of a proposed undercover school operation, and all other information concerning an ongoing undercover school operation, including the identity of any undercover officer placed in a school, shall be kept strictly confidential by the chief school administrator and school principal.

iii. The chief school administrator and principal shall not divulge information concerning any undercover school operation to any person without the prior express approval of the county prosecutor or designee.

iv. In the event that the chief school administrator, principal or any other school staff or district board of education member who may have been informed regarding the existence of the undercover school operation subsequently learns of any information which suggests that the true identity of the

undercover officer has been revealed, or that any person has questioned the identity or status of the undercover officer as a bona fide member of the school community, or that the integrity of the undercover school operation has been in any other way compromised, such information shall be immediately communicated to the county prosecutor or designee;

8. The procedures for and responsibilities of staff concerning the safe and proper handling of any seized controlled dangerous substance, including anabolic steroids, drug paraphernalia or a firearm or other deadly weapon, and the prompt delivery of such items to appropriate law enforcement authorities in accordance with this subchapter;

9. The procedures for and responsibilities of staff in notifying authorities of any suspected violation of any laws prohibiting the possession, sale or other distribution of any controlled dangerous substance, including anabolic steroids, drug paraphernalia, or a firearm or other deadly weapon;

10. Provisions for requesting uniformed police attendance at extracurricular school events;

11. Provisions for notifying parents as soon as possible whenever a student is arrested for violating any law prohibiting the possession, sale or other distribution of any controlled dangerous substance, including anabolic steroids, drug paraphernalia, or a firearm or other deadly weapon;

12. Provisions for the in-service training of school staff concerning policies and procedures established in this subchapter, and the exchange of information regarding the practices of the education and law enforcement agencies;

13. An agreement or memorandum of understanding with appropriate law enforcement authorities.

i. The agreement or memorandum of understanding shall be consistent with the policies and procedures established in this subchapter and shall be consistent with the format and content established by the Attorney General and the Commissioner of Education.

ii. The agreement or memorandum of understanding shall define the reciprocal rights and obligations of students, parents, school staff and law enforcement officials with respect to the possession, distribution and disposition of controlled dangerous substances, including anabolic steroids, drug paraphernalia, and firearms and other deadly weapons; with respect to the planning and conduct of law enforcement activities and operations occurring on school grounds, including on a school bus or at a school-sponsored function, including arrests and undercover school operations; and with respect to the participation of law enforcement officials in alcohol or other drug abuse prevention programs.

iii. Copies of all agreements or memoranda of understanding entered into with law enforcement authorities shall be approved by the district board of education and shall be submitted to and approved by the county prosecutor and county superintendent of schools.

14. Provisions for resolving disputes concerning law enforcement activities occurring on school grounds, including on a school bus or at a school-sponsored function; and

15. An annual process for the local chief school administrator and appropriate law enforcement officials to discuss the implementation and need for revising the agreement or memorandum of understanding, and to review the effectiveness of policies and procedures implemented pursuant to the provisions of this subchapter.

i. The annual review shall include input from the county superintendent, community members and meeting(s) with the county prosecutor and such other law enforcement officials designated by the county prosecutor.

ii. The memorandum of understanding may be revised only to include provisions that are in addition to and do not conflict with the policies and procedures established in this subchapter and that are in addition to and do not conflict with the format and content established by the Attorney General and the Commissioner of Education.

6A:16-6.3. Reporting students or staff members to law enforcement authorities.

(a) Subject to the provisions of N.J.A.C. 6A:16-6.5, any staff member who, in the course of his or her employment, has reason to believe that a student or staff member has unlawfully possessed or in any way been involved in the distribution of a controlled dangerous substance, including anabolic steroids, or drug paraphernalia, shall report the matter as soon as possible to the principal or, in the absence of the principal, to the staff member responsible at the time of the alleged violation.

1. Either the principal or the responsible staff member shall notify the chief school administrator, who in turn shall notify as soon as possible the appropriate county prosecutor or other law enforcement official designated by the county prosecutor to receive such information.

2. The chief school administrator or designee shall provide to the county prosecutor or designee all known information concerning the matter, including the identity of the student or staff member involved.

3. The chief school administrator or designee shall not disclose, however, the identity of any student or staff member who has voluntarily sought and participated in an appropriate treatment or counseling program for an alcohol or other drug abuse problem, provided the student or staff member is not reasonably believed to be involved or implicated in drug distribution activities.

i. For the purpose of this section, an admission by a student or staff member in response to questioning initiated by the principal or teaching staff member, or following the discovery of a controlled dangerous substance, including anabolic steroids, or drug paraphernalia, by the principal or teaching staff member, shall not constitute a voluntary, self-initiated request for counseling and treatment.

4. The chief school administrator or designee may, but need not, disclose to law enforcement authorities the identity of a student suspected to be under the influence of alcohol and/or controlled dangerous substances, pursuant to N.J.A.C. 6A:16-4.3(a), or a student suspected to have used or who may be using anabolic steroids, pursuant to N.J.A.C. 6A:16-4.3(b), and who is referred for a medical examination, pursuant to N.J.A.C. 6A:16-4.3(a) or (b), as appropriate, for the purposes of providing appropriate health care for the student and for determining whether the student is under the influence of alcohol or other drugs or has been using anabolic steroids, provided that the student is not reasonably believed to be in possession of a controlled dangerous substance or drug paraphernalia, and is not reasonably believed to be involved or implicated in drug distribution activities.

(b) Whenever any school employee develops reason to believe that a firearm, as defined in N.J.S.A. 2C:39-1(f) and 18 U.S.C.§ 921, or other deadly weapon, whether enumerated in N.J.S.A. 2C:39-1(r) or not, except a firearm as defined by N.J.S.A. 2C:39-1(f) and 18 U.S.C. § 921, has unlawfully been brought onto school grounds, including on a school bus or to a school-sponsored function, or that any student or other person is in unlawful possession of a firearm or other deadly weapon, whether on or off school grounds, including on a school bus or at a school-sponsored function, or that any student or other person has committed an offense with or while in possession of a firearm, whether or not such offense was committed on school grounds, including on a school bus or at a school-sponsored function, or during school operating hours, the matter shall be reported as soon as possible to the principal, or in the absence of the principal, to the staff member responsible at the time of the alleged violation.

1. Either the principal or the responsible staff member shall notify the chief school administrator, who in turn shall notify, as soon as possible, the county prosecutor or other law enforcement official designated by the county prosecutor to receive such information.

2. The chief school administrator or designee shall provide to the county prosecutor or designee all known information concerning the matter, including the identity of the student or staff member involved.

(c) The designated school official, as defined by (b)1 above, shall immediately notify the designated law enforcement official whenever any school employee in the course of his or her employment develops

reason to believe that a student has threatened, is planning or otherwise intends to cause death, serious bodily injury or significant bodily injury to another person under circumstances in which a reasonable person would believe that the student genuinely intends at some time in the future to commit the violent act or carry out the threat.

(d) The designated school official, as defined by (b)1 above, shall immediately notify the designated law enforcement official whenever any school employee in the course of his or her employment develops reason to believe that a crime involving sexual penetration or criminal sexual conduct has been committed on school grounds, including on a school bus or at a school-sponsored function, or by or against a student during school operating hours or during school-related functions or activities.

(e) School employees shall immediately notify the building principal and chief school administrator when in the course of their employment they develop reason to believe that a hate crime has been committed or is about to be committed on school grounds, including on a school bus or at a school-sponsored function, or has been or is about to be committed by any student, whether on or off school grounds, including on a school bus or at a school-sponsored function, and whether or not such offense was or is to be committed during operating school hours, or a student enrolled in the school has been or is about to become the victim of a hate crime, whether committed on or off school grounds, including on a school bus or at a school-sponsored function, or during operating school hours.

1. The designated school official, as defined by (b)1 above, shall promptly notify the local police department and the bias investigation officer for the county prosecutor's office in the instances described above.
2. The designated school official, as defined by (b)1 above, shall immediately notify the local police department and the bias investigation officer for the county prosecutor's office where there is reason to believe that a hate crime that involves an act of violence has been or is about to be physically committed against a student, or there is otherwise reason to believe that a life has been or will be threatened.

(f) All incidents shall be reported under this section utilizing the Electronic Violence and Vandalism Reporting System, pursuant to N.J.A.C. 6A:16-5.3(e)1, where appropriate.

Disclosure of school records

STATUTES

18A:36-19. Pupil records; creation, maintenance and retention, security and access; regulations; nonliability.

The State Board of Education shall provide by regulation for the creation, maintenance and retention of pupil records and for the security thereof and access thereto, to provide general protection for the right of the pupil to be supplied with necessary information about herself or himself, the right of the parent or guardian and the adult pupil to be supplied with full information about the pupil, except as may be inconsistent with reasonable protection of the persons involved, the right of both pupil and parent or guardian to reasonable privacy as against other persons and the opportunity for the public schools to have the data necessary to provide a thorough and efficient educational system for all pupils.

No liability shall attach to any member, officer or employee of any board of education for the furnishing of any pupil records consistent with this act and the regulations adopted hereunder.

18A:37-15. Adoption of policy concerning harassment, intimidating or bullying by each school district.

b. A school district shall have local control over the content of the policy, except that the policy shall contain, at a minimum, the following components:

(6) a procedure for prompt investigation of reports of violations and complaints, which procedure shall at a minimum provide that:

(d) parents or guardians of the students who are parties to the investigation shall be entitled to receive information about the investigation, in accordance with federal and State law and regulation, including the nature of the investigation, whether the district found evidence of harassment, intimidation, or bullying, or whether discipline was imposed or services provided to address the incident of harassment, intimidation, or bullying. This information shall be provided in writing within 5 school days after the results of the investigation are reported to the board. A parent or guardian may request a hearing before the board after receiving the information, and the hearing shall be held within 10 days of the request. The board shall meet in executive session for the hearing to protect the confidentiality of the students. At the hearing the board may hear from the school anti-bullying specialist about the incident, recommendations for discipline or services, and any programs instituted to reduce such incidents;

18A:40A-7.1. Confidentiality of certain information provided by pupil; exceptions.

1. a. Except as provided by section 3 of P.L.1971, c.437 (C.9:6-8.10), if a public or private elementary or secondary school pupil who is participating in a school-based drug and alcohol abuse counseling program provides information during the course of a counseling session in that program which indicates that the pupil's parent or guardian or other person residing in the pupil's household is dependent upon or illegally using a substance as that term is defined in section 2 of P.L.1987, c.387 (C.18A:40A-9), that information shall be kept confidential and may be disclosed only under the circumstances expressly authorized under subsection b. of this section.

b. The information provided by a pupil pursuant to subsection a. of this section may be disclosed:

(1) subject to the pupil's written consent, to another person or entity whom the pupil specifies in writing in the case of a secondary school pupil, or to a member of the pupil's immediate family or the appropriate school personnel in the case of an elementary school pupil;

(2) pursuant to a court order;

(3) to a person engaged in a bona fide research purpose, except that no names or other information identifying the pupil or the person with respect to whose substance abuse the information was provided, shall be made available to the researcher; or

(4) to the Division of Child Protection and Permanency or to a law enforcement agency, if the information would cause a person to reasonably suspect that the elementary or secondary school pupil or another child may be an abused or neglected child as the terms are used in R.S.9:6-1, or as the terms are defined in section 2 of P.L.1971, c.437 (C.9:6-8.9), or section 1 of P.L.1974, c.119 (C.9:6-8.21).

c. Any disclosure made pursuant to paragraph (1) or (2) of subsection b. of this section shall be limited to that information which is necessary to carry out the purpose of the disclosure, and the person or entity to whom the information is disclosed shall be prohibited from making any further disclosure of that information without the pupil's written consent. The disclosure shall be accompanied by a written statement advising the recipient that the information is being disclosed from records the confidentiality of which is protected by P.L.1997, c.362 (C.18A:40A-7.1 et seq.), and that this law prohibits any further disclosure of this information without the written consent of the person from whom the information originated. Nothing in P.L.1997, c.362 (C.18A:40A-7.1 et seq.) shall be construed as prohibiting the

Division of Child Protection and Permanency or a law enforcement agency from using or disclosing the information in the course of conducting an investigation or prosecution. Nothing in P.L.1997, c.362 shall be construed as authorizing the violation of any federal law.

d. The prohibition on the disclosure of information provided by a pupil pursuant to subsection a. of this section shall apply whether the person to whom the information was provided believes that the person seeking the information already has it, has other means of obtaining it, is a law enforcement or other public official, has obtained a subpoena, or asserts any other justification for the disclosure of this information.

47:3-15. Short title.

This act shall be known and cited as "Destruction of Public Records Law (1953)."

47:3-16. Terms defined.

As used in this act, except where the context indicates otherwise, the words "public records" mean any paper, written or printed book, document or drawing, map or plan, photograph, microfilm, data processed or image processed document, sound-recording or similar device, or any copy thereof which has been made or is required by law to be received for filing, indexing, or reproducing by any officer, commission, agency or authority of the State or of any political subdivision thereof, including subordinate boards thereof, or that has been received by any such officer, commission, agency or authority of the State or of any political subdivision thereof, including subordinate boards thereof, in connection with the transaction of public business and has been retained by such recipient or its successor as evidence of its activities or because of the information contained therein.

As used in this act the word "bureau" means the Bureau of Archives and History in the Department of Education.

47:3-17. Consent of bureau to disposition or destruction of public records or documents.

No person shall destroy, sell or otherwise dispose of any public record, archives or printed public documents which are under his control or in his care or custody, whether or not they are in current use, without first having advised the Bureau of Archives and History in the Department of Education of their nature, and obtained the written consent of that bureau; which consent may be given by said bureau only if the same is in conformance with regulations governing the granting thereof which shall be made and promulgated by the State Records Committee established by section six of this act.

47:3-19. Schedules.

The bureau, in co-operation with the several State departments, commissions and agencies, shall make a study of the kind and character of public records in their control or custody and shall prepare proposed schedules for submission to the State Records Committee established by section six hereof for its approval and advise the said several departments, commissions and agencies of all applicable operative schedules.

ADMINISTRATIVE CODE

6A:16-3.2. Confidentiality of student alcohol and other drug information.

(a) Each district board of education shall assure compliance with the following confidentiality requirements:

1. Confidentiality of alcohol and drug abuse patient records, pursuant to 42 CFR Part 2; and
2. Confidentiality of information provided by an elementary or secondary school student while participating in a school-based drug and alcohol counseling program which indicates that the student's

parent or other person residing in the student's household is dependent upon or illegally using substances pursuant to N.J.S.A. 18A:40A-7.1 and 7.2.

6A:16-5.4. Access to juvenile justice information.

(a) Each district board of education shall adopt and implement policies and procedures protecting access to information related to juvenile justice proceedings, according to the requirements of N.J.S.A. 2A:4A-60.

6A:16-7.10. Student records and confidentiality.

(a) When a student transfers to a public school district from another public school district, all information in the student's record related to disciplinary actions taken against the student by the school district and any information the school district has obtained pursuant to N.J.S.A. 2A:4A-60, Disclosure of juvenile information; penalties for disclosure, shall be provided to the receiving public school district, in accordance with the provisions of N.J.S.A. 18A:36-19a and N.J.A.C. 6A:32-7.5(f)10iii through v.

1. The record shall be provided within two weeks of the date that the student enrolls in the receiving school district.

2. Written consent of the parent or adult student shall not be required as a condition of the transfer of this information.

i. Written notice of the transfer shall be provided to the parent or the adult student.

(b) When a student transfers to a private school, which includes all sectarian or nonsectarian nonprofit institutional day or residential schools that provide education for students placed by their parents and that are controlled by other than public authority, all student disciplinary records, with respect to suspensions or expulsions, shall be provided by the public school district of residence to the private school upon written request from the private school, in the same manner as such records would be provided by a public school district of residence to a public school district, pursuant to 20 U.S.C. § 6301, Title IV(A)IV § 4155 of the Elementary and Secondary Education Act as reauthorized under the No Child Left Behind Act.

(c) A district board of education shall not use a student's past offenses on record to discriminate against that student.

(d) All records maintained in this subchapter shall conform with the requirements set forth at 20 U.S.C. §1232g and 34 CFR Part 99, Family Educational Rights and Privacy Act; 20 U.S.C. § 1232h and 34 CFR Part 98, Protection of Pupil Rights Amendment; N.J.A.C. 6A:32-7, Student Records; 45 CFR § 160, Health Insurance Portability and Accountability Act; 20 U.S.C. § 6301, Title IV(A)IV § 4155 of the Elementary and Secondary Education Act as reauthorized under the No Child Left Behind Act; 42 CFR Part 2, Confidentiality of Alcohol and Drug Abuse Patient Records; N.J.S.A. 18A:40A-7.1, School-based drug and alcohol abuse counseling; information from participants; disclosure; N.J.A.C. 6A:16-3.2, Confidentiality of student alcohol and other drug information; N.J.S.A. 18A:36-19, Creation; Pupil Records: Maintenance and Retention, Security and Access; Regulations; Non-Liability; N.J.A.C. 6A:14-2.9, Student records; as well as other existing Federal and State laws pertaining to student records and confidentiality.

Data collection, review, and reporting of disciplinary policies and actions

ADMINISTRATIVE CODE

6A:16-6.2. Development and implementation of policies and procedures.

15. An annual process for the local chief school administrator and appropriate law enforcement officials to discuss the implementation and need for revising the agreement or memorandum of understanding, and

to review the effectiveness of policies and procedures implemented pursuant to the provisions of this subchapter.

i. The annual review shall include input from the county superintendent, community members and meeting(s) with the county prosecutor and such other law enforcement officials designated by the county prosecutor.

ii. The memorandum of understanding may be revised only to include provisions that are in addition to and do not conflict with the policies and procedures established in this subchapter and that are in addition to and do not conflict with the format and content established by the Attorney General and the Commissioner of Education.

6A:16-7.1. Code of student conduct.

(a) Each district board of education shall develop, adopt and implement a code of student conduct which establishes standards, policies and procedures for positive student development and student behavioral expectations on school grounds, including on school buses or at school-sponsored functions, and, as appropriate, for conduct away from school grounds, in accordance with N.J.A.C. 6A:16-7.2 through 7.5, 7.8 and 7.9.

3. The district board of education shall establish a process for the annual review and update of the code of student conduct that provides for:

ii. Consideration of the findings of the annual reports of student conduct, including suspensions and expulsions, pursuant to (a)5 and 6 below, and the incidences reported under the Electronic Violence and Vandalism Reporting System, in accordance with N.J.A.C. 6A:16-5.3.

5. The chief school administrator shall report annually on the implementation of the code of student conduct to the district board of education at a public meeting. The annual summary shall contain, at a minimum:

i. A numerical inventory of all violations of the student behavioral expectations in the code of student conduct;

ii. Associated school responses to the violations of the student behavioral expectations;

iii. An explanation and evidence of the effectiveness of the code of student conduct. The explanation and evidence, at a minimum, shall address:

(1) The degree of effectiveness of the school district's activities in achieving the purposes of the code of student conduct, pursuant to (b) below; and

(2) The degree of implementation and effectiveness of the implementation of the contents of the code of student conduct, pursuant to (c) below; and

iv. Any proposed changes to the school district's current policies, procedures, programs or initiatives, based on the report pursuant to (a)5 above.

6. The chief school administrator shall submit a report annually to the New Jersey Department of Education on student conduct, including all student suspensions and expulsions, and the implementation of the code of student conduct, pursuant to this section, in accordance with the format prescribed by the Commissioner of Education and the Electronic Violence and Vandalism Reporting System, pursuant to N.J.A.C. 6A:16-5.3(e).

6A:16-7.9. Intimidation, harassment and bullying.

(d) The district board of education shall:

3. Annually review the extent and characteristics of harassment, intimidation and bullying behavior in the school buildings of the school district and implement locally determined programmatic or other responses, if determined appropriate by the district board of education.

i. The programs or other services shall be planned in consultation with parents, students and other community members, including appropriate community-based social and health provider agencies, law enforcement officials, school employees, school volunteers, students and school administrators, as appropriate.

Student Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers

Authority and power to implement school arrest

No relevant statutes found.

Certification or training

STATUTES

18A:17-43.1. Training course required for service as safe schools resource officer, liaison to law enforcement.

3. a. Following the development of the training course pursuant to subsection a. of section 2 of P.L.2005, c.276 (C.52:17B-71.8) or 180 days following the effective date of this act, whichever occurs first, a board of education shall not assign a safe schools resource officer to a public school unless that individual first completes the safe schools resource officer training course.

b. Following the development of the training course pursuant to subsection a. of section 2 of P.L.2005, c.276 (C.52:17B-71.8) or 180 days following the effective date of this act, whichever occurs first, a board of education shall not assign an employee to serve as a school liaison to law enforcement unless that individual first completes the safe schools resource officer training course.

c. A person who is assigned to a public school as a safe schools resource officer prior to the effective date of P.L.2005, c.276 (C.52:17B-71.8 et al.) or assigned to serve as a school liaison to law enforcement prior to that date shall not be required to complete the safe schools resource officer training course developed by the Police Training Commission pursuant to subsection a. of section 2 of P.L.2005, c.276 (C.52:17B-71.8), but may in accordance with that section.

52:17B-71.8. Training course for safe schools resource officers, liaisons to law enforcement.

a. The Police Training Commission in the Division of Criminal Justice in the Department of Law and Public Safety, in consultation with the Attorney General, shall develop a training course for safe schools resource officers and public school employees assigned by a board of education to serve as a school liaison to law enforcement. The Attorney General, in conjunction with the Police Training Commission, shall ensure that the training course is developed within 180 days of the effective date of this act. The course shall at a minimum provide comprehensive and consistent training in current school resource officer practices and concepts. The course shall include training in the protection of students from harassment, intimidation, and bullying, including incidents which occur through electronic communication. The course shall be made available to:

(1) any law enforcement officer or public school employee referred by the board of education of the public school to which assignment as a safe schools resource officer or school liaison to law enforcement is sought; and

(2) any safe schools resource officer or school liaison to law enforcement assigned to a public school prior to the effective date of P.L.2005, c.276 (C.52:17B-71.8 et al.).

b. The training course developed by the commission pursuant to subsection a. of this section shall be offered at each school approved by the commission to provide police training courses pursuant to the provisions of P.L.1961, c.56 (C.52:17B-66 et seq.). The commission shall ensure that an individual assigned to instruct the course is proficient and experienced in current school resource officer practices and concepts.

c. The commission shall award a certificate to each individual who successfully completes the course.

d. The Police Training Commission, in consultation with the Commissioner of Education, shall adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to implement the provisions of this section.

MOUs, authorization, and/or funding

ADMINISTRATIVE CODE

6A:16-6.2. Development and implementation of policies and procedures.

(b) School district policies and procedures shall include the following components:

13. An agreement or memorandum of understanding with appropriate law enforcement authorities.

i. The agreement or memorandum of understanding shall be consistent with the policies and procedures established in this subchapter and shall be consistent with the format and content established by the Attorney General and the Commissioner of Education.

ii. The agreement or memorandum of understanding shall define the reciprocal rights and obligations of students, parents, school staff and law enforcement officials with respect to the possession, distribution and disposition of controlled dangerous substances, including anabolic steroids, drug paraphernalia, and firearms and other deadly weapons; with respect to the planning and conduct of law enforcement activities and operations occurring on school grounds, including on a school bus or at a school-sponsored function, including arrests and undercover school operations; and with respect to the participation of law enforcement officials in alcohol or other drug abuse prevention programs.

iii. Copies of all agreements or memoranda of understanding entered into with law enforcement authorities shall be approved by the district board of education and shall be submitted to and approved by the county prosecutor and county superintendent of schools.

15. An annual process for the local chief school administrator and appropriate law enforcement officials to discuss the implementation and need for revising the agreement or memorandum of understanding, and to review the effectiveness of policies and procedures implemented pursuant to the provisions of this subchapter.

i. The annual review shall include input from the county superintendent, community members and meeting(s) with the county prosecutor and such other law enforcement officials designated by the county prosecutor.

ii. The memorandum of understanding may be revised only to include provisions that are in addition to and do not conflict with the policies and procedures established in this subchapter and that are in addition to and do not conflict with the format and content established by the Attorney General and the Commissioner of Education.

State Education Agency Support

State model policies and implementation support

STATUTES

18A:37-24. Development of guidance document.

a. The Department of Education, in consultation with the Division on Civil Rights in the Department of Law and Public Safety shall develop a guidance document for use by parents or guardians, students, and school districts to assist in resolving complaints concerning student harassment, intimidation, or bullying behaviors and the implementation of P.L.2002, c.83 (C.18A:37-13 et seq.) by school districts. The document shall include:

(1) a school district's obligations under P.L.2002, c.83 (C.18A:37-13 et seq.);

(2) best practices for the prevention, intervention, and remediation of harassment, intimidation, or bullying in schools, including methods to identify and assist student populations at high risk for harassment, intimidation, or bullying;

(3) a clear explanation of the procedures for petitioning the Commissioner of Education to hear and decide disputes concerning P.L.2002, c.83 (C.18A:37-13 et seq.);

(4) a clear explanation of the Division on Civil Rights' jurisdiction and services in regard to specific types of harassment, intimidation, or bullying; and

(5) a clear explanation of the process for appealing final agency determinations to the Appellate Division of the Superior Court.

b. The guidance document shall be available on the Department of Education's and the Division on Civil Rights' Internet sites and on every school district's Internet site at an easily accessible location.

18A:37-15. Adoption of policy concerning harassment, intimidating or bullying by each school district.

d. (1) To assist school districts in developing policies for the prevention of harassment, intimidation, or bullying, the Commissioner of Education shall develop a model policy applicable to grades kindergarten through 12. This model policy shall be issued no later than December 1, 2002.

(2)The commissioner shall adopt amendments to the model policy which reflect the provisions of P.L.2010, c.122 (C.18A:37-13.1 et al.) no later than 90 days after the effective date of that act and shall subsequently update the model policy as the commissioner deems necessary.

Funding appropriations

STATUTES

18A:37-15. Adoption of policy concerning harassment, intimidating or bullying by each school district.

b. A school district shall have local control over the content of the policy, except that the policy shall contain, at a minimum, the following components:

(7) the range of ways in which a school will respond once an incident of harassment, intimidation or bullying is identified, which shall be defined by the principal in conjunction with the school anti-bullying specialist, but shall include an appropriate combination of services that are available within the district such as counseling, support services, intervention services, and other programs, as defined by the

commissioner. In the event that the necessary programs and services are not available within the district, the district may apply to the Department of Education for a grant from the "Bullying Prevention Fund" established pursuant to section 25 of P.L.2010, c.122 (C.18A:37-28) to support the provision of out-of-district programs and services;

18A:37-28. "Bullying Prevention Fund."

There is created a special fund in the Department of Education, which shall be designated the "Bullying Prevention Fund." The fund shall be maintained in a separate account and administered by the commissioner to carry out the provisions of this act. The fund shall consist of: (1) any monies appropriated by the State for the purposes of the fund; (2) any monies donated for the purposes of the fund; and (3) all interest and investment earnings received on monies in the fund. The fund shall be used to offer grants to school districts to provide training on harassment, intimidation, and bullying prevention and on the effective creation of positive school climates, and to help fund related personnel expenses.

Other/Uncategorized

Professional immunity or liability

STATUTES

18A:37-16. Reprisal, retaliation, false accusation prohibited.

c. A member of a board of education or a school employee who promptly reports an incident of harassment, intimidation or bullying, to the appropriate school official designated by the school district's policy, or to any school administrator or safe schools resource officer, and who makes this report in compliance with the procedures in the district's policy, is immune from a cause of action for damages arising from any failure to remedy the reported incident.

18A:40A-13. Immunity for personnel.

No action of any kind in any court of competent jurisdiction shall lie against any teaching staff member, including a student assistance coordinator, any school nurse or other educational personnel, medical inspector, examining physician or any other officer, agent or any employee of the board of education or personnel of the emergency room of a hospital because of any action taken by virtue of the provisions of this act, provided the skill and care given is that ordinarily required and exercised by other such teaching staff members, nurses, educational personnel, medical inspectors, physicians or other officers, agents, or any employees of the board of education or emergency room personnel.

18A:40A-14. Civil immunity for reporting.

Any teacher, guidance counselor, school psychologist, school nurse, student assistance coordinator or other educational or noneducational personnel, employed by or in any of the public or private schools of this State, who in good faith reports a pupil to the principal or his designee or to the medical inspector or school physician or school nurse in an attempt to help such pupil cure his abuse of substances as defined in section 2 of this act, shall not be liable in civil damages as a result of making any such report.

Nothing in this section is intended to preclude the protections provided in section 2 of P.L.1971, c.414 (C.2A:62A-4) or otherwise provided by law.

ADMINISTRATIVE CODE

6A:16-7.9. Intimidation, harassment and bullying

(c) 1. A school employee who promptly reports an incident of harassment, intimidation or bullying to the appropriate school official designated by the district board of education’s policy, and who makes this report in compliance with the procedures set forth in the district board of education’s policy, is immune from a cause of action for damages arising from any failure to remedy the reported incident, as set forth in N.J.S.A. 18A:37-16(4)c.

Community input or involvement

STATUTES

18A:37-15. Adoption of policy concerning harassment, intimidating or bullying by each school district.

a. Each school district shall adopt a policy prohibiting harassment, intimidation or bullying on school property, at a school-sponsored function or on a school bus. The school district shall adopt the policy

through a process that includes representation of parents or guardians, school employees, volunteers, students, administrators, and community representatives.

18A:37-17. Establishment of bullying prevention programs or approaches.

a. Schools and school districts shall annually establish, implement, document, and assess bullying prevention programs or approaches, and other initiatives involving school staff, students, administrators, volunteers, parents, law enforcement and community members. The programs or approaches shall be designed to create school-wide conditions to prevent and address harassment, intimidation, and bullying. A school district may implement bullying prevention programs and approaches that may be available at no cost from the Department of Education, the New Jersey State Bar Foundation, or any other entity. A school district may, at its own discretion, implement bullying prevention programs and approaches which impose a cost on the district.

A school district may apply to the Department of Education for a grant to be used for programs, approaches, or personnel established pursuant to this act, to the extent funds are appropriated for these purposes or funds are made available through the "Bullying Prevention Fund" established pursuant to section 25 of P.L.2010, c.122 (C.18A:37-28). A school district may make an application for a grant only after exploring bullying prevention programs and approaches that are available at no cost, and making an affirmative demonstration of that exploration in its grant application.

18A:40A-11. Policies for evaluations, referral, discipline.

Each board of education shall adopt and implement, in accordance with rules and regulations promulgated by the State board, policies and procedures for the evaluation, referral for treatment and discipline of pupils involved in incidents of possession or abuse of substances as defined in section 2 of this act, on school property or at school functions, or who show significant symptoms of the use of those substances on school property or at school functions. In adopting and implementing these policies and procedures, the board shall consult and work closely with a local organization involved with the prevention, detection and treatment of substance abuse approved by the Department of Health.

18A:40A-16. Guidelines, materials for program.

a. The Commissioner of Education, in consultation with the Commissioner of Health, shall establish guidelines for substance abuse education programs to be offered by local boards of education to the parents or legal guardians of public school pupils. The program shall, at a minimum, provide:

(1) A thorough and comprehensive review of the substance abuse education curriculum which will be taught to the child of the parent or guardian during the school year, with recommendations as to the ways in which the parent or guardian may enhance, reinforce and supplement that program;

(2) Information on the pharmacology, physiology, psychosocial and legal aspects of substance abuse, and instruction to assist the parent or guardian in the identification of the symptoms and behavioral patterns which might indicate that a child may be involved in substance abuse; and

(3) Information on the State, local and community organizations which are available for the prevention, early intervention, treatment and rehabilitation of individuals who show symptoms of substance abuse.

b. In addition to the guidelines required pursuant this section, the Commissioner of Education, in consultation with the Commissioner of Health, shall develop and provide to local boards of education suggested materials for the substance abuse education program for parents or legal guardians of school pupils, and shall maintain and continuously update a roster of individuals or groups available to assist boards of education in implementing this program and a list of State and local agencies and organizations which are approved by the Department of Health to provide services for the prevention, early intervention, treatment or rehabilitation of individuals who show symptoms of substance abuse.

18A:40A-17. Outreach program.

a. Under the guidelines established by the Commissioner of Education, each local board of education shall establish an outreach program to provide substance abuse education for the parents or legal guardians of the pupils of the district. In establishing the program, the local board of education shall consult with such local organizations and agencies as are recommended by the commissioner. The board of education shall insure that the program is offered at times and places convenient to the parents of the district on school premises, or in other suitable facilities.

b. In addition to the substance abuse education program required pursuant to this section, each local board of education shall establish policies and procedures to provide assistance to parents or legal guardians who believe that their child may be involved in substance abuse. These policies and procedures shall be consistent with the policies and procedures for intervention by school personnel developed pursuant to this act.

c. The board of education in each school district in the State in which a nonpublic school is located shall have the power and duty to loan to the parents or legal guardians of all pupils attending nonpublic schools located within the district all educational materials developed by the Commissioner of Education for the instruction of the parents or legal guardians of public school pupils on the nature and effects of substances and substance abuse. The Commissioner of Education shall make these materials available so that the local board of education shall not be required to expend funds for the loan of these materials.

18A:40A-24. Public hearing prior to adoption of drug testing policy.

3. Each board of education shall hold a public hearing prior to the adoption of its drug testing policy. The policy shall be in written form and shall be distributed to students and their parents or guardians at the beginning of each school year. The policy shall include, but need not be limited to, the following:

a. notice that the consent of the student and his parent or guardian for random student drug testing is required for the student to participate in extracurricular activities and to possess a school parking permit;

b. the procedures for collecting and testing specimens;

c. the manner in which students shall be randomly selected for drug testing;

d. the procedures for a student or his parent or guardian to challenge a positive test result;

e. the standards for ensuring the confidentiality of test results;

f. the specific disciplinary action to be imposed upon a student who tests positive for drug use or refuses to consent to testing;

g. the guidelines for the referral of a student who tests positive for drug use to drug counseling or rehabilitative treatment; and

h. the scope of authorized disclosure of test results.

ADMINISTRATIVE CODE

6A:16-7.9. Intimidation, harassment and bullying.

3. Annually review the extent and characteristics of harassment, intimidation and bullying behavior in the school buildings of the school district and implement locally determined programmatic or other responses, if determined appropriate by the district board of education.

i. The programs or other services shall be planned in consultation with parents, students and other community members, including appropriate community-based social and health provider agencies, law enforcement officials, school employees, school volunteers, students and school administrators, as appropriate.

6A:16-7.1. Code of student conduct.

(a) Each district board of education shall develop, adopt and implement a code of student conduct which establishes standards, policies and procedures for positive student development and student behavioral expectations on school grounds, including on school buses or at school-sponsored functions, and, as appropriate, for conduct away from school grounds, in accordance with N.J.A.C. 6A:16-7.2 through 7.5, 7.8 and 7.9.

1. The code of student conduct shall be based on parent, student and community involvement which represents, where possible, the composition of the schools and community.

Other/Uncategorized

No relevant statutes found.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by New Jersey provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
Website		
Keeping Our Kids Safe, Healthy and In School	Provides information on government agencies, statutes, reports, resources, data collection, regulations, case law, state initiatives and professional associations regarding student behavior issues, safe and positive learning environments and other areas affecting the safety and health of students.	http://www.state.nj.us/education/students/safety
Resources Supporting the *Anti-Bullying Bill of Rights Act*	Information and resources to support school implementation of the Anti-Bullying Bill of Rights.	http://www.state.nj.us/education/students/safety/behavior/hib/#si
Documents		
A Uniform State Memorandum of Agreement Between Education and Law Enforcement Officials	Memorandum between education and law enforcement concerning law enforcement activities occurring on school grounds and the reporting of suspected drug and other offenses by school officials to law enforcement .	http://www.state.nj.us/education/schools/security/regs/agree.pdf
New Jersey Department of Education Codes of Student Conduct (CSC)	Information and resources on the CSC requirements and their adoption, development and implementation.	http://www.state.nj.us/education/code/current/title6a/chap16.pdf
Other Resources		
New Jersey Department of Education – Codes of Student Conduct		http://www.state.nj.us/education/code/current/title6a/chap16.pdf
New Jersey Department of Education – Chapter 16 of the Administrative Code (subchapters 3, 4, 5, 6 7, 8, 9 and 10)		http://www.state.nj.us/education/code/current/title6a/chap16.pdf

Title	Description	Website address (if applicable)
Website		
A Uniform State Memorandum of Agreement Between Education and Law Enforcement Officials		http://www.state.nj.us/education/schools/security/regs/agree.pdf
Resources Supporting the *Anti-Bullying Bill of Rights Act*		http://www.state.nj.us/education/students/safety/behavior/hib/#si

New Mexico Compilation of School Discipline Laws and Regulations

Prepared: August 12, 2013

Introduction

This compilation presents school discipline-related state statutes, school discipline-related regulations, and, where available, links to state-sponsored websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSLE). For example, one major category encompasses all state laws or regulations mandating specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of state legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in each state.

Discipline categories were not mutually exclusive. Statutes and regulations often appeared across multiple categories. For states with more extensive statutes covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. State laws, ordered by chapter and section number, appear first within each category followed by state regulations. All statutes and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists statutes by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to state-sponsored websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of May 2013, with the exception of the state laws related to seclusion and restraint, which are complete and current as of December 2012. Readers should also note that the information in this document was compiled from individual state sources that are created by each state and which are maintained and updated with varying frequencies. Readers should consult the source information provided for each state directly in order to check for updates to this state's laws and regulations or conduct further research.

Note: Per state review, the New Mexico Public Education Department cannot and does not assume any responsibility or liability for the creation or approval of this document as comprehensive or "final."

For further information, including definitions of the different policy categories, please refer to the Discipline Laws and Regulations Compendium posted on the Center's website.

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Safe Supportive Learning
Engagement | Safety | Environment

Table of Contents

New Mexico State Codes Cited **1**

General Provisions **3**

Authority to develop and establish rules of conduct 3
Scope 8
Communication of policy 11

In-School Discipline **12**

Use of multi-tiered discipline approaches 12
Teacher authority to remove students from classrooms 12
Alternatives to suspension 12
Use of corporal punishment 13
Use of student and locker searches 13
Other in-school disciplinary approaches 13

Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements **15**

Grounds for possible suspension or expulsion 15
Grounds for mandatory suspension or expulsion 15
Limitations, conditions or exclusions for use of suspension and expulsion 16
Administrative procedures related to suspension and expulsion 17
In-school suspension 23
Return to school following removal 23
Use of restraint and seclusion 24
Alternative placements 24

Disciplinary Approaches Addressing Specific Infractions and Conditions **25**

Firearms (as required by the Guns-Free Schools Act) 25
Other weapons 25
Students with chronic disciplinary issues 26
Attendance and truancy 27
Substance use 29
Bullying, harassment, or hazing 31
Other special infractions or conditions 32

Prevention and Behavioral Interventions (Non-Punitive) **34**

Prevention 34
Behavioral interventions and student support services 34
Professional development 35

Monitoring and Accountability **36**

Formal incident reporting of conduct violations 36
Parental notification 37
Reporting and referrals between schools and law enforcement 37
Disclosure of school records 41
Data collection, review, and reporting of disciplinary policies and actions 41

School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers 43
Authority and power to implement school arrest 43
Certification or training 43
MOUs, authorization, and/or funding 43
State Education Agency Support 44
State model policies and implementation support 44
Funding appropriations 44
Other/Uncategorized 45
Professional immunity or liability 45
Community input or involvement 45
Other/Uncategorized 45
State-Sponsored, Publicly Available Websites or Other Resources on School Discipline 46

New Mexico State Codes Cited

New Mexico Revised Statutes

Note: All hyperlinks below take you to New Mexico's statute search engine, offered by the New Mexico Compilation Commission (NMOneSource), redirected from the New Mexico State Legislature.

Chapter 22. Public Schools

Article 2. Public Education Department and Commission

22-2-1.	Secretary and department; general powers.
22-2-2.	Department; general duties.
22-2-21.	Bullying prevention programs.

Article 5. Local School Boards

22-5-4.3.	School discipline policies; students may self-administer certain medications.
22-5-4.7.	Additional student discipline policies; weapon-free schools.
22-5A-2.	Definitions.
22-5A-3.	Alcoholic beverages prohibited on public school grounds.
22-5A-4.	Notices required.
22-5A-5.	Penalties.

Article 10A. School Personnel Act

22-10A-32.	Licensed school employees; required training program
22-10A-33.	Violence; vandalism; reporting. (2003)

Article 12. Compulsory School Attendance

22-12-7.	Enforcement of attendance law ; habitual truants; penalty
22-12-8.	Early identification; unexcused absences and truancy
22-12-9.	Unexcused absences and truancy; attendance policies.

New Mexico Administrative Code

Title 6. Primary and Secondary Education

Chapter 11. Public School Administration – Student Rights and Responsibilities

Part 2. Rights and Responsibilities of the Public Schools and Public School Students

6.11.2.10.	Enforcing rules of conduct
6.11.2.12.	Procedure for detentions, suspensions, and expulsions
6.11.2.8.	General provisions
6.11.2.9.	Rules of conduct for New Mexico public schools

Chapter 12. Public School Administration – Health and Safety

Part 4. Tobacco, Alcohol and Drug Free School Districts

6.12.4.7.	Definitions
6.12.4.8.	Requirements

Part 7. Bullying Prevention

6.12.7.7. Definitions
6.12.7.8. Requirements

General Provisions

Authority to develop and establish rules of conduct

STATUTES

22-2-1. Secretary and department; general powers.

A. The secretary is the governing authority and shall have control, management and direction of all public schools, except as otherwise provided by law.

B. The department may:

(1) adopt, promulgate and enforce rules to exercise its authority and the authority of the secretary;

(2) enter into contracts to carry out its duties;

(3) apply to the district court for an injunction, writ of mandamus or other appropriate relief to enforce the provisions of the Public School Code [Chapter 22 [except Article 5A] NMSA 1978] or rules promulgated pursuant to the Public School Code; and

(4) waive provisions of the Public School Code as authorized by law.

22-2-2. Department; general duties.

The department shall:

A. properly and uniformly enforce the provisions of the Public School Code [Chapter 22 [except Article 5A] NMSA 1978];

B. determine policy for the operation of all public schools and vocational education programs in the state, including vocational programs that are part of a juvenile construction industries initiative for juveniles who are committed to the custody of the children, youth and families department;

C. supervise all schools and school officials coming under its jurisdiction, including taking over the control and management of a public school or school district that has failed to meet requirements of law or department rules or standards, and, until such time as requirements of law, standards or rules have been met and compliance is ensured, the powers and duties of the local school board and local superintendent shall be suspended;

D. prescribe courses of instruction to be taught in all public schools in the state, requirements for graduation and standards for all public schools, for private schools seeking state accreditation and for the educational programs conducted in state institutions other than the New Mexico military institute;

E. provide technical assistance to local school boards and school districts;

F. assess and evaluate public schools for accreditation purposes to determine the adequacy of student gain in standards-required subject matter, adequacy of student activities, functional feasibility of public school and school district organization, adequacy of staff preparation and other matters bearing upon the education of the students;

G. assess and evaluate all state institutions and those private schools that desire state accreditation;

H. enforce requirements for home schools. Upon finding that a home school is not in compliance with law, the department may order that a student attend a public school or a private school;

I. require periodic reports on forms prescribed by it from all public schools and attendance reports from private schools;

J. determine the qualifications for and issue licenses to teachers, instructional support providers and school administrators according to law and according to a system of classification adopted and promulgated by rules of the department;

K. deny, suspend or revoke a license according to law for incompetency, moral turpitude or any other good and just cause;

L. approve or disapprove all rules promulgated by an association or organization attempting to regulate a public school activity and invalidate any rule in conflict with any rule promulgated by the department. The department shall require an association or organization attempting to regulate a public school activity to comply with the provisions of the Open Meetings Act [Chapter 10, Article 15 NMSA 1978] and be subject to the inspection provisions of the Public Records Act [Chapter 14, Article 3 NMSA 1978]. The department may require performance and financial audits of an association or organization attempting to regulate a public school activity. The department shall have no power or control over the rules or the bylaws governing the administration of the internal organization of the association or organization;

M. review decisions made by the governing board or officials of an organization or association regulating a public school activity, and any decision of the department shall be final in respect thereto;

N. require a public school under its jurisdiction that sponsors athletic programs involving sports to mandate that the participating student obtain catastrophic health and accident insurance coverage, such coverage to be offered through the school and issued by an insurance company duly licensed pursuant to the laws of New Mexico;

O. establish and maintain regional centers, at its discretion, for conducting cooperative services between public schools and school districts within and among those regions and for facilitating regulation and evaluation of school programs;

P. approve education curricula and programs offered in all two-year public post-secondary educational institutions, except those in Chapter 21, Article 12 NMSA 1978, that lead to alternative licenses for degreed persons pursuant to Section 22-10A-8 NMSA 1978 or licensure for educational assistants;

Q. withhold program approval from a college of education or teacher preparation program that fails to offer a course on teaching reading that:

(1) is based upon current scientifically based reading research;

(2) aligns with department-adopted reading standards;

(3) includes strategies and assessment measures to ensure that beginning teachers are proficient in teaching reading; and

(4) was designed after seeking input from experts in the education field;

R. annually, prior to December 1, prepare and publish a report on public and private education in the state and distribute the report to the governor and the legislature;

S. solicit input from local school boards and school districts in the formulation and implementation of department rules; and

T. report to the legislature or any of its committees as requested and report findings of any educational research study made with public money to the legislature through its appropriate interim or standing committees.

22-5-4.3. School discipline policies; students may self-administer certain medications.

A. Local school boards shall establish student discipline policies and shall file them with the department. The local school board shall involve parents, school personnel and students in the development of these policies, and public hearings shall be held during the formulation of these policies in the high school

attendance areas within each school district or on a district-wide basis for those school districts that have no high school.

C. An individual school within a school district may establish a school discipline policy, provided that parents, school personnel and students are involved in its development and a public hearing is held in the school prior to its adoption. If an individual school adopts a discipline policy in addition to the local school board's school district discipline policy, it shall submit its policy to the local school board for approval.

22-12-9. Unexcused absences and truancy; attendance policies.

A. As used in this section and Sections 22-12-7 and 22-12-8 NMSA 1978:

(1) "habitual truant" means a student who has accumulated the equivalent of ten days or more of unexcused absences within a school year;

(2) "student in need of early intervention" means a student who has accumulated five unexcused absences within a school year; and

(3) "unexcused absence" means an absence from school or classes for which the student does not have an allowable excuse pursuant to the Compulsory School Attendance Law or rules of the local school board or governing authority of a charter school or private school.

B. An unexcused absence of two or more classes up to fifty percent of an instructional day shall be counted as one-half day absence, and the unexcused absence of more than fifty percent of an instructional day shall be counted as one full-day absence.

C. Each school district and charter school shall maintain an attendance policy that:

(1) provides for early identification of students with unexcused absences, students in need of early intervention and habitual truants and provides intervention strategies that focus on keeping students in need of early intervention in an educational setting and prohibit out-of-school suspension and expulsion as the punishment for unexcused absences and habitual truancy;

(2) uses withdrawal as provided in Section 22-8-2 NMSA 1978 only after exhausting intervention efforts to keep students in educational settings;

(3) requires that class attendance be taken for every instructional day in every public school or school program in the school district; and

(4) provides for schools to document the following for each student identified as an habitual truant:

(a) attempts of the school to notify the parent that the student had unexcused absences;

(b) attempts of the school to meet with the parent to discuss intervention strategies; and

(c) intervention strategies implemented to support keeping the student in school.

D. The department shall review and approve school district and charter school attendance policies.

E. School districts and charter schools shall report unexcused absences and habitual truancy rates to the department in a form and at such times as the department determines and shall document intervention efforts made to keep students in need of early intervention and habitual truants in educational settings. Locally chartered charter schools shall provide copies of their reports to the school district. The department shall compile school district and charter school reports on rates of unexcused absences and habitual truancy and require school districts and charter schools to certify that the information is being reported consistently.

ADMINISTRATIVE CODE

6.11.2.8 General provisions.

A. Jurisdiction over students. All officials, employees and authorized agents of the public schools whose responsibilities include supervision of students shall have comprehensive authority within constitutional bounds to maintain order and discipline in school. In exercising this authority, such officials, employees and authorized agents of the public schools may exercise such powers of control, supervision, and correction over students as may be reasonably necessary to enable them to properly perform their duties and accomplish the purposes of education. This authority applies whenever students are lawfully subject to the schools' control, regardless of place. During such periods, public school authorities shall have the right to supervise and control the conduct of students, and students shall have the duty to submit to the schools' authority. The foregoing is intended to reflect the common law regarding the rights, duties and liabilities of public school authorities in supervising, controlling and disciplining students. Nothing herein shall be construed as enlarging the liability of public school authorities beyond that imposed by statute, common law or public education department rule.

B. School authority over non-students. In furtherance of the state's compelling interest in the orderly operation of the public schools and school activities, school officials have the following forms of authority over non-students whose actions adversely affect school operations or activities.

(1) On school property: Local school boards may prohibit entry to and provide for the removal from any public school building or grounds of any person who refuses to identify him/herself and state a lawful purpose for entering. Any person who refuses may be removed by school authorities, who may use reasonable physical force to accomplish the removal. Alternately, a person who refuses and who then refuses a lawful request to leave school premises may be subject to arrest by law officers for criminal offenses including but not limited to criminal trespass, interference with the educational process or disorderly conduct. A person who does identify him/herself and states a lawful purpose may nevertheless be subject to removal by school officials for engaging in activities prohibited by this rule. The person may also be subject to arrest by law officers if (s)he is committing any crime.

(2) Off school property: Public school authorities have indirect and limited authority over the activities of non-students off school property. To the extent that non-students' conduct at or near schools or school-sponsored activities may constitute a criminal offense, including the crimes of interference with the educational process, disorderly conduct or criminal trespass (after refusing a lawful request to leave), school authorities may request law enforcement agencies to arrest the offenders.

C. Statement of policy. A primary responsibility of the New Mexico public schools and their professional staffs shall be to instill in students an appreciation of our representative form of government, the rights and responsibilities of the individual or group and the legal processes whereby necessary changes are effected.

(1) The school is a community and the rules and regulations of a school are the laws of that community. All persons enjoying the rights of citizenship are subject to the laws of their community. Each carries with it a corresponding obligation.

(2) The right to attend public school is not absolute. It is conditioned on each student's acceptance of the obligation to abide by the lawful rules of the school community until and unless the rules are changed through lawful processes.

(3) Teachers, administrators and other school employees also have rights and duties. Teachers are required by law to maintain a suitable environment for teaming in their classes and to assist in maintaining school order and discipline. Administrators are responsible for maintaining and facilitating the educational program by ensuring an orderly, safe environment in the public schools. In discharging

their duties, all school employees have the right to be free from intimidation or abuse and to have their lawful requests and instructions followed.

(4) Nothing in this rule shall be held to affect the due process rights of school employees or their use of any local school district grievance procedure. This rule does not address employment disputes.

D. Local school board authority: Local school boards have both the authority and the responsibility to ensure that suitable rules of student conduct and appropriate disciplinary processes are established within their school districts. Within legal limits as defined in Subsection L. of 6.11.2.7 NMAC above, and subject to the minimums prescribed in this rule, local boards have discretion to develop such rules, regulations, policies and procedures as they deem appropriate to local conditions, including policies which afford students more protection than the minimums established here. Local school boards and administrative authorities which deem it appropriate may provide for student, community or appropriate state and local agency participation in the formulation and enforcement of school rules.

E. Severability: Any part of this rule found by adjudication before a competent tribunal to be contrary to law shall be stricken without effect to the remainder.

6.12.4.8. Requirements.

Each local school board shall implement a policy that will include:

A. Prohibiting tobacco use, alcoholic beverage possession or use, and illicit drug possession or use by students, school staff, parents, and school visitors in school buildings, on school property, and for students at school functions away from school property.

B. Each school district shall develop a procedure for communicating this policy to students, school staff, parents, school visitors and the community.

C. Each school district shall develop provisions for enforcement of this policy which shall include reporting to a designated person, without fear of retaliation, any known or suspected instances of tobacco use, alcoholic beverage or illicit drug possession or use.

D. Each school district shall conspicuously post notices on school grounds stating that the use of tobacco and possession or use of alcoholic beverages and illicit drugs is prohibited on school grounds.

6.12.7.8 Requirements.

A. This section applies to local school boards, local school districts, and charter schools and governs policies to be adopted and implemented by local school districts with regards to addressing bullying.

B. Each school district and charter school shall develop and implement a policy that addresses bullying, no later than April 1, 2007.

C. Any such anti-bullying policy shall at least include, but shall not be limited to:

(1) definitions;

(2) an absolute prohibition against bullying;

(3) a method to ensure initial and annual dissemination of the anti-bullying policy to all students, parents, teachers, administrators and all other school or district employees;

(4) procedures for reporting incidents of bullying which ensure confidentiality to those reporting bullying incidents and protection from reprisal, retaliation or false accusation against victims, witnesses or others with information regarding a bullying incident;

(5) consequences for bullying which include consideration of compliance with state and federal IDEA requirements;

(6) consequences for knowingly making false reports pursuant to the anti-bullying policy;

(7) procedures for investigation by administration of incidents reported pursuant to the anti-bullying policy;

(8) a requirement that teachers and other school staff report any incidents of bullying; and

(9) a requirement that anti-bullying is included as part of the health education curriculum as set forth in 6.30.2.19 NMAC ("content standards - health education").

6.11.2.9 Rules of conduct for New Mexico public schools.

The acts specified in Subsection A. of 6.11.2.9 NMAC below are prohibited in all the public schools of New Mexico. Within legal limits as defined in Subsection L. of 6.11.2.7 NMAC above, local school boards have discretion to develop rules of conduct governing all others area of student and school activity.

Scope

STATUTES

22-5A-2. Definitions.

As used in the School Alcohol-Free Zone Act:

A. "alcoholic beverage" means a beverage with no less than one-half percent alcohol and includes wine, beer, fermented, distilled, rectified and fortified beverages; and

B. "school grounds" means public elementary and secondary schools, including charter schools and facilities owned or leased by the school district in or on which public school-related and sanctioned activities are performed, but does not include other commercial properties owned by a school district but not related to the functions of a public school. "School grounds" includes the buildings, playing fields, parking lots and other facilities located on a school's premises.

ADMINISTRATIVE CODE

6.11.2.8 General provisions.

A. Jurisdiction over students. All officials, employees and authorized agents of the public schools whose responsibilities include supervision of students shall have comprehensive authority within constitutional bounds to maintain order and discipline in school. In exercising this authority, such officials, employees and authorized agents of the public schools may exercise such powers of control, supervision, and correction over students as may be reasonably necessary to enable them to properly perform their duties and accomplish the purposes of education. This authority applies whenever students are lawfully subject to the schools' control, regardless of place. During such periods, public school authorities shall have the right to supervise and control the conduct of students, and students shall have the duty to submit to the schools' authority. The foregoing is intended to reflect the common law regarding the rights, duties and liabilities of public school authorities in supervising, controlling and disciplining students. Nothing herein shall be construed as enlarging the liability of public school authorities beyond that imposed by statute, common law or public education department rule.

B. School authority over non-students. In furtherance of the state's compelling interest in the orderly operation of the public schools and school activities, school officials have the following forms of authority over non-students whose actions adversely affect school operations or activities.

(1) On school property: Local school boards may prohibit entry to and provide for the removal from any public school building or grounds of any person who refuses to identify him/herself and state a lawful purpose for entering. Any person who refuses may be removed by school authorities, who may use reasonable physical force to accomplish the removal. Alternately, a person who refuses and who then

refuses a lawful request to leave school premises may be subject to arrest by law officers for criminal offenses including but not limited to criminal trespass, interference with the educational process or disorderly conduct. A person who does identify him/herself and states a lawful purpose may nevertheless be subject to removal by school officials for engaging in activities prohibited by this rule. The person may also be subject to arrest by law officers if (s)he is committing any crime.

(2) Off school property: Public school authorities have indirect and limited authority over the activities of non-students off school property. To the extent that non-students' conduct at or near schools or school-sponsored activities may constitute a criminal offense, including the crimes of interference with the educational process, disorderly conduct or criminal trespass (after refusing a lawful request to leave), school authorities may request law enforcement agencies to arrest the offenders.

C. Statement of policy. A primary responsibility of the New Mexico public schools and their professional staffs shall be to instill in students an appreciation of our representative form of government, the rights and responsibilities of the individual or group and the legal processes whereby necessary changes are effected.

(1) The school is a community and the rules and regulations of a school are the laws of that community. All persons enjoying the rights of citizenship are subject to the laws of their community. Each carries with it a corresponding obligation.

(2) The right to attend public school is not absolute. It is conditioned on each student's acceptance of the obligation to abide by the lawful rules of the school community until and unless the rules are changed through lawful processes.

(3) Teachers, administrators and other school employees also have rights and duties. Teachers are required by law to maintain a suitable environment for teaming in their classes and to assist in maintaining school order and discipline. Administrators are responsible for maintaining and facilitating the educational program by ensuring an orderly, safe environment in the public schools. In discharging their duties, all school employees have the right to be free from intimidation or abuse and to have their lawful requests and instructions followed.

(4) Nothing in this rule shall be held to affect the due process rights of school employees or their use of any local school district grievance procedure. This rule does not address employment disputes.

D. Local school board authority: Local school boards have both the authority and the responsibility to ensure that suitable rules of student conduct and appropriate disciplinary processes are established within their school districts. Within legal limits as defined in Subsection L. of 6.11.2.7 NMAC above, and subject to the minimums prescribed in this rule, local boards have discretion to develop such rules, regulations, policies and procedures as they deem appropriate to local conditions, including policies which afford students more protection than the minimums established here. Local school boards and administrative authorities which deem it appropriate may provide for student, community or appropriate state and local agency participation in the formulation and enforcement of school rules.

E. Severability: Any part of this rule found by adjudication before a competent tribunal to be contrary to law shall be stricken without effect to the remainder.

6.11.2.9. Rules of conduct for New Mexico pubic schools.

The acts specified in Subsection A. of 6.11.2.9 NMAC below are prohibited in all the public schools of New Mexico. Within legal limits as defined in Subsection L. of 6.11.2.7 NMAC above, local school boards have discretion to develop rules of conduct governing all others area of student and school activity.

A. Prohibited activities: The commission of or participation in the activities designated below is prohibited in all New Mexico public schools and is prohibited for students whenever they are subject to school control. Acts prohibited by this rule:

(1) criminal or delinquent acts;

(2) gang related activity;

(3) sexual harassment;

(4) disruptive conduct;

(5) refusal to identify self; and

(6) refusal to cooperate with school personnel.

B. Regulated activities: Beyond those activities designated above as prohibited, all other areas of student conduct may be regulated within legal limits by local school boards as they deem appropriate to local conditions. Conduct by non students which affects school operations may be regulated within legal limits pursuant to any of the forms of authority described in Subsection B. of 6.11.2.8 NMAC above. Activities subject to local board regulation within legal limits include, but are not limited to:

(1) school attendance;

(2) use of and access to the public schools, including:

(a) restrictions on vehicular traffic on school property,

(b) prohibition of or conditions on the presence of non-school persons on school grounds or in school buildings while school is in session; and

(c) reasonable standards of conduct for all persons attending school- sponsored activities or other activities on school property;

(3) students' dress and personal appearance;

(4) use of controlled substances, alcohol and tobacco in the public schools;

(5) speech and assembly within the public schools;

(6) publications distributed in the public schools;

(7) the existence, scope and conditions of availability of student privileges, including extracurricular activities and rules governing participation;

(8) by statute, Section 22-5-4.7 NMSA 1978, each school district is required to adopt a policy providing for the expulsion from school, for a period of not less than one year, of any student who is determined to have knowingly brought a weapon to a school under the jurisdiction of the local board; the local school board or the superintendent of the school district may modify the expulsion requirement on a case-by-case basis; the special rule provisions of Subsection D. of 6.11.2.11 NMAC apply to students with disabilities;

(9) the discipline of students for out-of-school conduct having a direct and immediate effect on school discipline or the general safety and welfare of the school.

6.12.4.8. Requirements.

Each local school board shall implement a policy that will include:

A. Prohibiting tobacco use, alcoholic beverage possession or use, and illicit drug possession or use by students, school staff, parents, and school visitors in school buildings, on school property, and for students at school functions away from school property.

B. Each school district shall develop a procedure for communicating this policy to students, school staff, parents, school visitors and the community.

C. Each school district shall develop provisions for enforcement of this policy which shall include reporting to a designated person, without fear of retaliation, any known or suspected instances of tobacco use, alcoholic beverage or illicit drug possession or use.

D. Each school district shall conspicuously post notices on school grounds stating that the use of tobacco and possession or use of alcoholic beverages and illicit drugs is prohibited on school grounds.

Communication of policy

STATUTES

22-5A-4. Notices required.

A school shall conspicuously post notices on school grounds stating that possession and consumption of alcoholic beverages is prohibited on school grounds.

ADMINISTRATIVE CODE

6.12.4.8. Requirements.

Each local school board shall implement a policy that will include:

A. Prohibiting tobacco use, alcoholic beverage possession or use, and illicit drug possession or use by students, school staff, parents, and school visitors in school buildings, on school property, and for students at school functions away from school property.

B. Each school district shall develop a procedure for communicating this policy to students, school staff, parents, school visitors and the community.

C. Each school district shall develop provisions for enforcement of this policy which shall include reporting to a designated person, without fear of retaliation, any known or suspected instances of tobacco use, alcoholic beverage or illicit drug possession or use.

D. Each school district shall conspicuously post notices on school grounds stating that the use of tobacco and possession or use of alcoholic beverages and illicit drugs is prohibited on school grounds.

6.12.7.8 Requirements.

A. This section applies to local school boards, local school districts, and charter schools and governs policies to be adopted and implemented by local school districts with regards to addressing bullying.

B. Each school district and charter school shall develop and implement a policy that addresses bullying, no later than April 1, 2007.

C. Any such anti-bullying policy shall at least include, but shall not be limited to:

(3) a method to ensure initial and annual dissemination of the anti-bullying policy to all students, parents, teachers, administrators and all other school or district employees;

In-School Discipline

Use of multi-tiered discipline approaches

No relevant statutes found.

Teacher authority to remove students from classrooms

ADMINISTRATIVE CODE

6.11.2.12 Procedure for detention, suspension and expulsions.

The authority of the state and of local school boards to prescribe and enforce standards of conduct for public school students must be exercised consistently with constitutional safeguards of individual student rights

C. Immediate removal: Students whose presence poses a continuing danger to persons or property or an ongoing threat of interfering with the educational process may be immediately removed from school, subject to the following rules.

(1) A rudimentary hearing, as required for temporary suspensions, shall follow as soon as possible.

(2) Students shall be reinstated after no more than one school day unless within that time a temporary suspension is also imposed after the required rudimentary hearing. In such circumstances, a single hearing will support both the immediate removal and a temporary suspension imposed in connection with the same incident(s).

(3) The school shall exert reasonable efforts to inform the student's parent of the charges against the student and the action taken as soon as practicable. If the school has not communicated with the parent by telephone or in person by the end of the school day following the immediate removal, the school shall on that day mail a written notice with the required information to the parent's address of record.

Alternatives to suspension

ADMINISTRATIVE CODE

6.11.2.12 Procedure for detention, suspension and expulsions.

The authority of the state and of local school boards to prescribe and enforce standards of conduct for public school students must be exercised consistently with constitutional safeguards of individual student rights

E. In-school suspension.

(1) In-school suspension may be imposed with or without further restriction of student privileges. Any student who is placed in an in-school suspension which exceeds ten (10) school days must be provided with an instructional program that meets both state and local educational requirements. Student privileges, however, may be restricted for longer than ten (10) school days.

(2) In-school suspensions of any length shall be accomplished according to the procedures for a temporary suspension as set forth above. A local school board may limit the length of in-school suspensions which may be accomplished under temporary suspension procedures. No in-school suspension student shall be denied an opportunity to eat lunch or reasonable opportunities to go to the restroom.

F. Detention.

(1) Detention may be imposed in connection with in-school suspension, but is distinct from in-school suspension in that it does not entail removing the student from any of his or her regular classes.

(2) The authority of the schools to supervise and control the conduct of students includes the authority to impose reasonable periods of detention during the day or outside normal school hours as a disciplinary measure. No detained student shall be denied an opportunity to eat lunch or reasonable opportunities to go to the restroom. Reasonable periods of detention may be imposed in accordance with the procedures for temporary suspension.

Use of corporal punishment

STATUTES

22-5-4.3. School discipline policies; students may self-administer certain medications.

B. Each school district discipline policy shall establish rules of conduct governing areas of student and school activity, detail specific prohibited acts and activities and enumerate possible disciplinary sanctions, which sanctions may include in-school suspension, school service, suspension or expulsion. Corporal punishment shall be prohibited by each local school board and each governing body of a charter school.

ADMINSTRATIVE CODE

6.11.2.10 Enforcing rules of conduct.

E. Corporal punishment: Corporal punishment shall not be utilized as a means of enforcing rules of conduct in public schools.

Use of student and locker searches

ADMINISTRATIVE CODE

6.11.2.10 Enforcing rules of conduct.

B. Search and seizure: School property assigned to a student and a student's person or property while under the authority of the public schools are subject to search, and items found are subject to seizure, in accordance with the requirements below.

(5) Seizure of items: Illegal items, legal items which threaten the safety or security of others and items which are used to disrupt or interfere with the educational process may be seized by authorized persons. Seized items shall be released to appropriate authorities or a student's parent or returned to the student when and if the administrative authority deems appropriate.

Other in-school disciplinary approaches

ADMINISTRATIVE CODE

6.11.2.12 Procedure for detentions, suspensions, and expulsions.

The authority of the state and of local school boards to prescribe and enforce standards of conduct for public school students must be exercised consistently with constitutional safeguards of individual student rights. The right to a public education is not absolute; it may be taken away, temporarily or permanently, for violations of school rules. But it is a property right which may only be denied where school authorities have adhered to the minimum procedural safeguards required to afford the student due process of law.

This section prescribes minimum requirements for detention, in-school suspension and temporary, long-term or permanent removal of students from the public schools. Local school boards may adopt procedures which afford students more protection than this rule requires. The procedures in this section apply only to disciplinary detentions, suspensions and expulsions. They do not apply to disenrollment of students who fail to meet immunization, age, residence or other requirements for valid enrollment, nor to the removal from school membership reports of students who have been absent from school for ten (10) consecutive school days in accordance with Subsection B of Section 22-8-2 NMSA 1978. Nothing in this section should be construed as prohibiting school boards or administrative authorities from involving other school staff, students and members of the community in the enforcement of rules of student conduct to the extent they believe is appropriate.

F. Detention.

(1) Detention may be imposed in connection with in-school suspension, but is distinct from in-school suspension in that it does not entail removing the student from any of his or her regular classes.

(2) The authority of the schools to supervise and control the conduct of students includes the authority to impose reasonable periods of detention during the day or outside normal school hours as a disciplinary measure. No detained student shall be denied an opportunity to eat lunch or reasonable opportunities to go to the restroom. Reasonable periods of detention may be imposed in accordance with the procedures for temporary suspension.

Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements

Grounds for possible suspension or expulsion

STATUTES

22-5-4.3. School discipline policies; students may self-administer certain medications.

A. Local school boards shall establish student discipline policies and shall file them with the department. The local school board shall involve parents, school personnel and students in the development of these policies, and public hearings shall be held during the formulation of these policies in the high school attendance areas within each school district or on a district-wide basis for those school districts that have no high school.

B. Each school district discipline policy shall establish rules of conduct governing areas of student and school activity, detail specific prohibited acts and activities and enumerate possible disciplinary sanctions, which sanctions may include in-school suspension, school service, suspension or expulsion. Corporal punishment shall be prohibited by each local school board and each governing body of a charter school.

Grounds for mandatory suspension or expulsion

STATUTES

22-5-4.7. Additional student discipline policies; weapon-free schools.

A. In addition to other student discipline policies, each school district shall adopt a policy providing for the expulsion from school, for a period of not less than one year, of any student who is determined to have knowingly brought a weapon to a school under the jurisdiction of the local board. The local school board or the superintendent of the school district may modify the expulsion requirement on a case-by-case basis.

ADMINISTRATIVE CODE

6.11.2.9. Rules of conduct for New Mexico public schools.

B. Regulated activities: Beyond those activities designated above as prohibited, all other areas of student conduct may be regulated within legal limits by local school boards as they deem appropriate to local conditions. Conduct by non students which affects school operations may be regulated within legal limits pursuant to any of the forms of authority described in Subsection B. of 6.11.2.8 NMAC above. Activities subject to local board regulation within legal limits include, but are not limited to:

(8) by statute, Section 22-5-4.7 NMSA 1978, each school district is required to adopt a policy providing for the expulsion from school, for a period of not less than one year, of any student who is determined to have knowingly brought a weapon to a school under the jurisdiction of the local board; the local school board or the superintendent of the school district may modify the expulsion requirement on a case-by-case basis; the special rule provisions of Subsection D. of 6.11.2.11 NMAC apply to students with disabilities;

Limitations, conditions or exclusions for use of suspension and expulsion

STATUTES

22-5-4.7. Additional student discipline policies; weapon-free schools.

A. In addition to other student discipline policies, each school district shall adopt a policy providing for the expulsion from school, for a period of not less than one year, of any student who is determined to have knowingly brought a weapon to a school under the jurisdiction of the local board. The local school board or the superintendent of the school district may modify the expulsion requirement on a case-by-case basis.

22-12-9. Unexcused absences and truancy; attendance policies.

A. As used in this section and Sections 22-12-7 and 22-12-8 NMSA 1978:

(1) "habitual truant" means a student who has accumulated the equivalent of ten days or more of unexcused absences within a school year;

(2) "student in need of early intervention" means a student who has accumulated five unexcused absences within a school year; and

(3) "unexcused absence" means an absence from school or classes for which the student does not have an allowable excuse pursuant to the Compulsory School Attendance Law or rules of the local school board or governing authority of a charter school or private school.

B. An unexcused absence of two or more classes up to fifty percent of an instructional day shall be counted as one-half day absence, and the unexcused absence of more than fifty percent of an instructional day shall be counted as one full-day absence.

C. Each school district and charter school shall maintain an attendance policy that:

(1) provides for early identification of students with unexcused absences, students in need of early intervention and habitual truants and provides intervention strategies that focus on keeping students in need of early intervention in an educational setting and prohibit out-of-school suspension and expulsion as the punishment for unexcused absences and habitual truancy;

ADMINISTRATIVE CODE

6.11.2.10. Enforcing rules of conduct.

G. Discipline of students with disabilities: Students with disabilities are not immune from school disciplinary processes, nor are they entitled to remain in a particular educational program when their behavior substantially impairs the education of other children in the program. However, the public schools are required by state law and regulations to meet the individual educational needs of students with disabilities to the extent that current educational expertise permits. Public school personnel may consider any unique circumstances on a case-by-case basis when determining whether a change of placement, consistent with the other requirements of 6.11.2.11 NMAC, is appropriate for a student with a disability who violates a code of conduct as provided in 34 CFR Sec. 300.530.

(1) Long-term suspensions or expulsions of students with disabilities shall be governed by the procedures set forth in Section 6.11.2.11 NMAC below.

(2) Temporary suspensions of students with disabilities may be imposed in accordance with the normal procedures prescribed in Subsection D of Section 6.11.2.12 NMAC below, provided that the student is returned to the same educational placement after the temporary suspension and unless a temporary suspension is prohibited under the provisions of Subsection G, Paragraph (3) of 6.11.2.10 NMAC below.

(3) Program prescriptions. A student with a disability's individualized education program (IEP), under the Individuals with Disabilities Education Improvement Act of 2004 (IDEA), need not affirmatively authorize disciplinary actions which are not otherwise in conflict with this rule. However, the IEP team may prescribe or prohibit specified disciplinary measures for an individual student with a disability by including appropriate provisions in the student's IEP. Administrative authorities shall adhere to any such provisions contained in a student with a disability's IEP, except that an IEP team may not prohibit the initiation of proceedings for long-term suspension or expulsion which are conducted in accordance with this rule.

(4) Immediate removal. Immediate removal of students with disabilities may be done in accordance with the procedures of Subsection C of Section 6.11.2.12 NMAC below.

(5) A student who has not been determined to be eligible for special education and related services under 6.31.2 NMAC and who has engaged in behavior that violated a code of student conduct may assert any of the protections provided for in this subsection if the conditions set forth in 34 CFR Sec. 300.534 have been met.

(6) Referral to and action by law enforcement and judicial authorities.

(a) Nothing in these rules of conduct prohibits an administrative authority from reporting a crime committed by a student with a disability to appropriate authorities or prevents state law enforcement and judicial authorities from exercising their responsibilities with regard to the application of federal and state law to crimes committed by a student with a disability.

(b) Transmittal of records.

(i) An administrative authority reporting a crime committed by a student with a disability must ensure that copies of the special education and disciplinary records of the student are transmitted, for consideration by the appropriate authorities, to whom the administrative authority reports the crime.

(ii) An administrative authority reporting a crime under this section may transmit copies of the student’s special education and disciplinary records only to the extent that the transmission is permitted by the Family Educational Rights and Privacy Act.

Administrative procedures related to suspension and expulsion

ADMINISTRATIVE CODE

6.11.2.12 Procedure for detention, suspension and expulsions.

The authority of the state and of local school boards to prescribe and enforce standards of conduct for public school students must be exercised consistently with constitutional safeguards of individual student rights. The right to a public education is not absolute; it may be taken away, temporarily or permanently, for violations of school rules. But it is a property right which may only be denied where school authorities have adhered to the minimum procedural safeguards required to afford the student due process of law. This section prescribes minimum requirements for detention, in-school suspension and temporary, long-term or permanent removal of students from the public schools. Local school boards may adopt procedures which afford students more protection than this rule requires. The procedures in this section apply only to disciplinary detentions, suspensions and expulsions. They do not apply to disenrollment of students who fail to meet immunization, age, residence or other requirements for valid enrollment, nor to the removal from school membership reports of students who have been absent from school for ten (10) consecutive school days in accordance with Subsection B of Section 22-8-2 NMSA 1978. Nothing in this section should be construed as prohibiting school boards or administrative authorities from involving other school staff, students and members of the community in the enforcement of rules of student conduct to the extent they believe is appropriate.

A. Post-suspension placement of students. Any student suspended from school shall be delivered directly by a school official to the student's parent(s), legal guardian or an adult designated by the parent(s) or the legal guardian, or kept on school grounds until the usual end of the school day.

B. Students with disabilities. This section does not apply to long-term suspension or expulsion of students who are disabled pursuant to the IDEA or Section 504. The procedures for long-term suspension or expulsion of disabled students are set forth in Section 6.11.2.11 NMAC above. School personnel under this section may remove a student with a disability who violates a rule of student conduct from his or her current placement to an appropriate interim alternative educational setting, another setting, or suspension, for not more than 10 consecutive school days (to the extent those alternatives are applied to students without disabilities), and for additional removals of not more than 10 consecutive school days in that same school year for separate incidents of misconduct (as long as those removals do not constitute a change of placement under Subsection G of 6.11.2.11 NMAC above).

C. Immediate removal: Students whose presence poses a continuing danger to persons or property or an ongoing threat of interfering with the educational process may be immediately removed from school, subject to the following rules.

(1) A rudimentary hearing, as required for temporary suspensions, shall follow as soon as possible.

(2) Students shall be reinstated after no more than one school day unless within that time a temporary suspension is also imposed after the required rudimentary hearing. In such circumstances, a single hearing will support both the immediate removal and a temporary suspension imposed in connection with the same incident(s).

(3) The school shall exert reasonable efforts to inform the student's parent of the charges against the student and the action taken as soon as practicable. If the school has not communicated with the parent by telephone or in person by the end of the school day following the immediate removal, the school shall on that day mail a written notice with the required information to the parent's address of record.

D. Temporary suspension.

(1) A local school board may limit temporary suspensions to periods shorter than ten (10) school days.

(2) A student facing temporary suspension shall first be informed of the charges against him or her and, if (s)he denies them, shall be told what evidence supports the charge(s) and be given an opportunity to present his or her version of the facts. The following rules apply.

(a) The hearing may be an informal discussion and may follow immediately after the notice of the charges is given.

(b) Unless the administrative authority decides a delay is essential to permit a fuller exploration of the facts, this discussion may take place and a temporary suspension may be imposed within minutes after the alleged misconduct has occurred.

(c) A student who denies a charge of misconduct shall be told what act(s) (s)he is accused of committing, shall be given an explanation of the evidence supporting the accusation(s) and shall then be given the opportunity to explain his or her version of the facts. The administrative authority is not required to divulge the identity of informants, although (s)he should not withhold such information without good cause. (S)he is required to disclose the substance of all evidence on which (s)he proposes to base a decision in the matter.

(d) The administrative authority is not required to allow the student to secure counsel, to confront or cross-examine witnesses supporting the charge(s), or to call witnesses to verify the student's version of the incident, but none of these is prohibited.

(e) The school shall exert reasonable efforts to inform the student's parent of the charges against the student and their possible or actual consequence as soon as practicable. If the school has not communicated with the parent by telephone or in person by the end of the first full day of suspension, the school shall on that day mail a written notice with the required information to the parent's address of record.

E. In-school suspension.

(1) In-school suspension may be imposed with or without further restriction of student privileges. Any student who is placed in an in-school suspension which exceeds ten (10) school days must be provided with an instructional program that meets both state and local educational requirements. Student privileges, however, may be restricted for longer than ten (10) school days.

(2) In-school suspensions of any length shall be accomplished according to the procedures for a temporary suspension as set forth above. A local school board may limit the length of in-school suspensions which may be accomplished under temporary suspension procedures. No in-school suspension student shall be denied an opportunity to eat lunch or reasonable opportunities to go to the restroom.

F. Detention.

(1) Detention may be imposed in connection with in-school suspension, but is distinct from in-school suspension in that it does not entail removing the student from any of his or her regular classes.

(2) The authority of the schools to supervise and control the conduct of students includes the authority to impose reasonable periods of detention during the day or outside normal school hours as a disciplinary measure. No detained student shall be denied an opportunity to eat lunch or reasonable opportunities to go to the restroom. Reasonable periods of detention may be imposed in accordance with the procedures for temporary suspension.

G. Long-term suspension and expulsion.

(1) Each local school board shall authorize appropriate administrative authorities to initiate procedures leading to long-term suspension or expulsion. Where prompt action to suspend a student long-term is deemed appropriate, a temporary suspension may be imposed while the procedures for long-term suspension or expulsion are activated. However, where a decision following the required formal hearing is delayed beyond the end of the temporary suspension, the student must be returned to school pending the final outcome unless the provisions of Subsection G, Paragraph (4), Subparagraphs (j) and (k) of Section 6.11.2.12 NMAC below apply.

(2) A student who has been validly expelled or suspended is not entitled to receive any educational services from the local district during the period of the exclusion from school. A local school board may provide alternative arrangements, including correspondence courses at the student's or parent's expense pursuant to public education department requirements, if the board deems such arrangements appropriate.

(3) Each local school board shall establish, or shall authorize appropriate administrative authorities to establish, appropriate processes for handling long-term suspensions and expulsions. Unless the terms expressly indicate otherwise, nothing in the procedures below shall be construed as directing that any required decision be made by any particular person or body or at any particular level of administrative organization.

(4) The following rules shall govern the imposition of long-term suspensions or expulsions:

(a) Hearing authority; disciplinarian. The same person or group may, but need not, perform the functions of both hearing authority and disciplinarian. Where the functions are divided, the hearing authority's determination of the facts is conclusive on the disciplinarian, but the disciplinarian may reject any punishment recommended by the hearing authority.

(b) Review authority. Unless the local school board provides otherwise, a review authority shall have discretion to modify or overrule the disciplinarian's decision, but may not impose a harsher punishment. A review authority shall be bound by a hearing authority's factual determinations except as provided in Subsection G, Paragraph (4), Subparagraph (o) of Section 6.11.2.12 NMAC below.

(c) Disqualification. No person shall act as hearing authority, disciplinarian or review authority in a case where (s)he was directly involved in or witnessed the incident(s) in question, or if (s)he has prejudged disputed facts or is biased for or against any person who will actively participate in the proceedings.

(d) Local board participation. A local board may act as hearing authority, disciplinarian or review authority for any cases involving proposed long-term suspensions or expulsions. Whenever a quorum of the local board acts in any such capacity, however, the Open Meetings Act, Section 10-15-1 et seq., NMSA 1978 requires a public meeting.

(e) Initiation of procedures. An authorized administrative authority shall initiate procedures for long-term suspension or expulsion of a student by designating a hearing authority and disciplinarian in accordance with local board policies, scheduling a formal hearing in consultation with the hearing authority and preparing and serving a written notice meeting the requirements of Subsection G, Paragraph (4), Subparagraph (h) of Section 6.11.2.12 NMAC below.

(f) Service of notice. The written notice shall be addressed to the student, through his or her parent(s), and shall be served upon the parent(s) personally or by mail.

(g) Timing of hearing. The hearing shall be scheduled no sooner than five (5) nor later than ten (10) school days from the date of receipt of the notice by the parent(s). The hearing authority may grant or deny a request to delay the hearing in accordance with the provisions of Subsection G, Paragraph (4), Subparagraph (i) of Section 6.11.2.12 NMAC below.

(h) Contents of notice. The written notice must contain all of the following information, parts of which may be covered by appropriate reference to copies of any policies or regulations furnished with the notice:

(i) the school rule(s) alleged to have been violated, a concise statement of the alleged act(s) of the student on which the charge(s) are based and a statement of the possible penalty;

(ii) the date, time and place of the hearing, and a statement that both the student and parent are entitled and urged to be present;

(iii) a clear statement that the hearing will take place as scheduled unless the hearing authority grants a delay or the student and parent agree to waive the hearing and comply voluntarily with the proposed disciplinary action or with a negotiated penalty, and a clear and conspicuous warning that a failure to appear will not delay the hearing and may lead to the imposition of the proposed penalty by default;

(iv) a statement that the student has the right to be represented at the hearing by legal counsel, a parent or some other representative designated in a written notice filed at least seventy-two (72) hours before the hearing with the contact person named pursuant to Subsection G, Paragraph (4), Subparagraph (h), Sub-subparagraph (vi) of Section 6.11.2.12 NMAC below;

(v) a description of the procedures governing the hearing;

(vi) the name, business address and telephone number of a contact person through whom the student, parent or designated representative may request a delay or seek further information, including access to any documentary evidence or exhibits which the school proposes to introduce at the hearing; and

(vii) any other information, materials or instructions deemed appropriate by the administrative authority who prepares the notice.

(i) Delay of hearing. The hearing authority shall have discretion to grant or deny a request by the student or the appropriate administrative authority to postpone the hearing. Such discretion may be limited or guided by local school board policies not otherwise inconsistent with this rule.

(j) Students status pending hearing. Where a student has been suspended temporarily and a formal hearing on long-term suspension or expulsion will not occur until after the temporary suspension has expired, the student shall be returned to school at the end of the temporary suspension unless:

(i) the provisions of Subsection G, Paragraph (4), Subparagraph (k) of Section 6.11.2.12 NMAC below apply, or

(ii) the student and parent(s) have knowingly and voluntarily waived the students right to return to school pending the outcome of the formal proceedings, or

(iii) the appropriate administrative authority has conducted an interim hearing pursuant to a written local school board policy made available to the student which affords further due process protection sufficient to support the student's continued exclusion pending the outcome of the formal procedures.

(k) Waiver of hearing; voluntary compliance or negotiated penalty. A student and his or her parent(s) may elect to waive the formal hearing and review procedures and comply voluntarily with the proposed penalty, or may waive the hearing and review and negotiate a mutually acceptable penalty with the designated disciplinarian. Such a waiver and compliance agreement shall be made voluntarily, with knowledge of the rights being relinquished, and shall be evidenced by a written document signed by the student, the parent(s), and the appropriate school official.

(l) Procedure for hearing and decision. The formal hearing is not a trial. It is an administrative hearing designed to ensure a calm, orderly determination by an impartial hearing authority of the facts of a case of alleged serious misconduct. Technical rules of evidence and procedure do not apply. The following-rules govern the conduct of the hearing and the ultimate decision.

(i) The school shall have the burden of proof of misconduct.

(ii) The student and his or her parent shall have the following rights: The right to be represented by legal counsel or other designated representative, however, the school is not required to provide representation; the right to present evidence, subject to reasonable requirements of substantiation at the discretion of the hearing authority and subject to exclusion of evidence deemed irrelevant or redundant; the right to confront and cross-examine adverse witnesses, subject to reasonable limitation by the hearing authority; the right to have a decision based solely on the evidence presented at the hearing and the applicable legal rules, including the governing rules of student conduct.

(iii) The hearing authority shall determine whether the alleged act(s) of misconduct have been proved by a preponderance of the evidence presented at a hearing at which the student or a designated representative have appeared.

(iv) If no one has appeared on the students behalf within a reasonable time after the announced time for the hearing, the hearing authority shall determine whether the student, through the parent, received notice of the hearing. If so, the hearing authority shall review the schools' evidence to determine whether it is sufficient to support the charges(s) of misconduct.

(v) A hearing authority who is also a disciplinarian shall impose an appropriate sanction if (s)he finds that the allegations of misconduct have been proved under the standards of either Subsection G, Paragraph (4), Subparagraph (l), Sub-subparagraph (iii) or Sub-subparagraph (iv) of Section 6.11.2.12 NMAC above. A hearing authority who is not a disciplinarian shall report its

findings, together with any recommended sanction, to the disciplinarian promptly after the hearing.

(vi) Arrangements to make a tape recording or keep minutes of the proceedings shall be made by the administrative authority who scheduled the hearing and prepared the written notice. A verbatim written transcript is not required, but any minutes or other written record shall fairly reflect the substance of the evidence presented.

(vii) The hearing authority may announce a decision on the question of whether the allegation(s) of misconduct have been proved at the close of the hearing. A hearing authority who is also a disciplinarian may also impose a penalty at the close of the hearing.

(viii) In any event, the hearing authority shall prepare and mail or deliver to the student, through the parent, a written decision within five (5) working days after the hearing. The decision shall include a concise summary of the evidence upon which the hearing authority based its factual determinations. A hearing authority who is also a disciplinarian shall include in the report a statement of the penalty, if any, to be imposed, and shall state reasons for the chosen penalty. A hearing authority who is not a disciplinarian shall forward a copy of his or her written decision to the disciplinarian forthwith. The disciplinarian shall prepare a written decision, including reasons for choosing any penalty imposed, and mail or deliver it to the student, through the parent, within five (5) working days of receipt of the hearing authority's report.

(ix) A disciplinarian who is not a hearing authority may observe but not participate in the proceedings at a formal hearing. If the disciplinarian has done so and if the hearing authority announces a decision at the close of the hearing, the disciplinarian may also announce his or her decision at that time.

(x) The disciplinarian's decision shall take effect immediately upon initial notification to the parent, either at the close of the hearing or upon receipt of the written decision. If initial notification is by mail, the parent shall be presumed to have received the notice on the fifth calendar day after the date of mailing unless a receipt for certified mail, if used, indicates a different date of receipt.

(m) Effect of decision. If the hearing authority decides that no allegation(s) of misconduct have been proved, or if the disciplinarian declines to impose a penalty despite a finding that an act or acts of misconduct have been proved, the matter shall be closed. If the disciplinarian imposes any sanction on the student, the decision shall take effect immediately upon notification to the parent and shall continue in force during any subsequent review.

(n) Right of review. Unless the local school board was the disciplinarian, a student aggrieved by a disciplinarian's decision after a formal hearing shall have the right to have the decision reviewed if the penalty imposed was at least as severe as a long-term suspension or expulsion, an in-school suspension exceeding one school semester or a denial or restriction of student privileges for one semester or longer. A local school board may grant a right of review for less severe penalties. Local school boards shall establish appropriate mechanisms for review except where the local board was the disciplinarian, in which case its decision is final and not reviewable administratively. A student request for review must be submitted to the review authority within ten (10) school days after the student is informed of the disciplinarian's decision.

(o) Conduct of review. Unless the local board provides otherwise, a review authority shall have discretion to modify the disciplinarian's decision, including imposing any lesser sanction deemed appropriate. A review authority shall be bound by the hearing authority's factual determinations unless the student persuades the review authority that a finding of fact was arbitrary, capricious or unsupported by substantial evidence or that new evidence which has come to light since the hearing and which could not with reasonable diligence have been discovered in time for the hearing would manifestly change the factual determination. Upon any such finding, the review authority

shall have discretion to receive new evidence, reconsider evidence introduced at the hearing or conduct a de novo hearing. In the absence of any such finding, the review shall be limited to an inquiry into the appropriateness of the penalty imposed.

(p) Form of review. Unless the local board provides otherwise, a review authority shall have discretion to conduct a review on the written record of the hearing and decision in the case, to limit new submissions by the aggrieved student and school authorities to written materials or to grant a conference or hearing at which the student and his or her representative, and school authorities may present their respective views in person. Where a conference or hearing is granted, the record-keeping requirements of Subsection G., Paragraph (4), Sub-paragraph (l), Sub-sub-paragraph (vi) of Section 6.11.2.12 NMAC above apply.

(q) Timing of review. Except in extraordinary circumstances, a review shall be concluded no later than fifteen (15) working days after a student's written request for review is received by the appropriate administrative authority.

(r) Decision. A review authority may announce a decision at the close of any conference or hearing held on review. In any event, the review authority shall prepare a written decision, including concise reasons, and mail or deliver it to the disciplinarian, the hearing authority and the student, through the parent, within ten (10) working days after the review is concluded.

(s) Effect of decision. Unless the local school board provides otherwise, a review authority's decision shall be the final administrative action to which a student is entitled.

In-school suspension

ADMINISTRATIVE CODE

6.11.2.12 Procedure for detention, suspension and expulsions.

The authority of the state and of local school boards to prescribe and enforce standards of conduct for public school students must be exercised consistently with constitutional safeguards of individual student rights

E. In-school suspension.

(1) In-school suspension may be imposed with or without further restriction of student privileges. Any student who is placed in an in-school suspension which exceeds ten (10) school days must be provided with an instructional program that meets both state and local educational requirements. Student privileges, however, may be restricted for longer than ten (10) school days.

(2) In-school suspensions of any length shall be accomplished according to the procedures for a temporary suspension as set forth above. A local school board may limit the length of in-school suspensions which may be accomplished under temporary suspension procedures. No in-school suspension student shall be denied an opportunity to eat lunch or reasonable opportunities to go to the restroom.

Return to school following removal

ADMINISTRATIVE CODE

6.11.2.10. Enforcing rules of conduct.

G. Discipline of students with disabilities: Students with disabilities are not immune from school disciplinary processes, nor are they entitled to remain in a particular educational program when their behavior substantially impairs the education of other children in the program. However, the public schools

are required by state law and regulations to meet the individual educational needs of students with disabilities to the extent that current educational expertise permits. Public school personnel may consider any unique circumstances on a case-by-case basis when determining whether a change of placement, consistent with the other requirements of 6.11.2.11 NMAC, is appropriate for a student with a disability who violates a code of conduct as provided in 34 CFR Sec. 300.530.

(2) Temporary suspensions of students with disabilities may be imposed in accordance with the normal procedures prescribed in Subsection D of Section 6.11.2.12 NMAC below, provided that the student is returned to the same educational placement after the temporary suspension and unless a temporary suspension is prohibited under the provisions of Subsection G, Paragraph (3) of 6.11.2.10 NMAC below.

Use of restraint and seclusion

No relevant statutes found.

Alternative placements

STATUTES

22-5-4.7. Additional student discipline policies; weapon-free schools.

B. Student discipline policies shall also provide for placement in an alternative educational setting, for not more than forty-five days, of any student with a disability who is determined to have knowingly brought a weapon to a school under the jurisdiction of the local board. If a parent or guardian of the student requests a due process hearing, then the student shall remain in the alternative educational setting during the pendency of any proceeding, unless the parent or guardian and the school district agree otherwise.

ADMINISTRATIVE CODE

6.11.2.12. Procedure for detention, suspension and expulsions.

G. Long-term suspension and expulsion.

(2) A student who has been validly expelled or suspended is not entitled to receive any educational services from the local district during the period of the exclusion from school. A local school board may provide alternative arrangements, including correspondence courses at the student's or parent's expense pursuant to public education department requirements, if the board deems such arrangements appropriate.

Disciplinary Approaches Addressing Specific Infractions and Conditions

Firearms (as required by the Guns-Free Schools Act)

STATUTES

22-5-4.7. Additional student discipline policies; weapon-free schools.

A. In addition to other student discipline policies, each school district shall adopt a policy providing for the expulsion from school, for a period of not less than one year, of any student who is determined to have knowingly brought a weapon to a school under the jurisdiction of the local board. The local school board or the superintendent of the school district may modify the expulsion requirement on a case-by-case basis.

C. For the purposes of this section, "weapon" means:

(1) any firearm that is designed to, may readily be converted to or will expel a projectile by the action of an explosion; and

(2) any destructive device that is an explosive or incendiary device, bomb, grenade, rocket having a propellent charge of more than four ounces, missile having an explosive or incendiary charge of more than one-quarter-ounce, mine or similar device.

ADMINISTRATIVE CODE

6.11.2.9 Rules of conduct for New Mexico public schools

B. Regulated activities: Beyond those activities designated above as prohibited, all other areas of student conduct may be regulated within legal limits by local school boards as they deem appropriate to local conditions. Conduct by non students which affects school operations may be regulated within legal limits pursuant to any of the forms of authority described in Subsection B. of 6.11.2.8 NMAC above. Activities subject to local board regulation within legal limits include, but are not limited to:

(8) by statute, Section 22-5-4.7 NMSA 1978, each school district is required to adopt a policy providing for the expulsion from school, for a period of not less than one year, of any student who is determined to have knowingly brought a weapon to a school under the jurisdiction of the local board; the local school board or the superintendent of the school district may modify the expulsion requirement on a case-by-case basis; the special rule provisions of Subsection D. of 6.11.2.11 NMAC apply to students with disabilities;

Other weapons

STATUTES

22-5-4.7. Additional student discipline policies; weapon-free schools.

A. In addition to other student discipline policies, each school district shall adopt a policy providing for the expulsion from school, for a period of not less than one year, of any student who is determined to have knowingly brought a weapon to a school under the jurisdiction of the local board. The local school board or the superintendent of the school district may modify the expulsion requirement on a case-by-case basis.

C. For the purposes of this section, "weapon" means:

(1) any firearm that is designed to, may readily be converted to or will expel a projectile by the action of an explosion; and

(2) any destructive device that is an explosive or incendiary device, bomb, grenade, rocket having a propellent charge of more than four ounces, missile having an explosive or incendiary charge of more than one-quarter-ounce, mine or similar device.

ADMINSTRATIVE CODE

6.11.2.10. Enforcing rules of conduct.

B. Search and seizure: School property assigned to a student and a student's person or property while under the authority of the public schools are subject to search, and items found are subject to seizure, in accordance with the requirements below.

(5) Seizure of items: Illegal items, legal items which threaten the safety or security of others and items which are used to disrupt or interfere with the educational process may be seized by authorized persons. Seized items shall be released to appropriate authorities or a student's parent or returned to the student when and if the administrative authority deems appropriate.

Students with chronic disciplinary issues

STATUTES

22-12-7. Enforcement of attendance law ; habitual truants; penalty.

A. Each local school board and each governing body of a charter school or private school shall initiate the enforcement of the provisions of the Compulsory School Attendance Law for students enrolled in their respective schools.

B. To initiate enforcement of the provisions of the Compulsory School Attendance Law against an habitual truant, a local school board or governing body of a charter school or private school or its authorized representatives shall give written notice of the habitual truancy by mail to or by personal service on the parent of the student subject to and in noncompliance with the provisions of the Compulsory School Attendance Law . The notice shall include a date, time and place for the parent to meet with the local school district, charter school or private school to develop intervention strategies that focus on keeping the student in an educational setting.

C. If unexcused absences continue after written notice of habitual truancy as provided in Subsection B of this section has occurred, the student shall be reported to the probation services office of the judicial district where the student resides for an investigation as to whether the student shall be considered to be a neglected child or a child in a family in need of services because of habitual truancy and thus subject to the provisions of the Children's Code [Chapter 32A NMSA 1978]. The probation services office may send a written notice to a parent of the student directing the parent and student to report to the probation services office to discuss services for the student or the family. In addition to any other disposition, the children's court may order the habitual truant's driving privileges to be suspended for a specified time not to exceed ninety days on the first finding of habitual truancy and not to exceed one year for a subsequent finding of habitual truancy.

D. If, after review by the juvenile probation office where the student resides, a determination and finding is made that the habitual truancy by the student may have been caused by the parent of the student, then the matter will be referred by the juvenile probation office to the district attorney's office or any law enforcement agency having jurisdiction for appropriate investigation and filing of charges allowed under the Compulsory School Attendance Law . Charges against the parent may be filed in metropolitan court, magistrate court or district court.

E. A parent of the student who, after receiving written notice as provided in Subsection B of this section and after the matter has been reviewed in accordance with Subsection D of this section, knowingly allows the student to continue to violate the Compulsory School Attendance Law shall be guilty of a petty misdemeanor. Upon the first conviction, a fine of not less than twenty-five dollars ($25.00) or more than one hundred dollars ($100) may be imposed, or the parent of the student may be ordered to perform community service. If violations of the Compulsory School Attendance Law continue, upon the second and subsequent convictions, the parent of the student who knowingly allows the student to continue to violate the Compulsory School Attendance Law shall be guilty of a petty misdemeanor and shall be subject to a fine of not more than five hundred dollars ($500) or imprisonment for a definite term not to exceed six months or both.

F. The provisions of this section shall apply beginning July 1, 2004.

Attendance and truancy

STATUTES

22-12-7. Enforcement of attendance law ; habitual truants; penalty.

A. Each local school board and each governing body of a charter school or private school shall initiate the enforcement of the provisions of the Compulsory School Attendance Law for students enrolled in their respective schools.

B. To initiate enforcement of the provisions of the Compulsory School Attendance Law against an habitual truant, a local school board or governing body of a charter school or private school or its authorized representatives shall give written notice of the habitual truancy by mail to or by personal service on the parent of the student subject to and in noncompliance with the provisions of the Compulsory School Attendance Law . The notice shall include a date, time and place for the parent to meet with the local school district, charter school or private school to develop intervention strategies that focus on keeping the student in an educational setting.

C. If unexcused absences continue after written notice of habitual truancy as provided in Subsection B of this section has occurred, the student shall be reported to the probation services office of the judicial district where the student resides for an investigation as to whether the student shall be considered to be a neglected child or a child in a family in need of services because of habitual truancy and thus subject to the provisions of the Children's Code [Chapter 32A NMSA 1978]. The probation services office may send a written notice to a parent of the student directing the parent and student to report to the probation services office to discuss services for the student or the family. In addition to any other disposition, the children's court may order the habitual truant's driving privileges to be suspended for a specified time not to exceed ninety days on the first finding of habitual truancy and not to exceed one year for a subsequent finding of habitual truancy.

D. If, after review by the juvenile probation office where the student resides, a determination and finding is made that the habitual truancy by the student may have been caused by the parent of the student, then the matter will be referred by the juvenile probation office to the district attorney's office or any law enforcement agency having jurisdiction for appropriate investigation and filing of charges allowed under the Compulsory School Attendance Law . Charges against the parent may be filed in metropolitan court, magistrate court or district court.

E. A parent of the student who, after receiving written notice as provided in Subsection B of this section and after the matter has been reviewed in accordance with Subsection D of this section, knowingly allows the student to continue to violate the Compulsory School Attendance Law shall be guilty of a petty misdemeanor. Upon the first conviction, a fine of not less than twenty-five dollars ($25.00) or more than one hundred dollars ($100) may be imposed, or the parent of the student may be ordered to perform

community service. If violations of the Compulsory School Attendance Law continue, upon the second and subsequent convictions, the parent of the student who knowingly allows the student to continue to violate the Compulsory School Attendance Law shall be guilty of a petty misdemeanor and shall be subject to a fine of not more than five hundred dollars ($500) or imprisonment for a definite term not to exceed six months or both.

F. The provisions of this section shall apply beginning July 1, 2004.

22-12-8. Early identification; unexcused absences and truancy.

Notwithstanding the provisions of Section 22-12-7 NMSA 1978, if a student is in need of early intervention, the school district, charter school or private school shall contact the student's parent to inform the parent that the student has unexcused absences from school and to discuss possible interventions. The provisions of this section do not apply to any absence if the parent has contacted the school to explain the absence.

22-12-9. Unexcused absences and truancy; attendance policies.

A. As used in this section and Sections 22-12-7 and 22-12-8 NMSA 1978:

(1) "habitual truant" means a student who has accumulated the equivalent of ten days or more of unexcused absences within a school year;

(2) "student in need of early intervention" means a student who has accumulated five unexcused absences within a school year; and

(3) "unexcused absence" means an absence from school or classes for which the student does not have an allowable excuse pursuant to the Compulsory School Attendance Law or rules of the local school board or governing authority of a charter school or private school.

B. An unexcused absence of two or more classes up to fifty percent of an instructional day shall be counted as one-half day absence, and the unexcused absence of more than fifty percent of an instructional day shall be counted as one full-day absence.

C. Each school district and charter school shall maintain an attendance policy that:

(1) provides for early identification of students with unexcused absences, students in need of early intervention and habitual truants and provides intervention strategies that focus on keeping students in need of early intervention in an educational setting and prohibit out-of-school suspension and expulsion as the punishment for unexcused absences and habitual truancy;

(2) uses withdrawal as provided in Section 22-8-2 NMSA 1978 only after exhausting intervention efforts to keep students in educational settings;

(3) requires that class attendance be taken for every instructional day in every public school or school program in the school district; and

(4) provides for schools to document the following for each student identified as an habitual truant:

(a) attempts of the school to notify the parent that the student had unexcused absences;

(b) attempts of the school to meet with the parent to discuss intervention strategies; and

(c) intervention strategies implemented to support keeping the student in school.

D. The department shall review and approve school district and charter school attendance policies.

E. School districts and charter schools shall report unexcused absences and habitual truancy rates to the department in a form and at such times as the department determines and shall document intervention efforts made to keep students in need of early intervention and habitual truants in educational settings. Locally chartered charter schools shall provide copies of their reports to the school district. The department shall compile school district and charter school reports on rates of unexcused absences and

habitual truancy and require school districts and charter schools to certify that the information is being reported consistently.

ADMINISTRATIVE CODE

6.11.2.10 Enforcing rules of conduct.

A. Enforcing attendance requirements. Formal enforcement action under the Compulsory School Attendance Law, supra, and the Family Services Act, Section 32A-3A-1 et seq. NMSA 1978 shall be initiated whenever a student's absences indicate that the law is being violated. An administrative authority who has reason to believe a student is violating local school board attendance policies may take whatever further disciplinary action is deemed appropriate under local policies.

Substance use

STATUTES

22-5A-2. Definitions.

As used in the School Alcohol-Free Zone Act:

A. "alcoholic beverage" means a beverage with no less than one-half percent alcohol and includes wine, beer, fermented, distilled, rectified and fortified beverages; and

B. "school grounds" means public elementary and secondary schools, including charter schools and facilities owned or leased by the school district in or on which public school-related and sanctioned activities are performed, but does not include other commercial properties owned by a school district but not related to the functions of a public school. "School grounds" includes the buildings, playing fields, parking lots and other facilities located on a school's premises.

22-5A-3. Alcoholic beverages prohibited on public school grounds.

It is unlawful to possess or consume alcoholic beverages on public school grounds.

22-5A-5. Penalties.

A. A person convicted of consumption or possession of an alcoholic beverage on school property for the first offense is guilty of a petty misdemeanor and subject to a fine of not less than twenty-five dollars ($25.00) or more than one hundred dollars ($100) and may be ordered to perform community service.

B. A person convicted of consumption or possession of an alcoholic beverage on school property for the second or a subsequent offense is guilty of a misdemeanor and subject to a fine of not more than five hundred dollars ($500) or imprisonment for a definite term not to exceed six months, or both.

22-10A-32. Licensed school employees; required training program.

A. All licensed school employees shall be required to complete training in the detection and reporting of child abuse and neglect and substance abuse. This requirement shall be completed within the licensed school employee's first year of employment by a school district.

B. Pursuant to the policy and rules adopted by the state board, the department shall develop a training program, including training materials and necessary training staff, to meet the requirement of Subsection A of this section to make the training available in every school district. The department shall coordinate the development of the program with appropriate staff at the human services department and the department of health.

C. The training program developed pursuant to this section shall be made available by the department to the deans of every college of education in New Mexico for use in providing such training to students seeking elementary and secondary education licensure.

ADMINISTRATIVE CODE

6.11.2.9. Rules of conduct for New Mexico pubic schools.

The acts specified in Subsection A. of 6.11.2.9 NMAC below are prohibited in all the public schools of New Mexico. Within legal limits as defined in Subsection L. of 6.11.2.7 NMAC above, local school boards have discretion to develop rules of conduct governing all others area of student and school activity.

A. Prohibited activities: The commission of or participation in the activities designated below is prohibited in all New Mexico public schools and is prohibited for students whenever they are subject to school control. Acts prohibited by this rule:

(1) criminal or delinquent acts;

(2) gang related activity;

(3) sexual harassment;

(4) disruptive conduct;

(5) refusal to identify self; and

(6) refusal to cooperate with school personnel.

B. Regulated activities: Beyond those activities designated above as prohibited, all other areas of student conduct may be regulated within legal limits by local school boards as they deem appropriate to local conditions. Conduct by non students which affects school operations may be regulated within legal limits pursuant to any of the forms of authority described in Subsection B. of 6.11.2.8 NMAC above. Activities subject to local board regulation within legal limits include, but are not limited to:

(1) school attendance;

(2) use of and access to the public schools, including:

(a) restrictions on vehicular traffic on school property,

(b) prohibition of or conditions on the presence of non-school persons on school grounds or in school buildings while school is in session; and

(c) reasonable standards of conduct for all persons attending school- sponsored activities or other activities on school property;

(3) students' dress and personal appearance;

(4) use of controlled substances, alcohol and tobacco in the public schools;

(5) speech and assembly within the public schools;

(6) publications distributed in the public schools;

(7) the existence, scope and conditions of availability of student privileges, including extracurricular activities and rules governing participation;

(8) by statute, Section 22-5-4.7 NMSA 1978, each school district is required to adopt a policy providing for the expulsion from school, for a period of not less than one year, of any student who is determined to have knowingly brought a weapon to a school under the jurisdiction of the local board; the local school board or the superintendent of the school district may modify the expulsion requirement on a case-by-case basis; the special rule provisions of Subsection D. of 6.11.2.11 NMAC apply to students with disabilities;

(9) the discipline of students for out-of-school conduct having a direct and immediate effect on school discipline or the general safety and welfare of the school.

6.12.4.6 OBJECTIVE: The purpose of this rule is to prohibit the use of tobacco products, alcoholic beverages and illicit drugs in school buildings, on school property, and for students at school functions away from school property.

6.12.4.7. Definitions.

A. "Alcoholic beverage" means a beverage with no less than one-half percent alcohol and includes wine, beer, fermented, distilled, rectified and fortified beverages.

B. "Illicit drugs" means steroids and prescription and over-the-counter medications being used for an abusive purpose or when they are not used in compliance with the prescription or directions for use and are not being used to treat a current health condition of the student.

C. "Mood-altering substances" means substances that include, but are not limited to paint, glue, aerosol sprays and similar substances.

D. "Tobacco" means substances that include, but are not limited to cigarettes, cigars, chewing tobacco, dipping tobacco, snuff and similar substances.

6.12.4.8. Requirements.

Each local school board shall implement a policy that will include:

A. Prohibiting tobacco use, alcoholic beverage possession or use, and illicit drug possession or use by students, school staff, parents, and school visitors in school buildings, on school property, and for students at school functions away from school property.

B. Each school district shall develop a procedure for communicating this policy to students, school staff, parents, school visitors and the community.

C. Each school district shall develop provisions for enforcement of this policy which shall include reporting to a designated person, without fear of retaliation, any known or suspected instances of tobacco use, alcoholic beverage or illicit drug possession or use.

D. Each school district shall conspicuously post notices on school grounds stating that the use of tobacco and possession or use of alcoholic beverages and illicit drugs is prohibited on school grounds.

Bullying, harassment, or hazing

STATUTES

22-2-21. Bullying prevention programs.

The department shall establish guidelines for bullying prevention policies to be promulgated by local school boards. Every local school board shall promulgate a bullying prevention policy by August 2011. Every public school shall implement a bullying prevention program by August 2012.

ADMINISTRATIVE CODE

6.12.7.7. Definitions.

A. "Bullying" means any repeated and pervasive written, verbal or electronic expression, physical act or gesture, or a pattern thereof, that is intended to cause distress upon one or more students in the school, on school grounds, in school vehicles, at a designated bus stop, or at school activities or sanctioned events. Bullying includes, but is not limited to, hazing, harassment, intimidation or menacing acts of a

student which may, but need not be based on the student's race, color, sex, ethnicity, national origin, religion, disability, age or sexual orientation.

B. "Department" means the public education department.

C. "Harassment" means knowingly pursuing a pattern of conduct that is intended to annoy, alarm or terrorize another person.

D. "IDEA" means the federal Individuals with Disabilities Education Act, 20 USC Secs. 1401 and following, including future amendments.

E. "Local school board" means the governing body of a school district or charter school.

F. "School district" means an area of land established as a political subdivision of the state for the administration of public schools and segregated geographically for taxation and bonding purposes.

6.12.7.8 Requirements.

A. This section applies to local school boards, local school districts, and charter schools and governs policies to be adopted and implemented by local school districts with regards to addressing bullying.

B. Each school district and charter school shall develop and implement a policy that addresses bullying, no later than April 1, 2007.

C. Any such anti-bullying policy shall at least include, but shall not be limited to:

(1) definitions;

(2) an absolute prohibition against bullying;

(3) a method to ensure initial and annual dissemination of the anti-bullying policy to all students, parents, teachers, administrators and all other school or district employees;

(4) procedures for reporting incidents of bullying which ensure confidentiality to those reporting bullying incidents and protection from reprisal, retaliation or false accusation against victims, witnesses or others with information regarding a bullying incident;

(5) consequences for bullying which include consideration of compliance with state and federal IDEA requirements;

(6) consequences for knowingly making false reports pursuant to the anti-bullying policy;

(7) procedures for investigation by administration of incidents reported pursuant to the anti-bullying policy;

(8) a requirement that teachers and other school staff report any incidents of bullying; and

(9) a requirement that anti-bullying is included as part of the health education curriculum as set forth in 6.30.2.19 NMAC ("content standards - health education").

Other special infractions or conditions

ADMINISTRATIVE CODE

6.11.2.9. Rules of conduct for New Mexico public schools.

The acts specified in Subsection A. of 6.11.2.9 NMAC below are prohibited in all the public schools of New Mexico. Within legal limits as defined in Subsection L. of 6.11.2.7 NMAC above, local school boards have discretion to develop rules of conduct governing all others area of student and school activity.

A. Prohibited activities: The commission of or participation in the activities designated below is prohibited in all New Mexico public schools and is prohibited for students whenever they are subject to school control. Acts prohibited by this rule:

(1) criminal or delinquent acts;

(2) gang related activity;

(3) sexual harassment;

(4) disruptive conduct;

(5) refusal to identify self; and

(6) refusal to cooperate with school personnel.

B. Regulated activities: Beyond those activities designated above as prohibited, all other areas of student conduct may be regulated within legal limits by local school boards as they deem appropriate to local conditions. Conduct by non students which affects school operations may be regulated within legal limits pursuant to any of the forms of authority described in Subsection B. of 6.11.2.8 NMAC above. Activities subject to local board regulation within legal limits include, but are not limited to:

(1) school attendance;

(2) use of and access to the public schools, including:

(a) restrictions on vehicular traffic on school property,

(b) prohibition of or conditions on the presence of non-school persons on school grounds or in school buildings while school is in session; and

(c) reasonable standards of conduct for all persons attending school- sponsored activities or other activities on school property;

(3) students' dress and personal appearance;

(4) use of controlled substances, alcohol and tobacco in the public schools;

(5) speech and assembly within the public schools;

(6) publications distributed in the public schools;

(7) the existence, scope and conditions of availability of student privileges, including extracurricular activities and rules governing participation;

(8) by statute, Section 22-5-4.7 NMSA 1978, each school district is required to adopt a policy providing for the expulsion from school, for a period of not less than one year, of any student who is determined to have knowingly brought a weapon to a school under the jurisdiction of the local board; the local school board or the superintendent of the school district may modify the expulsion requirement on a case-by-case basis; the special rule provisions of Subsection D. of 6.11.2.11 NMAC apply to students with disabilities;

.(9) the discipline of students for out-of-school conduct having a direct and immediate effect on school discipline or the general safety and welfare of the school.

Prevention and Behavioral Interventions (Non-Punitive)

Prevention

STATUTES

22-2-21. Bullying prevention programs.

The department shall establish guidelines for bullying prevention policies to be promulgated by local school boards. Every local school board shall promulgate a bullying prevention policy by August 2011. Every public school shall implement a bullying prevention program by August 2012.

Behavioral interventions and student support services

STATUTES

22-12-8. Early identification; unexcused absences and truancy.

Notwithstanding the provisions of Section 22-12-7 NMSA 1978, if a student is in need of early intervention, the school district, charter school or private school shall contact the student's parent to inform the parent that the student has unexcused absences from school and to discuss possible interventions. The provisions of this section do not apply to any absence if the parent has contacted the school to explain the absence.

22-12-9. Unexcused absences and truancy; attendance policies.

A. As used in this section and Sections 22-12-7 and 22-12-8 NMSA 1978:

(1) "habitual truant" means a student who has accumulated the equivalent of ten days or more of unexcused absences within a school year;

(2) "student in need of early intervention" means a student who has accumulated five unexcused absences within a school year; and

(3) "unexcused absence" means an absence from school or classes for which the student does not have an allowable excuse pursuant to the Compulsory School Attendance Law or rules of the local school board or governing authority of a charter school or private school.

B. An unexcused absence of two or more classes up to fifty percent of an instructional day shall be counted as one-half day absence, and the unexcused absence of more than fifty percent of an instructional day shall be counted as one full-day absence.

C. Each school district and charter school shall maintain an attendance policy that:

(1) provides for early identification of students with unexcused absences, students in need of early intervention and habitual truants and provides intervention strategies that focus on keeping students in need of early intervention in an educational setting and prohibit out-of-school suspension and expulsion as the punishment for unexcused absences and habitual truancy;

(2) uses withdrawal as provided in Section 22-8-2 NMSA 1978 only after exhausting intervention efforts to keep students in educational settings;

(3) requires that class attendance be taken for every instructional day in every public school or school program in the school district; and

(4) provides for schools to document the following for each student identified as an habitual truant:

(a) attempts of the school to notify the parent that the student had unexcused absences;

(b) attempts of the school to meet with the parent to discuss intervention strategies; and

(c) intervention strategies implemented to support keeping the student in school.

D. The department shall review and approve school district and charter school attendance policies.

E. School districts and charter schools shall report unexcused absences and habitual truancy rates to the department in a form and at such times as the department determines and shall document intervention efforts made to keep students in need of early intervention and habitual truants in educational settings. Locally chartered charter schools shall provide copies of their reports to the school district. The department shall compile school district and charter school reports on rates of unexcused absences and habitual truancy and require school districts and charter schools to certify that the information is being reported consistently.

Professional development

STATUTES

22-10A-32. Licensed school employees; required training program.

A. All licensed school employees shall be required to complete training in the detection and reporting of child abuse and neglect and substance abuse. This requirement shall be completed within the licensed school employee's first year of employment by a school district.

B. Pursuant to the policy and rules adopted by the state board, the department shall develop a training program, including training materials and necessary training staff, to meet the requirement of Subsection A of this section to make the training available in every school district. The department shall coordinate the development of the program with appropriate staff at the human services department and the department of health.

C. The training program developed pursuant to this section shall be made available by the department to the deans of every college of education in New Mexico for use in providing such training to students seeking elementary and secondary education licensure.

Monitoring and Accountability

Formal incident reporting of conduct violations

STATUTES

22-10A-33. Violence; vandalism; reporting.

A. A school administrator, teacher or other school employee who observes or has direct knowledge from a participant or victim of an act of violence upon a school administrator, teacher or other school employee in the lawful discharge of his duties or vandalism to public school property shall file an incident report describing the incident pursuant to procedures established by the department.

B. A person who files an incident report pursuant to this section shall not be discriminated against in any manner or discharged by a local superintendent because he has filed that report.

C. The department shall establish uniform reporting procedures for incidents of violence or vandalism described in Subsection A of this section. The procedures shall include requirements for:

(1) incidents to be reported, incident description and report on action taken in response to the reported incident;

(2) annual incident reports by local superintendents of all reported incidents to local school boards;

(3) annual incident reports by local school boards of all reported incidents to the state superintendent [secretary]; and

(4) annual incident reports by the state superintendent of all reported incidents to the state board [department]. The annual incident report filed with that board shall be summarized and submitted to an appropriate interim committee of the legislature with recommendations to decrease the incidence of violence and vandalism in the public schools.

ADMINISTRATIVE CODE

6.12.7.8. Requirements.

A. This section applies to local school boards, local school districts, and charter schools and governs policies to be adopted and implemented by local school districts with regards to addressing bullying.

B. Each school district and charter school shall develop and implement a policy that addresses bullying, no later than April 1, 2007.

C. Any such anti-bullying policy shall at least include, but shall not be limited to:

(1) definitions;

(2) an absolute prohibition against bullying;

(3) a method to ensure initial and annual dissemination of the anti-bullying policy to all students, parents, teachers, administrators and all other school or district employees;

(4) procedures for reporting incidents of bullying which ensure confidentiality to those reporting bullying incidents and protection from reprisal, retaliation or false accusation against victims, witnesses or others with information regarding a bullying incident;

(5) consequences for bullying which include consideration of compliance with state and federal IDEA requirements;

(6) consequences for knowingly making false reports pursuant to the anti-bullying policy;

(7) procedures for investigation by administration of incidents reported pursuant to the anti-bullying policy;

(8) a requirement that teachers and other school staff report any incidents of bullying; and

(9) a requirement that anti-bullying is included as part of the health education curriculum as set forth in 6.30.2.19 NMAC ("content standards - health education").

Parental notification

STATUTES

22-12-8. Early identification; unexcused absences and truancy.

Notwithstanding the provisions of Section 22-12-7 NMSA 1978, if a student is in need of early intervention, the school district, charter school or private school shall contact the student's parent to inform the parent that the student has unexcused absences from school and to discuss possible interventions. The provisions of this section do not apply to any absence if the parent has contacted the school to explain the absence.

ADMINISTRATIVE CODE

6.11.2.12 Procedure for detention, suspension and expulsions.

D. Temporary suspension.

(1) A local school board may limit temporary suspensions to periods shorter than ten (10) school days.

(2) A student facing temporary suspension shall first be informed of the charges against him or her and, if (s)he denies them, shall be told what evidence supports the charge(s) and be given an opportunity to present his or her version of the facts. The following rules apply.

(e) The school shall exert reasonable efforts to inform the student's parent of the charges against the student and their possible or actual consequence as soon as practicable. If the school has not communicated with the parent by telephone or in person by the end of the first full day of suspension, the school shall on that day mail a written notice with the required information to the parent's address of record.

G. Long-term suspension and expulsion.

(4) The following rules shall govern the imposition of long-term suspensions or expulsions:

(f) Service of notice. The written notice shall be addressed to the student, through his or her parent(s), and shall be served upon the parent(s) personally or by mail.

Reporting and referrals between schools and law enforcement

STATUTES

22-12-7. Enforcement of attendance law ; habitual truants; penalty.

A. Each local school board and each governing body of a charter school or private school shall initiate the enforcement of the provisions of the Compulsory School Attendance Law for students enrolled in their respective schools.

B. To initiate enforcement of the provisions of the Compulsory School Attendance Law against an habitual truant, a local school board or governing body of a charter school or private school or its authorized representatives shall give written notice of the habitual truancy by mail to or by personal service on the parent of the student subject to and in noncompliance with the provisions of the

Compulsory School Attendance Law . The notice shall include a date, time and place for the parent to meet with the local school district, charter school or private school to develop intervention strategies that focus on keeping the student in an educational setting.

C. If unexcused absences continue after written notice of habitual truancy as provided in Subsection B of this section has occurred, the student shall be reported to the probation services office of the judicial district where the student resides for an investigation as to whether the student shall be considered to be a neglected child or a child in a family in need of services because of habitual truancy and thus subject to the provisions of the Children's Code [Chapter 32A NMSA 1978]. The probation services office may send a written notice to a parent of the student directing the parent and student to report to the probation services office to discuss services for the student or the family. In addition to any other disposition, the children's court may order the habitual truant's driving privileges to be suspended for a specified time not to exceed ninety days on the first finding of habitual truancy and not to exceed one year for a subsequent finding of habitual truancy.

D. If, after review by the juvenile probation office where the student resides, a determination and finding is made that the habitual truancy by the student may have been caused by the parent of the student, then the matter will be referred by the juvenile probation office to the district attorney's office or any law enforcement agency having jurisdiction for appropriate investigation and filing of charges allowed under the Compulsory School Attendance Law . Charges against the parent may be filed in metropolitan court, magistrate court or district court.

E. A parent of the student who, after receiving written notice as provided in Subsection B of this section and after the matter has been reviewed in accordance with Subsection D of this section, knowingly allows the student to continue to violate the Compulsory School Attendance Law shall be guilty of a petty misdemeanor. Upon the first conviction, a fine of not less than twenty-five dollars ($25.00) or more than one hundred dollars ($100) may be imposed, or the parent of the student may be ordered to perform community service. If violations of the Compulsory School Attendance Law continue, upon the second and subsequent convictions, the parent of the student who knowingly allows the student to continue to violate the Compulsory School Attendance Law shall be guilty of a petty misdemeanor and shall be subject to a fine of not more than five hundred dollars ($500) or imprisonment for a definite term not to exceed six months or both.

F. The provisions of this section shall apply beginning July 1, 2004.

ADMINISTRATIVE CODE

6.11.2.10 Enforcing rules of conduct.

A. Enforcing attendance requirements. Formal enforcement action under the Compulsory School Attendance Law, supra, and the Family Services Act, Section 32A-3A-1 et seq. NMSA 1978 shall be initiated whenever a student's absences indicate that the law is being violated. An administrative authority who has reason to believe a student is violating local school board attendance policies may take whatever further disciplinary action is deemed appropriate under local policies.

B. Search and seizure: School property assigned to a student and a students person or property while under the authority of the public schools are subject to search, and items found are subject to seizure, in accordance with the requirements below.

(1) Notice of search policy. Students shall be given reasonable notice, through distribution of written policies or otherwise, of each school's policy on searches at the beginning of each school year or upon admission for students entering during the school year.

(2) Who may search. Certified school personnel, school security personnel and school bus drivers are "authorized persons" to conduct searches when a search is permissible as set forth below. An

authorized person who is conducting a search may request the assistance of some other person(s), who upon consent become(s) an authorized person for the purpose of that search only.

(3) When search permissible. Unless local school board policy provides otherwise, an authorized person may conduct a search when (s)he has a reasonable suspicion that a crime or other breach of disciplinary rules is occurring or has occurred. An administrative authority may direct or conduct a search under the same conditions and also when (s)he has reasonable cause to believe that a search is necessary to help maintain school discipline.

(4) Conduct of searches; witnesses. The following requirements govern the conduct of permissible searches by authorized persons:

(a) School property, including lockers and school buses, may be searched with or without students present unless a local school board or administrative authority provides otherwise. When students are not present for locker searches, another authorized person shall serve as a witness whenever possible. Locks furnished by students should not be destroyed unless a student refuses to open one or circumstances otherwise render such action necessary in the judgment of the administrative authority.

(b) Student vehicles when on campus or otherwise under school control and students' personal effects which are not within their immediate physical possession may be searched in accordance with the requirements for locker searches.

(c) Physical searches of a students person may be conducted only by an authorized person who is of the same sex as the student, and except when circumstances render it impossible may be conducted only in the presence of another authorized person of the same sex. The extent of the search must be reasonably related to the infraction, and the search must not be excessively intrusive in light of the student's age and sex, and the nature of the infraction.

(5) Seizure of items: Illegal items, legal items which threaten the safety or security of others and items which are used to disrupt or interfere with the educational process may be seized by authorized persons. Seized items shall be released to appropriate authorities or a student's parent or returned to the student when and if the administrative authority deems appropriate.

(6) Notification of law enforcement authorities: Unless a local school board policy provides otherwise, an administrative authority shall have discretion to notify the local children's court attorney, district attorney or other law enforcement officers when a search discloses illegally possessed contraband material or evidence of some other crime or delinquent act.

C. Basis for disciplinary action: A student may appropriately be disciplined by administrative authorities in the following circumstances:

(1) for committing any act which endangers the health or safety of students, school personnel or others for whose safety the public school is responsible, or for conduct which reasonably appears to threaten such dangers if not restrained, regardless of whether an established rule of conduct has been violated;

(2) for violating valid rules of student conduct established by the local school board or by an administrative authority to whom the board has delegated rulemaking authority, when the student knew or should have known of the rule in question or that the conduct was prohibited; or

(3) for committing acts prohibited by this rule, when the student knew or should have known that the conduct was prohibited.

D. Selection of disciplinary sanctions: Within legal limits as defined in Subsection L. of 6.11.2.7 NMAC above, local school boards have discretion to determine the appropriate sanction(s) to be imposed for violations of rules of student conduct, or to authorize appropriate administrative authorities to make such determinations.

(1) School discipline and criminal charges: Appropriate disciplinary actions may be taken against students regardless of whether criminal charges are also filed in connection with an incident.

(2) Nondiscriminatory enforcement: Local school boards and administrative authorities shall not enforce school rules or impose disciplinary punishments in a manner which discriminates against any student on the basis of race, religion, color, national origin, ancestry, sex or disability, except to the extent otherwise permitted or required by law or regulation. This statement shall not be construed as requiring identical treatment of students for violation of the same rule; it shall be read as prohibiting differential treatment which is based on race, religion, color, national origin, ancestry, sex or disability rather than on other differences in individual cases or students.

E. Corporal punishment: Corporal punishment shall not be utilized as a means of enforcing rules of conduct in public schools.

F. Detention, suspension and expulsion: Where detention, suspension or expulsion is determined to be the appropriate penalty, it may be imposed only in accordance with procedures that provide at least the minimum safeguards prescribed in Section 6.11.2.12 NMAC, below. Suspensions or expulsions of students with disabilities shall be subject to the further requirements of Subsection G of Section 6.11.2.10 NMAC and Section 6.11.2.11 NMAC below.

G. Discipline of students with disabilities: Students with disabilities are not immune from school disciplinary processes, nor are they entitled to remain in a particular educational program when their behavior substantially impairs the education of other children in the program. However, the public schools are required by state law and regulations to meet the individual educational needs of students with disabilities to the extent that current educational expertise permits. Public school personnel may consider any unique circumstances on a case-by-case basis when determining whether a change of placement, consistent with the other requirements of 6.11.2.11 NMAC, is appropriate for a student with a disability who violates a code of conduct as provided in 34 CFR Sec. 300.530.

(1) Long-term suspensions or expulsions of students with disabilities shall be governed by the procedures set forth in Section 6.11.2.11 NMAC below.

(2) Temporary suspensions of students with disabilities may be imposed in accordance with the normal procedures prescribed in Subsection D of Section 6.11.2.12 NMAC below, provided that the student is returned to the same educational placement after the temporary suspension and unless a temporary suspension is prohibited under the provisions of Subsection G, Paragraph (3) of 6.11.2.10 NMAC below.

(3) Program prescriptions. A student with a disability's individualized education program (IEP), under the Individuals with Disabilities Education Improvement Act of 2004 (IDEA), need not affirmatively authorize disciplinary actions which are not otherwise in conflict with this rule. However, the IEP team may prescribe or prohibit specified disciplinary measures for an individual student with a disability by including appropriate provisions in the student's IEP. Administrative authorities shall adhere to any such provisions contained in a student with a disability's IEP, except that an IEP team may not prohibit the initiation of proceedings for long-term suspension or expulsion which are conducted in accordance with this rule.

(4) Immediate removal. Immediate removal of students with disabilities may be done in accordance with the procedures of Subsection C of Section 6.11.2.12 NMAC below.

(5) A student who has not been determined to be eligible for special education and related services under 6.31.2 NMAC and who has engaged in behavior that violated a code of student conduct may assert any of the protections provided for in this subsection if the conditions set forth in 34 CFR Sec. 300.534 have been met.

(6) Referral to and action by law enforcement and judicial authorities.

(a) Nothing in these rules of conduct prohibits an administrative authority from reporting a crime committed by a student with a disability to appropriate authorities or prevents state law enforcement and judicial authorities from exercising their responsibilities with regard to the application of federal and state law to crimes committed by a student with a disability.

(b) Transmittal of records.

(i) An administrative authority reporting a crime committed by a student with a disability must ensure that copies of the special education and disciplinary records of the student are transmitted, for consideration by the appropriate authorities, to whom the administrative authority reports the crime.

(ii) An administrative authority reporting a crime under this section may transmit copies of the student's special education and disciplinary records only to the extent that the transmission is permitted by the Family Educational Rights and Privacy Act.

Disclosure of school records

ADMINISTRATIVE CODE

6.11.2.10. Enforcing rules of conduct.

G. Discipline of students with disabilities: Students with disabilities are not immune from school disciplinary processes, nor are they entitled to remain in a particular educational program when their behavior substantially impairs the education of other children in the program. However, the public schools are required by state law and regulations to meet the individual educational needs of students with disabilities to the extent that current educational expertise permits. Public school personnel may consider any unique circumstances on a case-by-case basis when determining whether a change of placement, consistent with the other requirements of 6.11.2.11 NMAC, is appropriate for a student with a disability who violates a code of conduct as provided in 34 CFR Sec. 300.530.

(6) Referral to and action by law enforcement and judicial authorities.

(b) Transmittal of records.

(i) An administrative authority reporting a crime committed by a student with a disability must ensure that copies of the special education and disciplinary records of the student are transmitted, for consideration by the appropriate authorities, to whom the administrative authority reports the crime.

(ii) An administrative authority reporting a crime under this section may transmit copies of the student's special education and disciplinary records only to the extent that the transmission is permitted by the Family Educational Rights and Privacy Act.

Data collection, review, and reporting of disciplinary policies and actions

STATUTES

22-5-4.3. School discipline policies; students may self-administer certain medications.

A. Local school boards shall establish student discipline policies and shall file them with the department.

ADMINISTRATIVE CODE

6.11.2.12 Procedure for detention, suspension and expulsions.

G. Long-term suspension and expulsion.

(4) The following rules shall govern the imposition of long-term suspensions or expulsions:

(b) Review authority. Unless the local school board provides otherwise, a review authority shall have discretion to modify or overrule the disciplinarian's decision, but may not impose a harsher punishment. A review authority shall be bound by a hearing authority's factual determinations except as provided in Subsection G, Paragraph (4), Subparagraph (o) of Section 6.11.2.12 NMAC below.

School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers

Authority and power to implement school arrest

No relevant statutes found.

Certification or training

No relevant statutes found.

MOUs, authorization, and/or funding

No relevant statutes found.

State Education Agency Support

State model policies and implementation support

STATUTES

22-2-21. Bullying prevention programs.

The department shall establish guidelines for bullying prevention policies to be promulgated by local school boards. Every local school board shall promulgate a bullying prevention policy by August 2011. Every public school shall implement a bullying prevention program by August 2012.

Funding appropriations

No relevant statutes found.

Other/Uncategorized

Professional immunity or liability

STATUTES

22-5-4.3. School discipline policies; students may self-administer certain medications.

D. No school employee who in good faith reports any known or suspected violation of the school discipline policy or in good faith attempts to enforce the policy shall be held liable for any civil damages as a result of such report or of the employee's efforts to enforce any part of the policy.

Community input or involvement

STATUTES

22-5-4.3. School discipline policies; students may self-administer certain medications.

A. Local school boards shall establish student discipline policies and shall file them with the department. The local school board shall involve parents, school personnel and students in the development of these policies, and public hearings shall be held during the formulation of these policies in the high school attendance areas within each school district or on a district-wide basis for those school districts that have no high school.

B. Each school district discipline policy shall establish rules of conduct governing areas of student and school activity, detail specific prohibited acts and activities and enumerate possible disciplinary sanctions, which sanctions may include in-school suspension, school service, suspension or expulsion. Corporal punishment shall be prohibited by each local school board and each governing body of a charter school.

ADMINISTRATIVE CODE

6.11.2.8 General provisions.

D. Local school board authority: Local school boards have both the authority and the responsibility to ensure that suitable rules of student conduct and appropriate disciplinary processes are established within their school districts. Within legal limits as defined in Subsection L. of 6.11.2.7 NMAC above, and subject to the minimums prescribed in this rule, local boards have discretion to develop such rules, regulations, policies and procedures as they deem appropriate to local conditions, including policies which afford students more protection than the minimums established here. Local school boards and administrative authorities which deem it appropriate may provide for student, community or appropriate state and local agency participation in the formulation and enforcement of school rules.

Other/Uncategorized

No relevant statutes found.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by New Mexico provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
Website		
No relevant resources found		
Documents		
No relevant resources found		
Other Resources		
No relevant resources found		

New York Compilation of School Discipline Laws and Regulations

Prepared: August 12, 2013

Introduction

This compilation presents school discipline-related state statutes, school discipline-related regulations, and, where available, links to state-sponsored websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSLE). For example, one major category encompasses all state laws or regulations mandating specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of state legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in each state.

Discipline categories were not mutually exclusive. Statutes and regulations often appeared across multiple categories. For states with more extensive statutes covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. State laws, ordered by chapter and section number, appear first within each category followed by state regulations. All statutes and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists statutes by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to state-sponsored websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of May 2013, with the exception of the state laws related to seclusion and restraint, which are complete and current as of December 2012. Readers should also note that the information in this document was compiled from individual state sources that are created by each state and which are maintained and updated with varying frequencies. Readers should consult the source information provided for each state directly in order to check for updates to this state's laws and regulations or conduct further research.

For further information, including definitions of the different policy categories, please refer to the Discipline Laws and Regulations Compendium posted on the Center's website.

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Safe Supportive Learning
Engagement | Safety | Environment

Table of Contents

New York State Codes Cited **1**

General Provisions **3**

Authority to develop and establish rules of conduct 3
Scope 4
Communication of policy 5

In-School Discipline **7**

Use of multi-tiered discipline approaches 7
Teacher authority to remove students from classrooms 8
Alternatives to suspension 9
Use of corporal punishment 9
Use of student and locker searches 11
Other in-school disciplinary approaches 11

Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements **12**

Grounds for possible suspension or expulsion 12
Grounds for mandatory suspension or expulsion 12
Limitations, conditions or exclusions for use of suspension and expulsion 13
Administrative procedures related to suspension and expulsion 15
In-school suspension 21
Return to school following removal 21
Use of restraint and seclusion 22
Alternative placements 30

Disciplinary Approaches Addressing Specific Infractions and Conditions **31**

Firearms (as required by the Guns-Free Schools Act) 31
Other weapons 31
Students with chronic disciplinary issues 33
Attendance and truancy 34
Substance use 36
Bullying, harassment, or hazing 37
Other special infractions or conditions 44

Prevention and Behavioral Interventions (Non-Punitive) **47**

Prevention 47
Behavioral interventions and student support services 49
Professional development 49

Monitoring and Accountability **53**

Formal incident reporting of conduct violations 53
Parental notification 54
Reporting and referrals between schools and law enforcement 56
Disclosure of school records 56
Data collection, review, and reporting of disciplinary policies and actions 57

School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers 65
Authority and power to implement school arrest 65
Certification or training 65
MOUs, authorization, and/or funding 65
State Education Agency Support 68
State model policies and implementation support 68
Funding appropriations 68
Other/Uncategorized 69
Professional immunity or liability 69
Community input or involvement 70
Other/Uncategorized 70
State-Sponsored, Publicly Available Websites or Other Resources on School Discipline 71

New York State Codes Cited

New York Revised Statutes

Title 1. General Provisions

Article 2. Dignity for All Students

10.	Legislative intent.
11.	Definitions.
12.	Discrimination and harassment prohibited.
13.	Policies and guidelines.
14.	Commissioner's responsibilities.
15.	Reporting by commissioner.
16.	Protection of people who report harassment, bullying or discrimination.
17.	Application.
18.	Severability and construction.

Article 17. Instruction in Certain Subjects

801-a	Instruction in civility, citizenship, and character education.
804.	Health education regarding alcohol, drugs, tobacco abuse and the prevention and detection of certain cancers.

Title 2. School District Organization

Article 51. City School Districts of Cities with Less than One Hundred Twenty-Five Thousand Inhabitants

2503-a.	Powers of boards of education to ban fraternities, sororities and other secret societies.

Article 52. City School Districts of Cities with One Hundred Twenty-Five Thousand Inhabitants or more

2554-A.	Powers of boards of education to ban fraternities, sororities and other secret societies

Article 55. Regulations by Boards of Education of Conduct on School District Property

2801.	Codes of conduct on school property.
2802.	Uniform violent incident reporting system.

Article 61. Teachers and Supervisory and Administrative Staff

3028-A.	Students under twenty-one years of age suspected of age suspected of alcohol abuse or narcotic addiction
3028-C.	Protection of school employees who report acts of violence and weapons possession

Title 4. Teachers and Pupils

Article 65. Compulsory Education and School Census

3205.	Attendance of minors upon full time day instruction
3210.	Amount and character of required attendance
3211.	Records of attendance upon instruction

3213. Supervisors of attendance; attendance teachers; attendance officers; appointment, compensation, powers and duties
3214. Student placement, suspensions and transfers.

Title 6. Special Schools and Instruction

Article 83. Indian Schools

4110. Attendance officers
4111. Arrest of truants.

Article 89. Children with Handicapping Conditions

4402. Duties of education department

New York Administrative Code

New York Codes, Rules, and Regulations (NYCRR)

Title 8 Education Department

Chapter I Rules of the Board of Regents

Part 19 Education Practices

19.5. Prohibition of corporal punishment and aversive interventions.

Chapter II Regulations of the Commissioner

Subchapter E Elementary and Secondary Education

Part 100 Elementary and Secondary Education School Program

100.2 (C). Instruction in certain subjects
100.2 (L)(2). Policy on school conduct and discipline
100.2 (L)(2). Code of conduct
100.2 (L)(3). Corporal punishment
100.2 (L)(4). Parental notification of student suspension
100.2 (GG). Uniform violent or disruptive incident reporting system
100.2 (JJ). Dignity for all students school employee training program
100.2 (KK). Dignity Act reporting requirements.

Subchapter P Handicapped Children

Part 200 Children with Handicapping Conditions

200.22. Program standards for behavioral interventions.

General Provisions

Authority to develop and establish rules of conduct

STATUTES

13. Policies and guidelines.

The board of education and the trustees or sole trustee of every school district shall create policies, procedures and guidelines…

2503-a. Powers of boards of education to ban fraternities, sororities and other secret societies.

1. In its discretion, the board of education of each school district, may adopt rules and regulations to abolish and/or prohibit any fraternity, sorority or other secret society in any secondary school under its jurisdiction.

2554-a. Powers of boards of education to ban fraternities, sororities and other secret societies.

1. In its discretion, the board of education of each school district, may adopt rules and regulations to abolish and/or prohibit any fraternity, sorority or other secret society in any secondary school under its jurisdiction.

2801. Codes of conduct on school property.

2. The board of education or the trustees, as defined in section two of this chapter, of every school district within the state, however created, and every board of cooperative educational services and county vocational extension board, shall adopt and amend, as appropriate, a code of conduct for the maintenance of order on school property, including a school function, which shall govern the conduct of students, teachers and other school personnel as well as visitors and shall provide for the enforcement thereof. Such policy may be adopted by the school board or trustees only after at least one public hearing that provides for the participation of school personnel, parents, students and any other interested parties.

2802. Uniform violent incident reporting system.

1. The commissioner, in conjunction with the division of criminal justice services, shall promulgate regulations defining "violent or disruptive incidents" for the purposes of this section.

2. The commissioner, in conjunction with the division of criminal justice services, shall establish a statewide uniform violent incident reporting system which public school districts, boards of cooperative educational services and county vocational education and extension boards shall follow.

ADMINISTRATIVE CODE

100.2 (L)(1) School conduct and discipline.

1. Policy on school conduct and discipline.

   i. On or before January 1, 1986 each school district shall adopt and implement a written policy on school conduct and discipline designed to promote responsible behavior, which policy, and any amendments thereto, shall remain in effect until the adoption of a code of conduct pursuant to paragraph (2) of this subdivision, at which time it shall be deemed to be superseded by such code of conduct. The City School District of the City of New York shall adopt and implement a separate written policy for each community school district and for central board-administered programs...

100.2 (L)(2) Code of conduct.

i. On or before July 1, 2001, each board of education and board of cooperative educational services shall adopt and provide for the enforcement of a written code of conduct for the maintenance of order on school property and at school functions, as defined in Education Law, sections 11(1) and (2) and 2801(1), which shall govern the conduct of students, teachers, other school personnel, and visitors. Such a code shall be developed in collaboration with student, teacher, administrator, and parent organizations, school safety personnel and other school personnel and shall be approved by the board of education, or other governing body, or by the chancellor of the city school district in the case of the City School District of the City of New York. The City School District of the City of New York shall adopt a district-wide code of conduct and each community school district may, upon approval of the chancellor, adopt and implement additional policies, which are consistent with the city school district's district-wide code of conduct, to reflect the individual needs of each community school district. A school district or board of cooperative educational services shall adopt its code of conduct only after at least one public hearing that provides for the participation of school personnel, parents, students and any other interested parties.

Scope

STATUTES

11. Definitions.

For the purposes of this article, the following terms shall have the following meanings:

1. "School property" shall mean in or within any building, structure, athletic playing field, playground, parking lot, or land contained within the real property boundary line of a public elementary or secondary school; or in or on a school bus, as defined in section one hundred forty-two of the vehicle and traffic law.
2. "School function" shall mean a school-sponsored extra-curricular event or activity.

12. Discrimination and harassment prohibited.

1. No student shall be subjected to harassment by employees or students on school property or at a school function; nor shall any student be subjected to discrimination based on a person's actual or perceived race, color, disability, sexual orientation, gender, or sex by school employees or students on school property or at a school function. Nothing in this subdivision shall be construed to prohibit a denial of admission into or exclusion from, a course of instruction based on a person's gender; that would be permissible under section thirty-two hundred one-a or paragraph (a) of subdivision two of section twenty-eight hundred fifty-four of this chapter and Title IX of the Education Amendments of 1972 (20 U.S.C. section 1681, et seq), or to prohibit, as discrimination based on disability, actions that would be permissible under section 504 of the Rehabilitation Act of 1973.

14. Commissioner's responsibilities.

The commissioner shall:

4. Provide guidance and educational materials to school districts related to best practices in addressing cyberbullying and helping families and communities work cooperatively with schools in addressing cyberbullying, whether on or off school property or at or away from a school function.

2801. Codes of conduct on school property.

1. For purposes of this section, school property means in or within any building, structure, athletic playing field, playground, parking lot or land contained within the real property boundary line of a public elementary or secondary school; or in or on a school bus, as defined in section one hundred forty-two of

the vehicle and traffic law; and a school function shall mean a school-sponsored or school-authorized extra-curricular event or activity regardless of where such event or activity takes place, including any event or activity that may take place in another state.

Such code of conduct shall include, at a minimum:

a. provisions regarding conduct, dress and language deemed appropriate and acceptable on school property, including a school function, and conduct, dress and language deemed unacceptable and inappropriate on school property, including a school function, and provisions regarding acceptable civil and respectful treatment of teachers, school administrators, other school personnel, students and visitors on school property, including a school function, including the appropriate range of disciplinary measures which may be imposed for violation of such code, and the roles of teachers, administrators, other school personnel, the board of education and parents;

ADMINISTRATIVE CODE

100.2 (L)(2) Code of conduct.

ii. The code of conduct shall include, but is not limited to:

a. provisions regarding conduct, dress and language deemed appropriate and acceptable on school property and at school functions, and conduct, dress and language deemed unacceptable and inappropriate on school property and provisions regarding acceptable civil and respectful treatment of teachers, school administrators, other school personnel, students and visitors on school property and at school functions, including the appropriate range of disciplinary measures which may be imposed for violation of such code, and the roles of teachers, administrators, other school personnel, the board of education and parents;

Communication of policy

STATUTES

12. Discrimination and harassment prohibited.

2. An age-appropriate version of the policy outlined in subdivision one of this section, written in plain-language, shall be included in the code of conduct adopted by boards of education and the trustees or sole trustee pursuant to section twenty-eight hundred one of this chapter and a summary of such policy shall be included in any summaries required by such section twenty-eight hundred one".

13. Policies and guidelines.

The board of education and the trustees or sole trustee of every school district shall create policies and guidelines that shall include, but not be limited to:

1. Policies and procedures intended to create a school environment that is free from harassment, bullying and discrimination, that include but are not limited to provisions which:

k. require each school, at least once during each school year, to provide all school employees, students and parents with a written or electronic copy of the school district's policies created pursuant to this section, or a plain-language summary thereof, including notification of the process by which students, parents and school employees may report harassment, bullying and discrimination. This subdivision shall not be construed to require additional distribution of such policies and guidelines if they are otherwise distributed to school employees, students and parents;

l. maintain current versions of the school district's policies created pursuant to this section on the school district's internet website, if one exists;

2801. Codes of conduct on school property.

4. The board of education, chancellor or other governing body shall provide copies of a summary of the code of conduct to all students at a general assembly held at the beginning of the school year and shall make copies of the code available to persons in parental relation to students at the beginning of each school year, and shall mail a plain language summary of such code to all persons in parental relation to students before the beginning of each school year, and make it available thereafter upon request. The board of education, chancellor or other governing body shall take reasonable steps to ensure community awareness of the code provisions.

ADMINISTRATIVE CODE

100.2 (L)(1) School conduct and discipline.

1. Policy on school conduct and discipline.

i. On or before January 1, 1986 each school district shall adopt and implement a written policy on school conduct and discipline … and shall include:

a. a bill of rights and responsibilities of students which focuses upon positive student behavior, and which shall be publicized and explained to all students on an annual basis;

b. a discipline code for student behavior setting forth prohibited student conduct and the range of penalties which may be imposed for violation of such code, which shall be publicized and explained to all students and provided in writing to all parents on an annual basis. Such code shall describe the roles of teachers, administrators, board of education members, and parents;

ii. The board of education shall adopt such a policy and review it on an annual basis and amend it when appropriate. Each school district's policy on school conduct and discipline shall be filed in each school building and shall be available for review by any individual.

100.2 (L)(2) Code of conduct.

ii. The code of conduct shall include, but is not limited to:

q. a bill of rights and responsibilities of students which focuses upon positive student behavior and a safe and supportive school climate, which shall be written in plain-language, publicized and explained in an age-appropriate manner to all students on an annual basis; and

iii. Additional responsibilities.

b. Each board of education and board of cooperative educational services shall ensure community awareness of its code of conduct by:

1. posting the complete code of conduct, respectively, on the Internet web site, if any, of the school or school district, or of the board of cooperative educational services, including any annual updates to the code made pursuant to clause (a) of this subparagraph and any other amendments to the code;

2. providing copies of a summary of the code of conduct to all students, in an age-appropriate version, written in plain-language, at a school assembly to be held at the beginning of each school year;

3. providing a plain language summary of the code of conduct to all persons in parental relation to students before the beginning of each school year and making such summary available thereafter upon request;

4. providing each existing teacher with a copy of the complete code of conduct and a copy of any amendments to the code as soon as practicable following initial adoption or amendment of the code, and providing new teachers with a complete copy of the current code upon their employment; and

5. making complete copies available for review by students, parents or other persons in parental relation to students, other school staff and other community members.

In-School Discipline

Use of multi-tiered discipline approaches

STATUTES

13. Policies and guidelines.

The board of education and the trustees or sole trustee of every school district shall create policies and guidelines that shall include, but not be limited to:

4. Guidelines relating to the development of measured, balanced and age-appropriate responses to instances of harassment, bullying or discrimination by students, with remedies and procedures following a progressive model that make appropriate use of intervention, discipline and education, vary in method according to the nature of the behavior, the developmental age of the student and the student's history of problem behaviors, and are consistent with the district's code of conduct.

14. Commissioner's responsibilities.

The commissioner shall:

3. Promulgate regulations to assist school districts in implementing this article including, but not limited to, regulations to assist school districts in developing measured, balanced, and age-appropriate responses to violations of this policy, with remedies and procedures following a progressive model that make appropriate use of intervention, discipline and education and provide guidance related to the application of regulations;

ADMINISTRATIVE CODE

100.2 (L)(1) School conduct and discipline.

1. Policy on school conduct and discipline.

i. On or before January 1, 1986 each school district shall adopt and implement a written policy on school conduct and discipline … and shall include:

b. a discipline code for student behavior setting forth prohibited student conduct and the range of penalties which may be imposed for violation of such code, which shall be publicized and explained to all students and provided in writing to all parents on an annual basis. Such code shall describe the roles of teachers, administrators, board of education members, and parents;

100.2 (L)(2) Code of conduct.

ii. The code of conduct shall include, but is not limited to:

a. provisions regarding conduct, dress and language deemed appropriate and acceptable on school property and at school functions, and conduct, dress and language deemed unacceptable and inappropriate on school property and provisions regarding acceptable civil and respectful treatment of teachers, school administrators, other school personnel, students and visitors on school property and at school functions, including the appropriate range of disciplinary measures which may be imposed for violation of such code, and the roles of teachers, administrators, other school personnel, the board of education and parents;

Teacher authority to remove students from classrooms

STATUTES

2801. Codes of conduct on school property.

2. The board of education or the trustees, as defined in section two of this chapter, of every school district within the state, however created, and every board of cooperative educational services and county vocational extension board, shall adopt and amend, as appropriate, a code of conduct for the maintenance of order on school property, including a school function, which shall govern the conduct of students, teachers and other school personnel as well as visitors and shall provide for the enforcement thereof… Such code of conduct shall include, at a minimum:

c. provisions for the removal from the classroom and from school property, including a school function, of students and other persons who violate the code;

e. provisions for detention, suspension and removal from the classroom of students, consistent with section thirty-two hundred fourteen of this chapter and other applicable federal, state and local laws including provisions for the school authorities to establish policies and procedures to ensure the provision of continued educational programming and activities for students removed from the classroom, placed in detention, or suspended from school;

3214. Student placement, suspensions and transfers.

3-a. Teacher removal of a disruptive pupil.

In addition, any teacher shall have the power and authority to remove a disruptive pupil, as defined in subdivision two-a of this section, from such teacher's classroom consistent with discipline measures contained in the code of conduct adopted by the board pursuant to section twenty-eight hundred one of this chapter. The school authorities of any school district shall establish policies and procedures to ensure the provision of continued educational programming and activities for students removed from the classroom pursuant to this subdivision and provided further that nothing in this subdivision shall authorize the removal of a pupil in violation of any state or federal law or regulation. No pupil shall return to the classroom until the principal makes a final determination pursuant to paragraph c of this subdivision, or the period of removal expires, whichever is less.

a. Such teacher shall inform the pupil and the school principal of the reasons for the removal. If the teacher finds that the pupil's continued presence in the classroom does not pose a continuing danger to persons or property and does not present an ongoing threat of disruption to the academic process, the teacher shall, prior to removing the student from the classroom, provide the student with an explanation of the basis for the removal and allow the pupil to informally present the pupil's version of relevant events. In all other cases, the teacher shall provide the pupil with an explanation of the basis for the removal and an informal opportunity to be heard within twenty-four hours of the pupil's removal.

ADMINISTRATIVE CODE

100.2 (L)(1) School conduct and discipline.

1. Policy on school conduct and discipline.

i. On or before January 1, 1986 each school district shall adopt and implement a written policy on school conduct and discipline … and shall include:

f. disciplinary measures for violation of the school policies developed in accordance with subparagraphs (ii) and (iii) of this paragraph. Such measures shall be appropriate to the seriousness of the offense and where applicable to the previous disciplinary record of the student. Any suspension

from attendance upon instruction may be imposed only in accordance with section 3214 of the Education Law;

100.2 (L)(2) Code of conduct.

ii. The code of conduct shall include, but is not limited to:

d. provisions for the removal from the classroom and from school property and school functions of students and other persons who violate the code;

e. provisions prescribing the period for which a disruptive pupil may be removed from the classroom for each incident, provided that no such pupil shall return to the classroom until the principal makes a final determination pursuant to Education Law section 3214(3-a)(c), or the period of removal expires, whichever is less;

h. provisions for detention, suspension and removal from the classroom of students, consistent with Education Law section 3214 and other applicable Federal, State and local laws including provisions for the school authorities to establish policies and procedures to ensure the provision of continued educational programming and activities for students removed from the classroom, placed in detention, or suspended from school, which shall include alternative educational programs appropriate to individual student needs;

Alternatives to suspension

STATUTES

3214. Student placement, suspensions and transfers.

3. Suspension of a pupil.

e. Procedure after suspension. Where a pupil has been suspended pursuant to this subdivision and said pupil is of compulsory attendance age, immediate steps shall be taken for his or her attendance upon instruction elsewhere or for supervision or detention of said pupil pursuant to the provisions of article seven of the family court act. Where a pupil has been suspended for cause, the suspension may be revoked by the board of education whenever it appears to be for the best interest of the school and the pupil to do so. The board of education may also condition a student's early return to school and suspension revocation on the pupil's voluntary participation in counseling or specialized classes, including anger management or dispute resolution, where applicable.

Use of corporal punishment

ADMINISTRATIVE CODE

19.5. Prohibition of corporal punishment and aversive interventions.

(a) Prohibition of corporal punishment.

(1) No teacher, administrator, officer, employee or agent of a school district in this State, a board of cooperative educational services (BOCES), a charter school, State-operated or State-supported school, an approved preschool program, an approved private school, an approved out-of-state day or residential school, or a registered nonpublic nursery, kindergarten, elementary or secondary school in this State, shall use corporal punishment against a pupil.

(2) As used in this section, corporal punishment means any act of physical force upon a pupil for the purpose of punishing that pupil, except as otherwise provided in paragraph (3) of this subdivision.

(3) In situations in which alternative procedures and methods not involving the use of physical force cannot reasonably be employed, nothing contained in this section shall be construed to prohibit the use of reasonable physical force for the following purposes:

(i) to protect oneself from physical injury;

(ii) to protect another pupil or teacher or any person from physical injury;

(iii) to protect the property of the school, school district or others; or

(iv) to restrain or remove a pupil whose behavior is interfering with the orderly exercise and performance of school or school district functions, powers and duties, if that pupil has refused to comply with a request to refrain from further disruptive acts.

(b) Prohibition of the use of aversive interventions.

(1) No public school, BOCES, charter school, approved preschool program, approved private school, State-operated or State-supported school in this State, approved out-of-state day or residential school, or registered nonpublic nursery, kindergarten, elementary or secondary school in this State shall employ the use of aversive behavioral interventions to reduce or eliminate maladaptive behaviors, except as provided pursuant to section 200.22(e) and (f) of this Title.

(2) As used in this section, aversive intervention means: an intervention that is intended to induce pain or discomfort to a student for the purpose of eliminating or reducing maladaptive behaviors, including such interventions as:

(i) contingent application of noxious, painful, intrusive stimuli or activities; strangling, shoving, deep muscle squeezes or other similar stimuli;

(ii) any form of noxious, painful or intrusive spray, inhalant or tastes;

(iii) contingent food programs that include the denial or delay of the provision of meals or intentionally altering staple food or drink in order to make it distasteful;

(iv) movement limitation used as a punishment, including but not limited to helmets and mechanical restraint devices; or

(v) other stimuli or actions similar to the interventions described in subparagraphs (i) through (iv) of this paragraph.

The term does not include such interventions as voice control, limited to loud, firm commands; time-limited ignoring of a specific behavior; token fines as part of a token economy system; brief physical prompts to interrupt or prevent a specific behavior; interventions medically necessary for the treatment or protection of the student; or other similar interventions.

100.2 (L)(3). Corporal punishment.

i. The term corporal punishment, as used in this section, shall mean any act of physical force upon a pupil for the purpose of punishing that pupil. Such term, as used in this section, shall not mean the use of reasonable physical force for any of the following purposes:

a. to protect oneself from physical injury;

b. to protect another pupil or teacher or any other person from physical injury;

c. to protect the property of the school or of others; or

d. to restrain or remove a pupil whose behavior is interfering with the orderly exercise and performance of school district functions, powers or duties, if that pupil has refused to comply with a request to refrain from further disruptive acts; provided that alternative procedures and methods not involving the use of physical force cannot reasonably be employed to achieve the purposes set forth in clauses (a) through (d) of this subparagraph.

ii. In every school district and supervisory district, the trustee, trustees, board of education or board of cooperative educational services, shall submit a written semiannual report to the Commissioner of Education, by January 15th and July 15th of each year, commencing July 1, 1985, setting forth the substance of each complaint about the use of corporal punishment received by the local school authorities during the reporting period, the results of each investigation, and the action, if any, taken by the school authorities in each case.

Use of student and locker searches

No relevant statutes found.

Other in-school disciplinary approaches

ADMINISTRATIVE CODE

100.2 (L)(2) Code of conduct.

ii. The code of conduct shall include, but is not limited to:

h. provisions for detention, suspension and removal from the classroom of students, consistent with Education Law section 3214 and other applicable Federal, State and local laws including provisions for the school authorities to establish policies and procedures to ensure the provision of continued educational programming and activities for students removed from the classroom, placed in detention, or suspended from school, which shall include alternative educational programs appropriate to individual student needs;

Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements

Grounds for possible suspension or expulsion

STATUTES

3214. Student placement, suspensions and transfers.

3. Suspension of a pupil.

a. The board of education, board of trustees or sole trustee, the superintendent of schools, district superintendent of schools or principal of a school may suspend the following pupils from required attendance upon instruction: A pupil who is insubordinate or disorderly or violent or disruptive, or whose conduct otherwise endangers the safety, morals, health or welfare of others.

5. Involuntary transfers of pupils who have not been determined to be a student with a disability or a student presumed to have a disability for discipline purposes.

a. The board of education, board of trustees or sole trustee, the superintendent of schools, or district superintendent of schools may transfer a pupil who has not been determined to be a student with a disability as defined in section forty-four hundred one of this chapter, or a student presumed to have a disability for discipline purposes as defined in paragraph g of subdivision three of this section from regular classroom instruction to an appropriate educational setting in another school upon the written recommendation of the school principal and following independent review thereof. For purposes of this section of the law, "involuntary transfer" does not include a transfer made by a school district as part of a plan to reduce racial imbalance within the schools or as a change in school attendance zones or geographical boundaries.

b. A school principal may initiate a non-requested transfer where it is believed that such a pupil would benefit from the transfer, or when the pupil would receive an adequate and appropriate education in another school program or facility.

Grounds for mandatory suspension or expulsion

STATUTES

3214. Student placement, suspensions and transfers.

d. Consistent with the federal gun-free schools act of nineteen hundred ninety-four, any public school pupil who is determined under this subdivision to have brought a weapon to school shall be suspended for a period of not less than one calendar year and any nonpublic school pupil participating in a program operated by a public school district using funds from the elementary and secondary education act of nineteen hundred sixty-five who is determined under this subdivision to have brought a weapon to a public school or other premises used by the school district to provide such programs shall be suspended for a period of not less than one calendar year from participation in such program. The procedures of this subdivision shall apply to such a suspension of a nonpublic school pupil. A superintendent of schools, district superintendent of schools or community superintendent shall have the authority to modify this suspension requirement for each student on a case-by-case basis. The determination of a superintendent shall be subject to review by the board of education pursuant to paragraph c of this subdivision and the commissioner pursuant to section three hundred ten of this chapter. Nothing in this subdivision shall be deemed to authorize the suspension of a student with a disability in violation of the individuals with

disabilities education act or article eighty-nine of this chapter. A superintendent shall refer the pupil under the age of sixteen who has been determined to have brought a weapon to school in violation of this subdivision to a presentment agency for a juvenile delinquency proceeding consistent with article three of the family court act except a student fourteen or fifteen years of age who qualifies for juvenile offender status under subdivision forty-two of section 1.20 of the criminal procedure law. A superintendent shall refer any pupil sixteen years of age or older or a student fourteen or fifteen years of age who qualifies for juvenile offender status under subdivision forty-two of section 1.20 of the criminal procedure law, who has been determined to have brought a weapon to school in violation of this subdivision to the appropriate law enforcement officials.

Limitations, conditions or exclusions for use of suspension and expulsion

STATUTES

3214. Student placement, suspensions and transfers.

b. (1) The board of education, board of trustees, or sole trustee, superintendent of schools, district superintendent of schools and the principal of the school where the pupil attends shall have the power to suspend a pupil for a period not to exceed five school days .

c. (1) No pupil may be suspended for a period in excess of five school days unless such pupil and the person in parental relation to such pupil shall have had an opportunity for a fair hearing, upon reasonable notice, at which such pupil shall have the right of representation by counsel, with the right to question witnesses against such pupil and to present witnesses and other evidence on his behalf.

g. Discipline of students with disabilities and students presumed to have a disability for discipline purposes.

(1) Notwithstanding any other provision of this subdivision to the contrary, a student with a disability as such term is defined in section forty-four hundred one of this chapter and a student presumed to have a disability for discipline purposes, may be suspended or removed from his or her current educational placement for violation of school rules only in accordance with the procedures established in this section, the regulations of the commissioner implementing this paragraph, and subsection (k) of section fourteen hundred fifteen of title twenty of the United States code and the federal regulations implementing such statute, as such federal law and regulations are from time to time amended. Nothing in this paragraph shall be construed to confer greater rights on such students than are conferred under applicable federal law and regulations, or to limit the ability of a school district to change the educational placement of a student with a disability in accordance with the procedures in article eighty-nine of this chapter.

(2) As used in this paragraph, a "student presumed to have a disability for discipline purposes" shall mean a student who the school district is deemed to have knowledge was a student with a disability before the behavior that precipitated disciplinary action under the criteria in subsection (k)(8) of section fourteen hundred fifteen of title twenty of the United States code and the federal regulations implementing such statute.

(3) In applying the federal law consistent with this section:

(i) in the event of a conflict between the procedures established in this section and those established in subsection (k) of section fourteen hundred fifteen of title twenty of the United States code and the federal regulations implementing such statute, such federal statute and regulations shall govern.

(ii) the trustees or board of education of any school district, a district superintendent of schools or a building principal shall have authority to order the placement of a student with a disability into an appropriate interim alternative educational setting, another setting or suspension for a period not to

exceed five consecutive school days where such student is suspended pursuant to this subdivision and, except as otherwise provided in clause (vi) of this subparagraph, the suspension does not result in a change in placement under federal law.

(iii) the superintendent of schools of a school district, either directly or upon recommendation of a hearing officer designated pursuant to paragraph c of this subdivision, may order the placement of a student with a disability into an interim alternative educational setting, another setting or suspension for up to ten consecutive school days, inclusive of any period in which the student is placed in an appropriate interim alternative educational placement, another setting or suspension pursuant to clause (ii) of this subparagraph for the behavior, where the superintendent determines in accordance with the procedures set forth in this subdivision that the student has engaged in behavior that warrants a suspension, and, except as otherwise provided in clause (vi) of this subparagraph, the suspension does not result in a change in placement under federal law.

(iv) the superintendent of schools of a school district, either directly or upon recommendation of a hearing officer designated pursuant to paragraph c of this subdivision, may order the change in placement of a student with a disability to an interim alternative educational setting for up to forty-five days, but not to exceed the period of suspension ordered by a superintendent in accordance with this subdivision, under the circumstances specified in subsection (k)(1) of section fourteen hundred fifteen of title twenty of the United States code and the federal regulations implementing such statute.

(v) the terms "day," "business day," and "school day" shall be as defined in section 300.9 of title thirty-four of the code of federal regulations.

(vi) notwithstanding any other provision of this subdivision to the contrary, upon a determination by the committee on special education that the behavior of a student with a disability was not a manifestation of the student's disability, such student may be disciplined pursuant to this section in the same manner as a nondisabled student, except that such student shall continue to receive services to the extent required under federal law and regulations.

(vii) an impartial hearing officer appointed pursuant to subdivision one of section forty-four hundred four of this chapter may order a change in placement of a student with a disability to an appropriate interim alternative educational setting for not more than forty-five days under the circumstances specified in subsections (k)(2) and (k)(7) of section fourteen hundred fifteen of title twenty of the United States code and the federal regulations implementing such statutes, provided that such procedure may be repeated, as necessary.

(viii) nothing in this section shall be construed to authorize the suspension or removal of a student with a disability from his or her current educational placement for violation of school rules following a determination by the committee on special education that the behavior is a manifestation of the student's disability, except as authorized under federal law and regulations.

(ix) the commissioner shall implement this paragraph by adopting regulations which coordinate the procedures required for discipline of students with disabilities, and students presumed to have a disability for discipline purposes, pursuant to subsection (k) of section fourteen hundred fifteen of title twenty of the United States code and the federal regulations implementing such statute, with the general procedures for student discipline under this section.

4402. Duties of education department.

(j) In accordance with the regulations of the commissioner and subsection (k) of section fourteen hundred and fifteen of title twenty of the United States code and the implementing federal regulations, to conduct a review to determine whether behavior of a student with a disability which violates the applicable school rules or code of conduct and results in a change in placement under federal law, including but not limited to placement in an interim alternative educational setting pursuant to clause (iv) or (vii) of subparagraph g

of subdivision three of section thirty-two hundred fourteen of this chapter, was a manifestation of the student's disability, provided that other qualified school district personnel may participate in such a review.

(k) In accordance with the regulations of the commissioner and subsection (k) of section fourteen hundred fifteen of title twenty of the United States code and the implementing federal regulations, to determine the services to be provided in the interim alternative educational placement for a student with a disability who carries or possesses a weapon to or at school, on school premises, or to or at school function or knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school or a school function and the services to be provided to a student with a disability who is removed because of behavior that has been determined not to be a manifestation of the student's disability.

(l) In accordance with the regulations of the commissioner and the provisions of subsection (k) of section fourteen hundred fifteen of title twenty of the United States code, and the implementing federal regulations, to conduct expedited evaluations under the circumstances specified in such federal law and regulations and to conduct such reviews and make such determinations regarding students presumed to have a disability for discipline purposes as defined in subdivision three of section thirty-two hundred fourteen of this chapter as are required under the federal individuals with disabilities education act and implementing regulations.

ADMINISTRATIVE CODE

100.2 (L)(1) School conduct and discipline.

1. Policy on school conduct and discipline.

i. On or before January 1, 1986 each school district shall adopt and implement a written policy on school conduct and discipline … and shall include:

d. procedures within each building to involve pupil service personnel, administrators, teachers, parents and students in the early identification and resolution of discipline problems. For students identified as having a disability, such policy shall include procedures for determining when a student's conduct shall constitute a reason for referral to the committee of special education for review and modification if appropriate of the student's individualized education program;

100.2 (L)(2) Code of conduct.

ii. The code of conduct shall include, but is not limited to:

j. provisions ensuring such code and the enforcement thereof are in compliance with State and Federal laws relating to students with disabilities;

Administrative procedures related to suspension and expulsion

STATUTES

2801. Codes of conduct on school property.

2. The board of education or the trustees, as defined in section two of this chapter, of every school district within the state, however created, and every board of cooperative educational services and county vocational extension board, shall adopt and amend, as appropriate, a code of conduct for the maintenance of order on school property, including a school function, which shall govern the conduct of students, teachers and other school personnel as well as visitors and shall provide for the enforcement thereof… Such code of conduct shall include, at a minimum:

f. procedures by which violations are reported, determined, discipline measures imposed and discipline measures carried out;

g. provisions ensuring such code and the enforcement thereof are in compliance with state and federal laws relating to students with disabilities;

3214. Student placement, suspensions and transfers.

3. Suspension of a pupil.

a. The board of education, board of trustees or sole trustee, the superintendent of schools, district superintendent of schools or principal of a school may suspend the following pupils from required attendance upon instruction: A pupil who is insubordinate or disorderly or violent or disruptive, or whose conduct otherwise endangers the safety, morals, health or welfare of others.

b. (1) The board of education, board of trustees, or sole trustee, superintendent of schools, district superintendent of schools and the principal of the school where the pupil attends shall have the power to suspend a pupil for a period not to exceed five school days. In the case of such a suspension, the suspending authority shall provide the pupil with notice of the charged misconduct. If the pupil denies the misconduct, the suspending authority shall provide an explanation of the basis for the suspension. The pupil and the person in parental relation to the pupil shall, on request, be given an opportunity for an informal conference with the principal at which the pupil and/or person in parental relation shall be authorized to present the pupil's version of the event and to ask questions of the complaining witnesses. The aforesaid notice and opportunity for an informal conference shall take place prior to suspension of the pupil unless the pupil's presence in the school poses a continuing danger to persons or property or an ongoing threat of disruption to the academic process, in which case the pupil's notice and opportunity for an informal conference shall take place as soon after the suspension as is reasonably practicable.

(2) A teacher shall immediately report and refer a violent pupil to the principal or superintendent for a violation of the code of conduct and a minimum suspension period pursuant to section twenty-eight hundred one of this chapter.

c. (1) No pupil may be suspended for a period in excess of five school days unless such pupil and the person in parental relation to such pupil shall have had an opportunity for a fair hearing, upon reasonable notice, at which such pupil shall have the right of representation by counsel, with the right to question witnesses against such pupil and to present witnesses and other evidence on his behalf. Where a pupil has been suspended in accordance with this subdivision by a superintendent of schools, district superintendent of schools, or community superintendent, the superintendent shall personally hear and determine the proceeding or may, in his discretion, designate a hearing officer to conduct the hearing. The hearing officer shall be authorized to administer oaths and to issue subpoenas in conjunction with the proceeding before him. A record of the hearing shall be maintained, but no stenographic transcript shall be required and a tape recording shall be deemed a satisfactory record. The hearing officer shall make findings of fact and recommendations as to the appropriate measure of discipline to the superintendent. The report of the hearing officer shall be advisory only, and the superintendent may accept all or any part thereof. An appeal will lie from the decision of the superintendent to the board of education who shall make its decision solely upon the record before it. The board may adopt in whole or in part the decision of the superintendent of schools. Where the basis for the suspension is, in whole or in part, the possession on school grounds or school property by the student of any firearm, rifle, shotgun, dagger, dangerous knife, dirk, razor, stiletto or any of the weapons, instruments or appliances specified in subdivision one of section 265.01 of the penal law, the hearing officer or superintendent shall not be barred from considering the admissibility of such weapon, instrument or appliance as evidence, notwithstanding a determination

by a court in a criminal or juvenile delinquency proceeding that the recovery of such weapon, instrument or appliance was the result of an unlawful search or seizure.

(2) Where a pupil has been suspended in accordance with this section by a board of education, the board may in its discretion hear and determine the proceeding or appoint a hearing officer who shall have the same powers and duties with respect to the board that a hearing officer has with respect to a superintendent where the suspension was ordered by him. The findings and recommendations of the hearing officer conducting the proceeding shall be advisory and subject to final action by the board of education, each member of which shall before voting review the testimony and acquaint himself with the evidence in the case. The board may reject, confirm or modify the conclusions of the hearing officer.

d. Consistent with the federal gun-free schools act of nineteen hundred ninety-four, any public school pupil who is determined under this subdivision to have brought a weapon to school shall be suspended for a period of not less than one calendar year and any nonpublic school pupil participating in a program operated by a public school district using funds from the elementary and secondary education act of nineteen hundred sixty-five who is determined under this subdivision to have brought a weapon to a public school or other premises used by the school district to provide such programs shall be suspended for a period of not less than one calendar year from participation in such program. The procedures of this subdivision shall apply to such a suspension of a nonpublic school pupil. A superintendent of schools, district superintendent of schools or community superintendent shall have the authority to modify this suspension requirement for each student on a case-by-case basis. The determination of a superintendent shall be subject to review by the board of education pursuant to paragraph c of this subdivision and the commissioner pursuant to section three hundred ten of this chapter. Nothing in this subdivision shall be deemed to authorize the suspension of a student with a disability in violation of the individuals with disabilities education act or article eighty-nine of this chapter. A superintendent shall refer the pupil under the age of sixteen who has been determined to have brought a weapon to school in violation of this subdivision to a presentment agency for a juvenile delinquency proceeding consistent with article three of the family court act except a student fourteen or fifteen years of age who qualifies for juvenile offender status under subdivision forty-two of section 1.20 of the criminal procedure law. A superintendent shall refer any pupil sixteen years of age or older or a student fourteen or fifteen years of age who qualifies for juvenile offender status under subdivision forty-two of section 1.20 of the criminal procedure law, who has been determined to have brought a weapon to school in violation of this subdivision to the appropriate law enforcement officials.

e. Procedure after suspension. Where a pupil has been suspended pursuant to this subdivision and said pupil is of compulsory attendance age, immediate steps shall be taken for his or her attendance upon instruction elsewhere or for supervision or detention of said pupil pursuant to the provisions of article seven of the family court act. Where a pupil has been suspended for cause, the suspension may be revoked by the board of education whenever it appears to be for the best interest of the school and the pupil to do so. The board of education may also condition a student's early return to school and suspension revocation on the pupil's voluntary participation in counseling or specialized classes, including anger management or dispute resolution, where applicable.

f. Whenever the term "board of education or superintendent of schools" is used in this subdivision, it shall be deemed to include community boards of education and community superintendents governing community districts in accordance with the provisions of article fifty-two-A of this chapter. For the purpose of this subdivision, the term "weapon" means a firearm as such term is defined in section nine hundred twenty-one of title eighteen of the United States code.

g. Discipline of students with disabilities and students presumed to have a disability for discipline purposes.

(1) Notwithstanding any other provision of this subdivision to the contrary, a student with a disability as such term is defined in section forty-four hundred one of this chapter and a student presumed to have a disability for discipline purposes, may be suspended or removed from his or her current educational placement for violation of school rules only in accordance with the procedures established in this section, the regulations of the commissioner implementing this paragraph, and subsection (k) of section fourteen hundred fifteen of title twenty of the United States code and the federal regulations implementing such statute, as such federal law and regulations are from time to time amended. Nothing in this paragraph shall be construed to confer greater rights on such students than are conferred under applicable federal law and regulations, or to limit the ability of a school district to change the educational placement of a student with a disability in accordance with the procedures in article eighty-nine of this chapter.

(2) As used in this paragraph, a "student presumed to have a disability for discipline purposes" shall mean a student who the school district is deemed to have knowledge was a student with a disability before the behavior that precipitated disciplinary action under the criteria in subsection (k)(8) of section fourteen hundred fifteen of title twenty of the United States code and the federal regulations implementing such statute.

(3) In applying the federal law consistent with this section:

(i) in the event of a conflict between the procedures established in this section and those established in subsection (k) of section fourteen hundred fifteen of title twenty of the United States code and the federal regulations implementing such statute, such federal statute and regulations shall govern.

(ii) the trustees or board of education of any school district, a district superintendent of schools or a building principal shall have authority to order the placement of a student with a disability into an appropriate interim alternative educational setting, another setting or suspension for a period not to exceed five consecutive school days where such student is suspended pursuant to this subdivision and, except as otherwise provided in clause (vi) of this subparagraph, the suspension does not result in a change in placement under federal law.

(iii) the superintendent of schools of a school district, either directly or upon recommendation of a hearing officer designated pursuant to paragraph c of this subdivision, may order the placement of a student with a disability into an interim alternative educational setting, another setting or suspension for up to ten consecutive school days, inclusive of any period in which the student is placed in an appropriate interim alternative educational placement, another setting or suspension pursuant to clause (ii) of this subparagraph for the behavior, where the superintendent determines in accordance with the procedures set forth in this subdivision that the student has engaged in behavior that warrants a suspension, and, except as otherwise provided in clause (vi) of this subparagraph, the suspension does not result in a change in placement under federal law.

(iv) the superintendent of schools of a school district, either directly or upon recommendation of a hearing officer designated pursuant to paragraph c of this subdivision, may order the change in placement of a student with a disability to an interim alternative educational setting for up to forty-five days, but not to exceed the period of suspension ordered by a superintendent in accordance with this subdivision, under the circumstances specified in subsection (k)(1) of section fourteen hundred fifteen of title twenty of the United States code and the federal regulations implementing such statute.

(v) the terms "day," "business day," and "school day" shall be as defined in section 300.9 of title thirty-four of the code of federal regulations.

(vi) notwithstanding any other provision of this subdivision to the contrary, upon a determination by the committee on special education that the behavior of a student with a disability was not a

manifestation of the student's disability, such student may be disciplined pursuant to this section in the same manner as a nondisabled student, except that such student shall continue to receive services to the extent required under federal law and regulations.

(vii) an impartial hearing officer appointed pursuant to subdivision one of section forty-four hundred four of this chapter may order a change in placement of a student with a disability to an appropriate interim alternative educational setting for not more than forty-five days under the circumstances specified in subsections (k)(2) and (k)(7) of section fourteen hundred fifteen of title twenty of the United States code and the federal regulations implementing such statutes, provided that such procedure may be repeated, as necessary.

(viii) nothing in this section shall be construed to authorize the suspension or removal of a student with a disability from his or her current educational placement for violation of school rules following a determination by the committee on special education that the behavior is a manifestation of the student's disability, except as authorized under federal law and regulations.

(ix) the commissioner shall implement this paragraph by adopting regulations which coordinate the procedures required for discipline of students with disabilities, and students presumed to have a disability for discipline purposes, pursuant to subsection (k) of section fourteen hundred fifteen of title twenty of the United States code and the federal regulations implementing such statute, with the general procedures for student discipline under this section.

3-a. Teacher removal of a disruptive pupil. In addition, any teacher shall have the power and authority to remove a disruptive pupil, as defined in subdivision two-a of this section, from such teacher's classroom consistent with discipline measures contained in the code of conduct adopted by the board pursuant to section twenty-eight hundred one of this chapter. The school authorities of any school district shall establish policies and procedures to ensure the provision of continued educational programming and activities for students removed from the classroom pursuant to this subdivision and provided further that nothing in this subdivision shall authorize the removal of a pupil in violation of any state or federal law or regulation. No pupil shall return to the classroom until the principal makes a final determination pursuant to paragraph c of this subdivision, or the period of removal expires, whichever is less.

a. Such teacher shall inform the pupil and the school principal of the reasons for the removal. If the teacher finds that the pupil's continued presence in the classroom does not pose a continuing danger to persons or property and does not present an ongoing threat of disruption to the academic process, the teacher shall, prior to removing the student from the classroom, provide the student with an explanation of the basis for the removal and allow the pupil to informally present the pupil's version of relevant events. In all other cases, the teacher shall provide the pupil with an explanation of the basis for the removal and an informal opportunity to be heard within twenty-four hours of the pupil's removal.

b. The principal shall inform the person in parental relation to such pupil of the removal and the reasons therefor within twenty-four hours of the pupil's removal. The pupil and the person in parental relation shall, upon request, be given an opportunity for an informal conference with the principal to discuss the reasons for the removal. If the pupil denies the charges, the principal shall provide an explanation of the basis for the removal and allow the pupil and/or person in parental relation to the pupil an opportunity to present the pupil's version of relevant events. Such informal hearing shall be held within forty-eight hours of the pupil's removal.

c. The principal shall not set aside the discipline imposed by the teacher unless the principal finds that the charges against the pupil are not supported by substantial evidence or that the pupil's removal is otherwise in violation of law or that the conduct warrants suspension from school pursuant to this section and a suspension will be imposed. The principal's determination made pursuant to this paragraph shall be made by the close of business on the day succeeding the forty-eight hour period for an informal hearing contained in paragraph b of this subdivision.

d. The principal may, in his or her discretion, designate a school district administrator, to carry out the functions required of the principal under this subdivision.

5. Involuntary transfers of pupils who have not been determined to be a student with a disability or a student presumed to have a disability for discipline purposes.

a. The board of education, board of trustees or sole trustee, the superintendent of schools, or district superintendent of schools may transfer a pupil who has not been determined to be a student with a disability as defined in section forty-four hundred one of this chapter, or a student presumed to have a disability for discipline purposes as defined in paragraph g of subdivision three of this section from regular classroom instruction to an appropriate educational setting in another school upon the written recommendation of the school principal and following independent review thereof. For purposes of this section of the law, "involuntary transfer" does not include a transfer made by a school district as part of a plan to reduce racial imbalance within the schools or as a change in school attendance zones or geographical boundaries.

b. A school principal may initiate a non-requested transfer where it is believed that such a pupil would benefit from the transfer, or when the pupil would receive an adequate and appropriate education in another school program or facility. No recommendation for pupil transfer shall be initiated by the principal until such pupil and a person in parental relation has been sent written notification of the consideration of transfer recommendation. Such notice shall set a time and place of an informal conference with the principal and shall inform such person in parental relation and such pupil of their right to be accompanied by counsel or an individual of their choice.

c. After the conference and if the principal concludes that the pupil would benefit from a transfer or that the pupil would receive an adequate and appropriate education in another school program or facility, the principal may issue a recommendation of transfer to the superintendent. Such recommendation shall include a description of behavior and/or academic problems indicative of the need for transfer; a description of alternatives explored and prior action taken to resolve the problem. A copy of that letter shall be sent to the person in parental relation and to the pupil.

d. Upon receipt of the principal's recommendation for transfer and a determination to consider that recommendation, the superintendent shall notify the person in parental relation and the pupil of the proposed transfer and of their right to a fair hearing as provided in paragraph c of subdivision three of this section and shall list community agencies and free legal assistance which may be of assistance. The written notice shall include a statement that the pupil or person in parental relation has ten days to request a hearing and that the proposed transfer shall not take effect, except upon written parental consent, until the ten day period has elapsed, or, if a fair hearing is requested, until after a formal decision following the hearing is rendered, whichever is later. Parental consent to a transfer shall not constitute a waiver of the right to a fair hearing.

6. Transfer of a pupil. Where a suspended pupil is to be transferred pursuant to subdivision five of this section, he or she shall remain on the register of the original school for two school days following transmittal of his or her records to the school to which he or she is to be transferred. The receiving school shall immediately upon receiving those records transmitted by the original school, review them to insure proper placement of the pupil. Staff members who are involved in the pupil's education must be provided with pertinent records and information relating to the background and problems of the pupil before the pupil is placed in a classroom.

ADMINISTRATIVE CODE

100.2 (L)(1) School conduct and discipline.

1. Policy on school conduct and discipline.

i. On or before January 1, 1986 each school district shall adopt and implement a written policy on school conduct and discipline … and shall include:

c. strategies and procedures for the maintenance and enforcement of public order on school property which shall govern the conduct of all persons on school premises, in accordance with section 2801 of the Education Law and accepted principles of due process of law;

d. procedures within each building to involve pupil service personnel, administrators, teachers, parents and students in the early identification and resolution of discipline problems. For students identified as having a disability, such policy shall include procedures for determining when a student's conduct shall constitute a reason for referral to the committee of special education for review and modification if appropriate of the student's individualized education program;

100.2 (L)(2) Code of conduct.

ii. The code of conduct shall include, but is not limited to:

h. provisions for detention, suspension and removal from the classroom of students, consistent with Education Law section 3214 and other applicable Federal, State and local laws including provisions for the school authorities to establish policies and procedures to ensure the provision of continued educational programming and activities for students removed from the classroom, placed in detention, or suspended from school, which shall include alternative educational programs appropriate to individual student needs;

i. procedures by which violations are reported, determined, discipline measures imposed and discipline measures carried out;

In-school suspension

No relevant statutes found.

Return to school following removal

STATUTES

3214. Student placement, suspensions and transfers.

3-a. Teacher removal of a disruptive pupil.

In addition, any teacher shall have the power and authority to remove a disruptive pupil, as defined in subdivision two-a of this section, from such teacher's classroom consistent with discipline measures contained in the code of conduct adopted by the board pursuant to section twenty-eight hundred one of this chapter. The school authorities of any school district shall establish policies and procedures to ensure the provision of continued educational programming and activities for students removed from the classroom pursuant to this subdivision and provided further that nothing in this subdivision shall authorize the removal of a pupil in violation of any state or federal law or regulation. No pupil shall return to the classroom until the principal makes a final determination pursuant to paragraph c of this subdivision, or the period of removal expires, whichever is less.

a. Such teacher shall inform the pupil and the school principal of the reasons for the removal. If the teacher finds that the pupil's continued presence in the classroom does not pose a continuing danger to persons or property and does not present an ongoing threat of disruption to the academic process, the teacher shall, prior to removing the student from the classroom, provide the student with an explanation of the basis for the removal and allow the pupil to informally present the pupil's version of relevant events. In all other cases, the teacher shall provide the pupil with an explanation of the basis for the removal and an informal opportunity to be heard within twenty-four hours of the pupil's removal.

ADMINISTRATIVE CODE

100.2 (L)(2) Code of conduct.

ii. The code of conduct shall include, but is not limited to:

e. provisions prescribing the period for which a disruptive pupil may be removed from the classroom for each incident, provided that no such pupil shall return to the classroom until the principal makes a final determination pursuant to Education Law section 3214(3-a)(c), or the period of removal expires, whichever is less;

Use of restraint and seclusion

STATUTES

ADMINISTRATIVE CODE

19.5. Prohibition of corporal punishment and aversive interventions.

(a) Prohibition of corporal punishment.

(1) No teacher, administrator, officer, employee or agent of a school district in this State, a board of cooperative educational services (BOCES), a charter school, State-operated or State-supported school, an approved preschool program, an approved private school, an approved out-of-state day or residential school, or a registered nonpublic nursery, kindergarten, elementary or secondary school in this State, shall use corporal punishment against a pupil.

(2) As used in this section, corporal punishment means any act of physical force upon a pupil for the purpose of punishing that pupil, except as otherwise provided in paragraph (3) of this subdivision.

(3) In situations in which alternative procedures and methods not involving the use of physical force cannot reasonably be employed, nothing contained in this section shall be construed to prohibit the use of reasonable physical force for the following purposes:

(i) to protect oneself from physical injury;

(ii) to protect another pupil or teacher or any person from physical injury;

(iii) to protect the property of the school, school district or others; or

(iv) to restrain or remove a pupil whose behavior is interfering with the orderly exercise and performance of school or school district functions, powers and duties, if that pupil has refused to comply with a request to refrain from further disruptive acts.

(b) Prohibition of the use of aversive interventions.

(1) No public school, BOCES, charter school, approved preschool program, approved private school, State-operated or State-supported school in this State, approved out-of-state day or residential school, or registered nonpublic nursery, kindergarten, elementary or secondary school in this State shall employ the use of aversive behavioral interventions to reduce or eliminate maladaptive behaviors, except as provided pursuant to section 200.22(e) and (f) of this Title.

(2) As used in this section, aversive intervention means: an intervention that is intended to induce pain or discomfort to a student for the purpose of eliminating or reducing maladaptive behaviors, including such interventions as:

(i) contingent application of noxious, painful, intrusive stimuli or activities; strangling, shoving, deep muscle squeezes or other similar stimuli;

(ii) any form of noxious, painful or intrusive spray, inhalant or tastes;

(iii) contingent food programs that include the denial or delay of the provision of meals or intentionally altering staple food or drink in order to make it distasteful;

(iv) movement limitation used as a punishment, including but not limited to helmets and mechanical restraint devices; or

(v) other stimuli or actions similar to the interventions described in subparagraphs (i) through (iv) of this paragraph.

The term does not include such interventions as voice control, limited to loud, firm commands; time-limited ignoring of a specific behavior; token fines as part of a token economy system; brief physical prompts to interrupt or prevent a specific behavior; interventions medically necessary for the treatment or protection of the student; or other similar interventions.

200.22. Program standards for behavioral interventions.

Behavioral interventions for students with disabilities shall be provided in accordance with this section and those other applicable provisions of this Part and/or Part 201 that are not inconsistent with this section.

(a) Assessment of student behaviors. For purposes of this section, an assessment of student behaviors shall mean a functional behavioral assessment (FBA), as such term is defined in section 200.1(r) of this Part.

(1) A FBA shall be conducted as required in section 200.4 of this Part and section 201.3 of this Title.

(2) The FBA shall, as appropriate, be based on multiple sources of data including, but not limited to, information obtained from direct observation of the student, information from the student, the student's teacher(s) and/or related service provider(s), a review of available data and information from the student's record and other sources including any relevant information provided by the student's parent. The FBA shall not be based solely on the student's history of presenting problem behaviors.

(3) The FBA shall provide a baseline of the student's problem behaviors with regard to frequency, duration, intensity and/or latency across activities, settings, people and times of the day and include the information required in section 200.1(r) of this Part in sufficient detail to form the basis for a behavioral intervention plan for the student that addresses antecedent behaviors, reinforcing consequences of the behavior, recommendations for teaching alternative skills or behaviors and an assessment of student preferences for reinforcement.

(b) Behavioral intervention plan.

(1) The CSE or CPSE shall consider the development of a behavioral intervention plan, as such term is defined in section 200.1(mmm) of this Part, for a student with a disability when:

(i) the student exhibits persistent behaviors that impede his or her learning or that of others, despite consistently implemented general school-wide or classroom-wide interventions;

(ii) the student's behavior places the student or others at risk of harm or injury;

(iii) the CSE or CPSE is considering more restrictive programs or placements as a result of the student's behavior; and/or

(iv) as required pursuant to section 201.3 of this Title.

(2) In accordance with the requirements in section 200.4 of this Part, in the case of a student whose behavior impedes his or her learning or that of others, the CSE or CPSE shall consider strategies, including positive behavioral interventions and supports and other strategies to address that behavior. If a particular device or service, including an intervention, accommodation or other program modification is needed to address the student's behavior that impedes his or her learning or that of others, the IEP shall so indicate. A student's need for a behavioral intervention plan shall be documented on the IEP and such plan shall be reviewed at least annually by the CSE or CPSE.

(3) Except as provided in subdivision (e) of this section, a behavioral intervention plan shall not include the use of aversive interventions.

(4) The behavioral intervention plan shall identify:

(i) the baseline measure of the problem behavior, including the frequency, duration, intensity and/or latency of the targeted behaviors. Such baseline shall, to the extent practicable, include data taken across activities, settings, people and times of the day. The baseline data shall be used as a standard to establish performance criteria and against which to evaluate intervention effectiveness;

(ii) the intervention strategies to be used to alter antecedent events to prevent the occurrence of the behavior, teach individual alternative and adaptive behaviors to the student, and provide consequences for the targeted inappropriate behavior(s) and alternative acceptable behavior(s); and

(iii) a schedule to measure the effectiveness of the interventions, including the frequency, duration and intensity of the targeted behaviors at scheduled intervals.

(5) Progress monitoring. The implementation of a student's behavioral intervention plan shall include regular progress monitoring of the frequency, duration and intensity of the behavioral interventions at scheduled intervals, as specified in the behavioral intervention plan and on the student's IEP. The results of the progress monitoring shall be documented and reported to the student's parents and to the CSE or CPSE and shall be considered in any determination to revise a student's behavioral intervention plan or IEP.

(c) Use of time out rooms. A time out room is an area for a student to safely deescalate, regain control and prepare to meet expectations to return to his or her education program. Time out rooms are to be used in conjunction with a behavioral intervention plan in which a student is removed to a supervised area in order to facilitate self-control or to remove a student from a potentially dangerous situation and as provided in paragraph (3) of this subdivision.

(1) Each school which uses a time out room as part of its behavior management approach shall ensure that the school's policy and procedures on the use of the time out room are developed and implemented consistent with this subdivision, including the physical and monitoring requirements, parental rights and IEP requirements for students with disabilities. The school's policy and procedures shall minimally include:

(i) prohibiting placing a student in a locked room or space or in a room where the student cannot be continuously observed and supervised;

(ii) factors which may precipitate the use of the time out room;

(iii) time limitations for the use of the time out room;

(iv) staff training on the policies and procedures related to the use of time out room;

(v) data collection to monitor the effectiveness of the use of time out rooms; and

(vi) information to be provided to parents.

(2) A student's IEP shall specify when a behavioral intervention plan includes the use of a time out room for a student with a disability, including the maximum amount of time a student will need to be in a time out room as a behavioral consequence as determined on an individual basis in consideration of the student's age and individual needs.

(3) Except for unanticipated situations that pose an immediate concern for the physical safety of a student or others, the use of a time out room shall be used only in conjunction with a behavioral intervention plan that is designed to teach and reinforce alternative appropriate behaviors.

(4) The school district shall inform the student's parents prior to the initiation of a behavioral intervention plan that will incorporate the use of a time out room for a student and shall give the

parent the opportunity to see the physical space that will be used as a time out room and provide the parent with a copy of the school's policy on the use of time out rooms.

(5) The physical space used as a time out room shall provide a means for continuous visual and auditory monitoring of the student. The room shall be of adequate width, length and height to allow the student to move about and recline comfortably. Wall and floor coverings should be designed to prevent injury to the student and there shall be adequate lighting and ventilation. The temperature of the room shall be within the normal comfort range and consistent with the rest of the building. The room shall be clean and free of objects and fixtures that could be potentially dangerous to a student and shall meet all local fire and safety codes.

(6) The time out room shall be unlocked and the door must be able to be opened from the inside. The use of locked rooms or spaces for purposes of time out is prohibited.

(7) Staff shall continuously monitor the student in a time out room. The staff must be able to see and hear the student at all times.

(8) The school shall establish and implement procedures to document the use of the time out room, including information to monitor the effectiveness of the use of the time out room to decrease specified behaviors.

(9) For an education program operated pursuant to section 112 of the Education Law and Part 116 of this Title, if a provision of this section relating to use of time out rooms conflicts with the rules of the respective State agency operating such program, the rules of such State agency shall prevail and the conflicting provisions of this section shall not apply.

(d) Emergency/interventions.

(1) For purposes of this subdivision, emergency means a situation in which immediate intervention involving the use of reasonable physical force pursuant to section 19.5(a)(3) of this Title is necessary.

(2) Use of emergency interventions

(i) Emergency interventions shall be used only in situations in which alternative procedures and methods not involving the use of physical force cannot reasonably be employed.

(ii) Emergency interventions shall not be used as a punishment or as a substitute for systematic behavioral interventions that are designed to change, replace, modify or eliminate a targeted behavior.

(3) Staff training. Staff who may be called upon to implement emergency interventions shall be provided with appropriate training in safe and effective restraint procedures in accordance with sections 100.2(l)(1)(i)(g) of this Title and 200.15(f)(1) of this Part as applicable.

(4) Documentation. The school must maintain documentation on the use of emergency interventions for each student, which shall include the name and date of birth of the student; the setting and the location of the incident; the name of the staff or other persons involved; a description of the incident and the emergency intervention used, including duration; a statement as to whether the student has a current behavioral intervention plan; and details of any injuries sustained by the student or others, including staff, as a result of the incident. The parent of the student shall be notified and documentation of emergency interventions shall be reviewed by school supervisory personnel and, as necessary, the school nurse or other medical personnel.

(5) Applicability. For an education program operated pursuant to section 112 of the Education Law and Part 116 of this Title, if a provision of this section relating to emergency interventions conflicts with the rules of the respective State agency operating such program, the rules of such State agency shall prevail and the conflicting provision of this section shall not apply.

(e) Child-specific exception to use aversive interventions to reduce or modify student behaviors. A child-specific exception to the prohibition of the use of aversive interventions set forth in section 19.5 of this Title may be granted for a school-age student, in accordance with the procedures outlined in this subdivision, only during the 2006-2007, 2007-2008 and 2008-2009 school years; provided that a student whose IEP includes the use of aversive interventions as of June 30, 2009 may be granted a child-specific exception in each subsequent school year, unless the IEP is revised to no longer include such exception. No child-specific exception shall be granted for a preschool student.

(1) Aversive interventions shall be considered only for students who are displaying self- injurious and/or aggressive behaviors that threaten the physical well being of the student or that of others, and only to address such behaviors.

(2) No child-specific exception shall be granted for interventions used as a consequence for behavior which are intended to induce pain or discomfort that include ice applications, hitting, slapping, pinching, deep muscle squeezes, use of an automated aversive conditioning device, the combined simultaneous use of physical or mechanical restraints and the application of an aversive intervention; withholding of sleep, shelter, bedding, bathroom facilities, denial or unreasonable delays in providing regular meals to the student that would result in a student not receiving adequate nutrition; the placement of a child unsupervised or unobserved in a room from which the student cannot exit without assistance or actions similar to these interventions at the discretion of the commissioner.

(3) Whenever a CSE is considering whether a child-specific exception is warranted, the school district shall submit an application to the commissioner in a form prescribed by the commissioner requesting a review of student specific information by an independent panel of experts.

(4) The commissioner shall refer the application to an independent panel of experts appointed by the commissioner or commissioner's designee for a recommendation to the CSE as to whether a child-specific exception is warranted. The panel shall be comprised of three professionals with appropriate clinical and behavioral expertise to make such determinations.

(5) The panel shall review the written application; the student's IEP; the student's diagnosis(es); the student's functional behavioral assessment; any proposed, current and/or prior behavioral intervention plans for the student, including documentation of the implementation and progress monitoring of the effectiveness of such plans; and other relevant individual evaluations and medical information that allow for an assessment of the student's cognitive and adaptive abilities and general health status, including any information provided by the student's parent.

(6) The panel's recommendation to the CSE that a child-specific exception is warranted shall be based on the professional judgment of the panel that:

(i) the student is displaying self-injurious or aggressive behaviors that threaten the physical well being of the student or that of others and a full range of evidence-based positive behavioral interventions have been consistently employed over an appropriate period of time and have failed to result in sufficient improvement of a student's behavior; or

(ii) the student's self-injurious or aggressive behaviors are of such severity as to pose significant health and safety concerns that warrant the use of aversive interventions to effect rapid suppression of the behavior and a range of nonaversive prevention strategies have been employed and have failed to provide a sufficient level of safety.

(7) The panel shall notify the school district and the commissioner of its recommendation as to whether a child-specific exception is warranted and the reasons therefor. For students whose current IEP does not include a child-specific exception, the panel shall provide such notice within 15 business days of receipt of an application.

(8) The CSE shall determine, based on its consideration of the recommendation of the panel, whether the student's IEP shall include a child-specific exception allowing the use of aversive interventions. The determination to provide a child-specific exception shall be made by the CSE and not by a subcommittee. The CSE shall request the participation of the school physician member in such determination. The school district shall notify and provide a copy of the student's IEP to the commissioner when a child-specific exception has been included in the student's IEP.

(9) Any IEP providing for a child-specific exception allowing the use of aversive interventions shall identify the specific:

(i) self-injurious and/or aggressive targeted behavior(s);

(ii) aversive intervention(s) to be used to address the behavior(s); and

(iii) aversive conditioning device(s) and/or mechanical restraint device(s) where the aversive intervention(s) includes the use of such device(s).

(10) Nothing in this section shall authorize the use of aversive interventions without the informed written consent of the student's parent.

(11) Any such child-specific exception shall be in effect only during the time period the IEP providing such exception is in effect. If the continued use of an aversive intervention for a student is being considered for subsequent IEP(s), the CSE shall submit an annual application to the commissioner for each such IEP(s). If the student's IEP is amended or a subsequent IEP is adopted to no longer include a child-specific exception, the school district need not notify the panel but shall submit a revised copy of the student's IEP to the commissioner.

(12) For an education program operated pursuant to section 112 of the Education Law and Part 116 of this Title, if a provision of this section relating to the use of aversive interventions conflicts with the rules of the respective State agency operating such program, the rules of such State agency shall prevail and the conflicting provision of this section shall not apply.

(13) Coordination with licensing agencies. Nothing in this section shall authorize a school or agency to provide aversive interventions that are otherwise prohibited by the State agency licensing such program.

(f) Program standards for the use of aversive interventions.

(1) Applicability.

(i) The requirements in this subdivision shall apply to any public school, BOCES, charter school, approved private school, State-operated or State-supported school in this State and an approved out-of-state day or residential school that proposes to use aversive interventions subject to the approval of the Department.

(ii) For an education program operated pursuant to section 112 of the Education Law and Part 116 of this Title, if a provision of this section relating to the use of aversive interventions conflicts with the rules of the respective State agency operating such program, the rules of such State agency shall prevail and the conflicting provision of this section shall not apply.

(2) General requirements. Any program that employs the use of aversive interventions to modify an individual student's behavior as authorized pursuant to subdivision (e) of this section shall comply with the following standards:

(i) The program shall provide for the humane and dignified treatment of the student. The program shall promote respect for the student's personal dignity and right to privacy and shall not employ the use of threats of harm, ridicule or humiliation, nor implement behavioral interventions in a manner that shows a lack of respect for basic human needs and rights.

(ii) Aversive intervention procedures may be used only if such interventions are recommended by the CSE consistent with the student's IEP and behavioral intervention plan as determined by the CSE.

(iii) Aversive intervention procedures shall not be the sole or primary intervention used with a student and shall be used in conjunction with other related services, as determined by the CSE, such as verbal or other counseling services, speech and language therapy and/or functional communication training.

(iv) Aversive interventions shall be combined with reinforcement procedures, as individually determined based on an assessment of the student's reinforcement preferences.

(v) Aversive interventions shall be implemented consistent with peer-reviewed research based practices and shall include individualized procedures for generalization and maintenance of behaviors and for the fading of the use of such aversive interventions.

(vi) The use of aversive interventions shall be limited to those self-injurious or aggressive behaviors identified for such interventions on the student's IEP.

(vii) Whenever possible, the use of aversive interventions shall apply the lowest intensity for the shortest duration and period of time that is effective to treat the problem behavior and employ strategies that increase the effectiveness of mild levels of aversive interventions. In the event the aversive intervention fails to result in a suppression or reduction of the behavior over time, alternative procedures shall be considered that do not include increasing the magnitude of the aversive intervention.

(viii) The use of any aversive conditioning device used to administer an electrical shock or other noxious stimuli to a student to modify undesirable behavioral characteristics shall be limited to devices tested for safety and efficacy and approved for such use by the United States Food and Drug Administration where such approval is required by Federal regulation. The magnitude, frequency and duration of any administration of aversive stimulus from such a device must have been shown to be safe and effective in clinical peer-reviewed studies. The use of automated aversive conditioning devices is prohibited.

(ix) No program may combine the simultaneous use on a student of a physical or mechanical restraint device with another aversive intervention.

(3) Human Rights Committee.

(i) Each school that uses aversive interventions with students shall establish a Human Rights Committee to monitor the school's behavior intervention program for any student being considered for or receiving aversive interventions to ensure the protection of legal and human rights of individuals.

(ii) Each Human Rights Committee shall be comprised of individuals not employed by the school or agency, which shall include at least one licensed psychologist with appropriate credentials in applied behavior analysis; one licensed physician, physician's assistant or nurse practitioner; one registered dietician or nutritionist; one attorney, law student or paralegal; and one parent or parent advocate and may include not more than two additional individuals selected by the school agency. In addition, when the purpose of the Human Rights Committee meeting includes a review of an individual New York State student's program, a representative of the school district or agency placing the student in the program and a representative of the department shall be invited to participate.

(iii) The Human Rights Committee shall meet at least quarterly to review, monitor and investigate the implementation of students' behavioral intervention plans that include aversive interventions. A written report on the findings and recommendations of the Human Rights Committee regarding an

individual student shall be provided to the CSE of the student and to the agency that placed the student in the program.

(4) Supervision and training requirements. Aversive interventions shall be administered by appropriately licensed professionals or certified special education teachers in accordance with Part 80 of this Title and sections 200.6 and 200.7 of this Part or under the direct supervision and direct observation of such staff. Training shall be provided on a regular, but at least annual basis, which shall include, but not be limited to, training on:

(i) safe and therapeutic emergency physical restraint interventions;

(ii) data collection of the frequency, duration and latency of behaviors;

(iii) identification of antecedent behaviors and reinforcing consequences of the behavior;

(iv) approaches to teach alternative skills or behaviors including functional communication training;

(v) assessment of student preferences for reinforcement;

(vi) assessing and responding to the collateral effects of the use of aversive interventions including, but not limited to, effects on a student's health, increases in aggression, increases in escape behaviors and/or emotional reactions;

(vii) privacy rights of students; and

(viii) documentation and reporting of incidents, including emergency restraints and injuries.

(5) Parent consent. Aversive interventions shall be provided only with the informed written consent of the parent and no parent shall be required by the program to remove the student from the program if he or she refuses consent for an aversive intervention. A parent shall be given a copy of the school's policies and procedures on the use of aversive interventions.

(6) Quality assurance reviews. The program providing aversive interventions shall conduct periodic reviews of all incident reports relating to such interventions to ensure that practices are clinically sound, supported by proper documentation and consistent with these program standards and the school's policies and procedures as approved by the department.

(7) Progress monitoring.

(i) The program shall provide for ongoing monitoring of student progress, including the collection and review of data and information. Such information shall include reports on the assessment of and strategies used to address any indirect or collateral effects the use of aversive interventions may be having on the student, including, but not limited to, increases in aggressive or escape behaviors, health-related effects and/or emotional reactions. The program shall submit quarterly written progress reports on the implementation of the student's behavioral intervention program to the CSE and to the agency that placed the student in the program.

(ii) A school district that places a student in a program that uses aversive interventions with such student shall be responsible to ensure that the student's IEP and behavioral intervention plan are being implemented. The CSE shall convene at least every six months, or more frequently as needed, to review the student's educational program and placement for any student for whom the CSE has recommended the use of aversive interventions. Such review shall include the review of written progress monitoring and incident reports, documentation from observations of and, as appropriate, interviews with the student in the program and the concerns of the student's parent. A representative of the school district shall observe the student at least every six months and, as appropriate, interview the student in the program and communicate regularly with the student's parent and shall report the results thereof to the CSE.

(8) Policies and procedures. Each school that proposes to use aversive interventions pursuant to a child-specific exception shall submit its policies and procedures consistent with this subdivision to the

department for approval prior to the use of such interventions. Only those schools with policies and procedures approved by the department on or before June 30, 2007 shall be authorized to use such interventions.

Alternative placements

STATUTES

3214. Student placement, suspensions and transfers.

2. Special day schools. The school authorities of any city or school district may establish schools or set apart rooms in public school buildings for the instruction of school delinquents, and fix the number of days per week and the hours per day of required attendance, which shall not be less than is required of minors attending the full time day schools.

e. Procedure after suspension. Where a pupil has been suspended pursuant to this subdivision and said pupil is of compulsory attendance age, immediate steps shall be taken for his or her attendance upon instruction elsewhere or for supervision or detention of said pupil pursuant to the provisions of article seven of the family court act. Where a pupil has been suspended for cause, the suspension may be revoked by the board of education whenever it appears to be for the best interest of the school and the pupil to do so. The board of education may also condition a student's early return to school and suspension revocation on the pupil's voluntary participation in counseling or specialized classes, including anger management or dispute resolution, where applicable.

4112. Commissioner of education to contract for keeping of truants.

The commissioner of education may contract with any city or district having a school for delinquents, for the confinement, maintenance and instruction therein of any child who shall be committed to such school as a truant by any magistrate before whom such child shall have been examined upon the charge of truancy. The costs and expenses attending the support and maintenance of any truant, as herein provided, shall be audited by the commissioner of education and paid in the same manner as the expenses of supporting and maintaining the schools on a reservation are paid.

ADMINISTRATIVE CODE

100.2 (L)(1) School conduct and discipline.

1. Policy on school conduct and discipline.

i. On or before January 1, 1986 each school district shall adopt and implement a written policy on school conduct and discipline … and shall include:

e. alternative educational programs appropriate to individual students needs;

100.2 (L)(2) Code of conduct.

ii. The code of conduct shall include, but is not limited to:

h. provisions for detention, suspension and removal from the classroom of students, consistent with Education Law section 3214 and other applicable Federal, State and local laws including provisions for the school authorities to establish policies and procedures to ensure the provision of continued educational programming and activities for students removed from the classroom, placed in detention, or suspended from school, which shall include alternative educational programs appropriate to individual student needs;

Disciplinary Approaches Addressing Specific Infractions and Conditions

Firearms (as required by the Guns-Free Schools Act)

STATUTES

3214. Student placement, suspensions and transfers.

2-a. a. Violent pupil. For the purposes of this section, a violent pupil is an elementary or secondary student under twenty-one years of age who:

(3) possesses, while on school district property, a gun, knife, explosive or incendiary bomb, or other dangerous instrument capable of causing physical injury or death;

(4) displays, while on school district property, what appears to be a gun, knife, explosive or incendiary bomb or other dangerous instrument capable of causing death or physical injury;

3. Suspension of a pupil.

d. Consistent with the federal gun-free schools act of nineteen hundred ninety-four, any public school pupil who is determined under this subdivision to have brought a weapon to school shall be suspended for a period of not less than one calendar year and any nonpublic school pupil participating in a program operated by a public school district using funds from the elementary and secondary education act of nineteen hundred sixty-five who is determined under this subdivision to have brought a weapon to a public school or other premises used by the school district to provide such programs shall be suspended for a period of not less than one calendar year from participation in such program. The procedures of this subdivision shall apply to such a suspension of a nonpublic school pupil. A superintendent of schools, district superintendent of schools or community superintendent shall have the authority to modify this suspension requirement for each student on a case-by-case basis. The determination of a superintendent shall be subject to review by the board of education pursuant to paragraph c of this subdivision and the commissioner pursuant to section three hundred ten of this chapter. Nothing in this subdivision shall be deemed to authorize the suspension of a student with a disability in violation of the individuals with disabilities education act or article eighty-nine of this chapter. A superintendent shall refer the pupil under the age of sixteen who has been determined to have brought a weapon to school in violation of this subdivision to a presentment agency for a juvenile delinquency proceeding consistent with article three of the family court act except a student fourteen or fifteen years of age who qualifies for juvenile offender status under subdivision forty-two of section 1.20 of the criminal procedure law. A superintendent shall refer any pupil sixteen years of age or older or a student fourteen or fifteen years of age who qualifies for juvenile offender status under subdivision forty-two of section 1.20 of the criminal procedure law, who has been determined to have brought a weapon to school in violation of this subdivision to the appropriate law enforcement officials.

Other weapons

STATUTES

2801. Codes of conduct on school property.

2. The board of education or the trustees, as defined in section two of this chapter, of every school district within the state, however created, and every board of cooperative educational services and county vocational extension board, shall adopt and amend, as appropriate, a code of conduct for the

maintenance of order on school property, including a school function, which shall govern the conduct of students, teachers and other school personnel as well as visitors and shall provide for the enforcement thereof… Such code of conduct shall include, at a minimum:

d. disciplinary measures to be taken in incidents involving the possession or use of illegal substances or weapons, the use of physical force, vandalism, violation of another student's civil rights and threats of violence;

3214. Student placement, suspensions and transfers.

2-a. a. Violent pupil. For the purposes of this section, a violent pupil is an elementary or secondary student under twenty-one years of age who:

(3) possesses, while on school district property, a gun, knife, explosive or incendiary bomb, or other dangerous instrument capable of causing physical injury or death;

(4) displays, while on school district property, what appears to be a gun, knife, explosive or incendiary bomb or other dangerous instrument capable of causing death or physical injury;

3. Suspension of a pupil.

d. Consistent with the federal gun-free schools act of nineteen hundred ninety-four, any public school pupil who is determined under this subdivision to have brought a weapon to school shall be suspended for a period of not less than one calendar year and any nonpublic school pupil participating in a program operated by a public school district using funds from the elementary and secondary education act of nineteen hundred sixty-five who is determined under this subdivision to have brought a weapon to a public school or other premises used by the school district to provide such programs shall be suspended for a period of not less than one calendar year from participation in such program. The procedures of this subdivision shall apply to such a suspension of a nonpublic school pupil. A superintendent of schools, district superintendent of schools or community superintendent shall have the authority to modify this suspension requirement for each student on a case-by-case basis. The determination of a superintendent shall be subject to review by the board of education pursuant to paragraph c of this subdivision and the commissioner pursuant to section three hundred ten of this chapter. Nothing in this subdivision shall be deemed to authorize the suspension of a student with a disability in violation of the individuals with disabilities education act or article eighty-nine of this chapter. A superintendent shall refer the pupil under the age of sixteen who has been determined to have brought a weapon to school in violation of this subdivision to a presentment agency for a juvenile delinquency proceeding consistent with article three of the family court act except a student fourteen or fifteen years of age who qualifies for juvenile offender status under subdivision forty-two of section 1.20 of the criminal procedure law. A superintendent shall refer any pupil sixteen years of age or older or a student fourteen or fifteen years of age who qualifies for juvenile offender status under subdivision forty-two of section 1.20 of the criminal procedure law, who has been determined to have brought a weapon to school in violation of this subdivision to the appropriate law enforcement officials.

ADMINISTRATIVE CODE

100.2 (L)(2) Code of conduct.

ii. The code of conduct shall include, but is not limited to:

f. disciplinary measures to be taken in incidents on school property or at school functions involving the possession or use of illegal substances or weapons, the use of physical force, vandalism, violation of another student's civil rights, harassment and threats of violence;

Students with chronic disciplinary issues

STATUTES

2801. Codes of conduct on school property.

2. The board of education or the trustees, as defined in section two of this chapter, of every school district within the state, however created, and every board of cooperative educational services and county vocational extension board, shall adopt and amend, as appropriate, a code of conduct for the maintenance of order on school property, including a school function, which shall govern the conduct of students, teachers and other school personnel as well as visitors and shall provide for the enforcement thereof… Such code of conduct shall include, at a minimum:

l. a minimum suspension period, for students who repeatedly are substantially disruptive of the educational process or substantially interfere with the teacher's authority over the classroom, provided that the suspending authority may reduce such period on a case by case basis to be consistent with any other state and federal law. For purposes of this section, the definition of "repeatedly are substantially disruptive" shall be determined in accordance with the regulations of the commissioner;

3214. Student placement, suspensions and transfers.

1. School delinquent. A minor under seventeen years of age, required by any of the provisions of part one of this article to attend upon instruction, who is an habitual truant from such instruction or is irregular in such attendance or insubordinate or disorderly or disruptive or violent during such attendance, is a school delinquent.

ADMINISTRATIVE CODE

100.2 (L)(1) School conduct and discipline.

1. Policy on school conduct and discipline.

i. On or before January 1, 1986 each school district shall adopt and implement a written policy on school conduct and discipline … and shall include:

f. disciplinary measures for violation of the school policies developed in accordance with subparagraphs (ii) and (iii) of this paragraph. Such measures shall be appropriate to the seriousness of the offense and where applicable to the previous disciplinary record of the student. Any suspension from attendance upon instruction may be imposed only in accordance with section 3214 of the Education Law;

100.2 (L)(2) Code of conduct.

ii. The code of conduct shall include, but is not limited to:

o. a minimum suspension period, for any student who repeatedly is substantially disruptive of the educational process or substantially interferes with the teacher's authority over the classroom, provided that the suspending authority may reduce such period on a case-by-case basis to be consistent with any other State and Federal Law. For purposes of this requirement, "repeatedly is substantially disruptive of the educational process or substantially interferes with the teacher's authority over the classroom" shall mean engaging in conduct which results in the removal of the student from the classroom by teacher(s) pursuant to the provisions of Education Law section 3214(3-a) and the provisions set forth in the code of conduct on four or more occasions during a semester, or three or more occasions during a trimester, as applicable;

Attendance and truancy

STATUTES

3205. Attendance of minors upon full time day instruction.

1. a. In each school district of the state, each minor from six to sixteen years of age shall attend upon full time instruction.

b. Each minor from six to sixteen years of age on an Indian reservation shall attend upon full time day instruction.

c. For purposes of this article, a minor who becomes six years of age on or before the first of December in any school year shall be required to attend upon full time instruction from the first day that the appropriate public schools are in session in September of such school year, and a minor who becomes six years of age after the first of December in any school year shall be required to attend upon full time instruction from the first day of session in the following September; and, except as otherwise provided in subdivision three of this section, shall be required to remain in attendance until the last day of session in the school year in which the minor becomes sixteen years of age.

2. Exceptions.

a. A minor who has completed a four-year high school course of study shall not be subject to the provisions of part one of this article in respect to required attendance upon instruction.

b. A minor for whom application for a full-time employment certificate has been made and who is eligible therefor may, though unemployed, be permitted to attend part time school not less than twenty hours per week instead of full time school.

c. The board of education of the Syracuse city school district and the board of education of the city school district of the city of New York and the board of education of the city school district of the city of Rochester are hereby authorized to require minors who are five years of age on or before December first to attend kindergarten instruction.

However, the provisions of this paragraph shall not apply to:

(i) Minors whose parents elect not to enroll their children in school until the following September.

(ii) Students enrolled in non-public schools or in home instruction.

3. In each school district, the board of education shall have power to require minors from sixteen to seventeen years of age who are not employed to attend upon full time day instruction until the last day of session in the school year in which the student becomes seventeen years of age.

3210. Amount and character of required attendance.

1. Regularity and conduct.

a. A minor required by the provisions of part one of this article to attend upon instruction shall attend regularly as prescribed where he resides or is employed, for the entire time the appropriate public schools or classes are in session and shall be subordinate and orderly while so attending.

b. Absence for religious observance and education shall be permitted under rules that the commissioner shall establish.

c. In the event that a person requests the release of a minor required by the provisions of part one of this article to attend upon instruction, the identity of such person shall be verified against a list of names provided by the person or persons in parental relation to the minor, as defined in section two of this chapter, at the time of such minor's enrollment. The school district may adopt appropriate procedures for the purpose of submitting a list of names at a later date or updating the list of names provided by the person or persons in parental relation. If such person is identified as one of those persons included on

such list, such minor may be released from attendance. If such person is identified as a person not included on such list, such minor may not be released except in the event of an emergency as determined in the sole discretion of the principal of the school, or his designee, provided that the person or persons in parental relation to the minor have been contacted and have agreed to such release. A school district may presume that either parent of the student has authority to obtain the release of said minor unless the school district has been provided with a certified copy of the legally binding instrument such as the court order or decree of divorce, separation or custody which provides evidence to the contrary. No situation shall be deemed an emergency until the facts of such situation have been verified by such principal or his designee. No civil or criminal liability shall arise or attach to any school district or employee thereof for any act or omission to act as a result of, or in connection with, the duties or activities authorized or directed by this paragraph. The foregoing procedure shall not apply to release of a minor pursuant to the protective custody provisions of the social services law and the family court act.

2. Attendance elsewhere than at a public school.

a. Hours of attendance. If a minor included by the provisions of part one of this article attends upon instruction elsewhere than at a public school, he shall attend for at least as many hours, and within the hours specified therefor.

b. Absence. Absence from required attendance shall be permitted only for causes allowed by the general rules and practices of the public schools. Absence for religious observance and education shall be permitted under rules that the commissioner shall establish.

c. Holidays and vacations. Holidays and vacations shall not exceed in total amount and number those allowed by the public schools.

d. Exception. In applying the foregoing requirements a minor required to attend upon full time day instruction by the provisions of part one of this article may be permitted to attend for a shorter school day or for a shorter school year or for both, provided, in accordance with the regulations of the state education department, the instruction he receives has been approved by the school authorities as being substantially equivalent in amount and quality to that required by the provisions of part one of this article.

3211. Records of attendance upon instruction.

1. Who shall keep such record. The teacher of every minor required by the provisions of part one of this article to attend upon instruction, or any other school district employee as may be designated by the commissioner of education under section three thousand twenty-four of this chapter, shall keep an accurate record of the attendance and absence of such minor. Such record shall be in such form as may be prescribed by the commissioner of education.

2. Certificates of attendance to be presumptive evidence. A duly certified transcript of the record of attendance and absence of a child which has been kept, as provided in this section, shall be accepted as presumptive evidence of the attendance of such child in any proceeding brought under the provisions of part one of this article.

3. Inspection of records of attendance. An attendance officer, or any other duly authorized representative of the school authorities, may at any time during school hours, demand the production of the records of attendance of minors required to be kept by the provisions of part one of this article, and may inspect or copy the same and make all proper inquiries of a teacher or principal concerning the records and the attendance of such minors.

4. Duties of principal or person in charge of the instruction of a minor. The principal of a school, or other person in charge of the instruction upon which a minor attends, as provided by part one of this article, shall cause the record of his attendance to be kept and produced and all appropriate inquiries in relation thereto answered as hereinbefore required. He shall give prompt notification in writing to the school

authorities of the city or district of the discharge or transfer of any such minor from attendance upon instruction, stating the date of the discharge, its cause, the name of the minor, his date of birth, his place of residence prior to and following discharge, if such place of residence be known, and the name of the person in parental relation to the minor.

4111. Arrest of truants.

Any attendance officer may arrest without warrant anywhere within the state any Indian child between six and sixteen years of age, found away from his home and who is then a truant from instruction upon which he is lawfully required to attend within the districts of which such attendance officer has jurisdiction. He shall forthwith deliver a child so arrested either to the person in parental relation to the child, or to the teacher of the school from which said child is then a truant, or in case of habitual or incorrigible truants, shall bring them before a magistrate for commitment to a school for delinquents, as provided in section forty-one hundred twelve.

4112. Commissioner of education to contract for keeping of truants.

The commissioner of education may contract with any city or district having a school for delinquents, for the confinement, maintenance and instruction therein of any child who shall be committed to such school as a truant by any magistrate before whom such child shall have been examined upon the charge of truancy. The costs and expenses attending the support and maintenance of any truant, as herein provided, shall be audited by the commissioner of education and paid in the same manner as the expenses of supporting and maintaining the schools on a reservation are paid.

Substance use

STATUTES

2801. Codes of conduct on school property.

2. The board of education or the trustees, as defined in section two of this chapter, of every school district within the state, however created, and every board of cooperative educational services and county vocational extension board, shall adopt and amend, as appropriate, a code of conduct for the maintenance of order on school property, including a school function, which shall govern the conduct of students, teachers and other school personnel as well as visitors and shall provide for the enforcement thereof… Such code of conduct shall include, at a minimum:

d. disciplinary measures to be taken in incidents involving the possession or use of illegal substances or weapons, the use of physical force, vandalism, violation of another student's civil rights and threats of violence;

3028-a. Students under twenty-one years of age suspected of alcohol abuse or narcotic addiction.

Any teacher, school administrator, school guidance counselor, school psychologist, school drug counselor, school nurse, supervisor of attendance, attendance teacher or attendance officer having reasonable cause to suspect that a secondary or elementary student under twenty-one years of age is a substance or alcohol abuser or substance dependent, who report such information to the appropriate secondary or elementary school officials pursuant to the school's drug policy or if the school has no drug policy to the school's principal or the parents or legal guardians of such student under twenty-one years of age shall have immunity from any civil liability that might otherwise be incurred or imposed as a result of the making of such a report.

ADMINISTRATIVE CODE

100.2 (L)(2) Code of conduct.

ii. The code of conduct shall include, but is not limited to:

f. disciplinary measures to be taken in incidents on school property or at school functions involving the possession or use of illegal substances or weapons, the use of physical force, vandalism, violation of another student's civil rights, harassment and threats of violence;

Bullying, harassment, or hazing

STATUTES

11. Definitions.

For the purposes of this article, the following terms shall have the following meanings:

3. "Disability" shall mean disability as defined in subdivision twenty-one of section two hundred ninety-two of the executive law.

4. "Employee" shall mean employee as defined in subdivision three of section eleven hundred twenty-five of this title.

5. "Sexual orientation" shall mean actual or perceived heterosexuality, homosexuality or bisexuality.

6. "Gender" shall mean actual or perceived sex and shall include a person's gender identity or expression.

7. "Harassment" and "bullying" shall mean the creation of a hostile environment by conduct or by threats, intimidation or abuse, including cyberbullying, that (a) has or would have the effect of unreasonably and substantially interfering with a student's educational performance, opportunities or benefits, or mental, emotional or physical well-being; or (b) reasonably causes or would reasonably be expected to cause a student to fear for his or her physical safety; or (c) reasonably causes or would reasonably be expected to cause physical injury or emotional harm to a student; or (d) occurs off school property and creates or would foreseeably create a risk of substantial disruption within the school environment, where it is foreseeable that the conduct, threats, intimidation or abuse might reach school property. Acts of harassment and bullying shall include, but not be limited to, those acts based on a person's actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender or sex. For the purposes of this definition the term "threats, intimidation or abuse" shall include verbal and non-verbal actions.

8. "Cyberbullying" shall mean harassment or bullying as defined in subdivision seven of this section, including paragraphs (a), (b), (c) and (d) of such subdivision, where such harassment or bullying occurs through any form of electronic communication.

12. Discrimination and harassment prohibited.

1. No student shall be subjected to harassment by employees or students on school property or at a school function; nor shall any student be subjected to discrimination based on a person's actual or perceived race, color, disability, sexual orientation, gender, or sex by school employees or students on school property or at a school function. Nothing in this subdivision shall be construed to prohibit a denial of admission into or exclusion from, a course of instruction based on a person's gender; that would be permissible under section thirty-two hundred one-a or paragraph (a) of subdivision two of section twenty-eight hundred fifty-four of this chapter and Title IX of the Education Amendments of 1972 (20 U.S.C. section 1681, et seq), or to prohibit, as discrimination based on disability, actions that would be permissible under section 504 of the Rehabilitation Act of 1973.

2. An age-appropriate version of the policy outlined in subdivision one of this section, written in plain-language, shall be included in the code of conduct adopted by boards of education and the trustees or sole trustee pursuant to section twenty-eight hundred one of this chapter and a summary of such policy shall be included in any summaries required by such section twenty-eight hundred one".

13. Policies and guidelines.

The board of education and the trustees or sole trustee of every school district shall create policies and guidelines that shall include, but not be limited to:

1. Policies and procedures intended to create a school environment that is free from harassment, bullying and discrimination, that include but are not limited to provisions which:

a. identify the principal, superintendent or the principal's or superintendent's designee as the school employee charged with receiving reports of harassment, bullying and discrimination;

b. enable students and parents to make an oral or written report of harassment, bullying or discrimination to teachers, administrators and other school personnel that the school district deems appropriate;

c. require school employees who witness harassment, bullying or discrimination, or receive an oral or written report of harassment, bullying or discrimination, to promptly orally notify the principal, superintendent or the principal's or superintendent's designee not later than one school day after such school employee witnesses or receives a report of harassment, bullying or discrimination, and to file a written report with the principal, superintendent or the principal or superintendent's designee not later than two school days after making such oral report;

d. require the principal, superintendent or the principal's or superintendent's designee to lead or supervise the thorough investigation of all reports of harassment, bullying and discrimination, and to ensure that such investigation is completed promptly after receipt of any written reports made under this section;

e. require the school, when an investigation reveals any such verified harassment, bullying or discrimination, to take prompt actions reasonably calculated to end the harassment, bullying or discrimination, eliminate any hostile environment, create a more positive school culture and climate, prevent recurrence of the behavior, and ensure the safety of the student or students against whom such harassment, bullying or discrimination was directed. Such actions shall be consistent with the guidelines created pursuant to subdivision four of this section;

f. prohibit retaliation against any individual who, in good faith, reports, or assists in the investigation of, harassment, bullying or discrimination;

g. include a school strategy to prevent harassment, bullying and discrimination;

h. require the principal to make a regular report on data and trends related to harassment, bullying and discrimination to the superintendent;

i. require the principal, superintendent or the principal's or superintendent's designee, to notify promptly the appropriate local law enforcement agency when such principal, superintendent or the principal's or superintendent's designee, believes that any harassment, bullying or discrimination constitutes criminal conduct;

j. include appropriate references to the provisions of the school district's code of conduct adopted pursuant to section twenty-eight hundred one of this chapter that are relevant to harassment, bullying and discrimination;

k. require each school, at least once during each school year, to provide all school employees, students and parents with a written or electronic copy of the school district's policies created pursuant to this section, or a plain-language summary thereof, including notification of the process by which

students, parents and school employees may report harassment, bullying and discrimination. This subdivision shall not be construed to require additional distribution of such policies and guidelines if they are otherwise distributed to school employees, students and parents;

l. maintain current versions of the school district's policies created pursuant to this section on the school district's internet website, if one exists;

2. Guidelines to be used in school training programs to discourage the development of harassment, bullying and discrimination, and to make school employees aware of the effects of harassment, bullying, cyberbullying and discrimination on students and that are designed:

a. to raise the awareness and sensitivity of school employees to potential harassment, bullying and discrimination, and

b. to enable employees to prevent and respond to harassment, bullying and discrimination; and

3. Guidelines relating to the development of nondiscriminatory instructional and counseling methods, and requiring that at least one staff member at every school be thoroughly trained to handle human relations in the areas of race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender, and sex; and

4. Guidelines relating to the development of measured, balanced and age-appropriate responses to instances of harassment, bullying or discrimination by students, with remedies and procedures following a progressive model that make appropriate use of intervention, discipline and education, vary in method according to the nature of the behavior, the developmental age of the student and the student's history of problem behaviors, and are consistent with the district's code of conduct

5. Training required by this section shall address the social patterns of harassment, bullying and discrimination, as defined in section eleven of this article, including but not limited to those acts based on a person's actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender or sex, the identification and mitigation of harassment, bullying and discrimination, and strategies for effectively addressing problems of exclusion, bias and aggression in educational settings.

14. Commissioner's responsibilities.

The commissioner shall:

4. Provide guidance and educational materials to school districts related to best practices in addressing cyberbullying and helping families and communities work cooperatively with schools in addressing cyberbullying, whether on or off school property or at or away from a school function.

16. Protection of people who report harassment, bullying or discrimination.

Any person having reasonable cause to suspect that a student has been subjected to harassment, bullying or discrimination, by an employee or student, on school grounds or at a school function, who, acting reasonably and in good faith, reports such information to school officials, to the commissioner or to law enforcement authorities, acts in compliance with paragraph e or i of subdivision one of section thirteen of this article, or otherwise initiates, testifies, participates or assists in any formal or informal proceedings under this article, shall have immunity from any civil liability that may arise from the making of such report or from initiating, testifying, participating or assisting in such formal or informal proceedings, and no school district or employee shall take, request or cause a retaliatory action against any such person who, acting reasonably and in good faith, either makes such a report or initiates, testifies, participates or assists in such formal or informal proceedings.

801-a. Instruction in civility, citizenship and character education.

The regents shall ensure that the course of instruction in grades kindergarten through twelve includes a component on civility, citizenship and character education. Such component shall instruct students on the principles of honesty, tolerance, personal responsibility, respect for others, with an emphasis on discouraging acts of harassment, bullying, discrimination, observance of laws and rules, courtesy, dignity and other traits which will enhance the quality of their experiences in, and contributions to, the community. Such component shall include instruction of safe, responsible use of the internet and electronic communications. The regents shall determine how to incorporate such component in existing curricula and the commissioner shall promulgate any regulations needed to carry out such determination of the regents. For the purposes of this section, "tolerance," "respect for others" and "dignity" shall include awareness and sensitivity to harassment, bullying, discrimination and civility in the relations of people of different races, weights, national origins, ethnic groups, religions, religious practices, mental or physical abilities, sexual orientations, genders, and sexes.

ADMINISTRATIVE CODE

100.2 (L)(2) Code of conduct.

ii. The code of conduct shall include, but is not limited to:

b. provisions prohibiting discrimination and harassment against any student, by employees or students on school property or at a school function, that creates a hostile environment by conduct, with or without physical contact and/or by verbal threats, intimidation or abuse, of such a severe nature that:

1. has or would have the effect of unreasonably and substantially interfering with a student's educational performance, opportunities or benefits, or mental, emotional and/or physical well-being; or

2. reasonably causes or would reasonably be expected to cause a student to fear for his or her physical safety.

Such conduct shall include, but is not limited to, threats, intimidation, or abuse based on a person's actual or perceived race, color, weight, national origin, ethnic group, religion, religious practices, disability, sexual orientation, gender as defined in Education Law §11(6), or sex; provided that nothing in this subdivision shall be construed to prohibit a denial of admission into, or exclusion from, a course of instruction based on a person's gender that would be permissible under Education Law sections 3201-a or 2854(2) (a) and Title IX of the Education Amendments of 1972 (20 U.S.C. section 1681, et seq.), or to prohibit, as discrimination based on disability, actions that would be permissible under section 504 of the Rehabilitation Act of 1973;

f. disciplinary measures to be taken in incidents on school property or at school functions involving the possession or use of illegal substances or weapons, the use of physical force, vandalism, violation of another student's civil rights, harassment and threats of violence;

g. provisions for responding to acts of discrimination and harassment against students by employees or students on school property or at a school function pursuant to clause (b) of this subparagraph;

100.2 (JJ). Dignity for all students school employee training program

1. Definitions. As used in this subdivision:

i. "School property" means in or within any building, structure, athletic playing field, playground, parking lot or land contained within the real property boundary line of a public elementary or secondary school, including a charter school; or in or on a school bus, as defined in Vehicle and Traffic Law section 142.

ii. "School function" means a school-sponsored extracurricular event or activity.

iii. "Disability" means disability as defined in Executive Law section 292(21).

iv. “Employee” means an employee as defined in Education Law section 1125(3), including an employee of a charter school.

v. "Sexual orientation" means actual or perceived heterosexuality, homosexuality or bisexuality.

vi. Gender" means actual or perceived sex and shall include a person’s gender identity or expression.

vii. "Discrimination" means discrimination against any student by a student or students and/or an employee or employees on school property or at a school function including, but not limited to, discrimination based on a person’s actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender or sex.

viii. "Harassment" means the creation of a hostile environment by conduct or by verbal threats, intimidation or abuse that has or would have the effect of unreasonably and substantially interfering with a student’s educational performance, opportunities or benefits, or mental, emotional or physical well-being; or conduct, verbal threats, intimidation or abuse that reasonably causes or would reasonably be expected to cause a student to fear for his or her physical safety; such conduct, verbal threats, intimidation or abuse includes but is not limited to conduct, verbal threats, intimidation or abuse based on a person’s actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender or sex.

2. On or before July 1, 2012, each school district and each charter school shall establish guidelines for its school or schools to implement, commencing with the 2012-2013 school year and continuing in each school year thereafter, Dignity for All Students school employee training programs to promote a positive school environment that is free from discrimination and harassment; and to discourage and respond to incidents of discrimination and/or harassment on school property or at a school function. Such guidelines shall be approved by the board of education, trustees or sole trustee of the school district (or by the chancellor of the city school district, in the case of the City School District of the City of New York) or by the board of trustees of the charter school.

3. The guidelines shall include, but not be limited to, providing employees, including school and district administrators and instructional and non-instructional staff, with:

i. training to:

a. raise awareness and sensitivity to potential acts of discrimination and/or harassment directed at students that are committed by students and/or school employees on school property or at a school function; including, but not limited to, discrimination and/or harassment based on a person's actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender or sex; and

b. training to enable employees to prevent and respond to incidents of discrimination and/or harassment;

c. such training may be implemented and conducted in conjunction with existing professional development training pursuant to subparagraph 100.2(dd)(2)(ii) of this Title and/or with any other training for school employees; and

ii. guidelines relating to the development of nondiscriminatory instructional and counseling methods.

4. At least one employee in every school shall be designated as a Dignity Act Coordinator and instructed in the provisions of this subdivision and thoroughly trained to handle human relations in the areas of race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender, and sex.

i. The designation of each Dignity Act Coordinator shall be approved by the board of education, trustees or sole trustee of the school district (or in the case of the City School District of the City of New York, by

the principal of the school in which the designated employee is employed) or, in the case of a charter school, by the board of trustees.

ii. The name(s) and contact information for the Dignity Act Coordinator(s) shall be shared with all school personnel, students, and persons in parental relation, which shall include, but is not limited to, providing the name, designated school and contact information of each Dignity Act Coordinator by:

a. listing such information in the code of conduct and updates posted on the Internet web site, if available, of the school or school district, or of the board of cooperative educational services, pursuant to subclause 100.2(l)(2)(iii)(b)(1) of this Part;

b. including such information in the plain language summary of the code of conduct provided to all persons in parental relation to students before the beginning of each school year, pursuant to subclause 100.2(l)(2)(iii)(b)(3);

c. providing such information to parents and persons in parental relation in at least one per school year district or school mailing or other method of distribution including, but not limited to, sending such information home with each student and, if such information changes, in at least one subsequent district or school mailing or other such method of distribution as soon as practicable thereafter;

d. posting such information in highly-visible areas of school buildings; and

e. making such information available at the district and school-level administrative offices.

iii. In the event a Dignity Act Coordinator vacates his or her position, another school employee shall be immediately designated for an interim appointment as Coordinator, pending approval of a successor Coordinator by the applicable governing body as set forth in subparagraph (i) of this paragraph within 30 days of the date the position was vacated. In the event a Coordinator is unable to perform the duties of his or her position for an extended period of time, another school employee shall be immediately designated for an interim appointment as Coordinator, pending return of the previous Coordinator to his or her duties as Coordinator.

5. Nothing in this subdivision shall be construed to prohibit a denial of admission into, or exclusion from, a course of instruction based on a person's gender that would be permissible under Education Law sections 3201-a or 2854(2)(a) and Title IX of the Education Amendments of 1972 (20 U.S.C. section 1681, et seq.), or to prohibit, as discrimination based on disability, actions that would be permissible under section 504 of the Rehabilitation Act of 1973.

100.2 (KK). Dignity Act reporting requirements.

1. Definitions. For purposes of this subdivision:

1. "School property" means in or within any building, structure, athletic playing field, playground, parking lot, or land contained within the real property boundary line of a public elementary or secondary school, including a charter school; or in or on a school bus, as defined in Vehicle and Traffic Law section 142.

2. "School function" means a school-sponsored extracurricular event or activity.

3. "Disability" means disability as defined in Executive Law section 292(21).

4. "Employee" means employee as defined in Education Law section 1125(3), including an employee of a charter school.

5. "Sexual orientation" means actual or perceived heterosexuality, homosexuality or bisexuality.

6. "Gender" means actual or perceived sex and shall include a person's gender identity or expression.

7. "Discrimination" means discrimination against any student by a student or students and/or an employee or employees on school property or at a school function including, but not limited to,

discrimination based on a person's actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender or sex.

8. "Harassment" means the creation of a hostile environment by conduct or by verbal threats, intimidation or abuse that has or would have the effect of unreasonably and substantially interfering with a student's educational performance, opportunities or benefits, or mental, emotional or physical well-being; or conduct, verbal threats, intimidation or abuse that reasonably causes or would reasonably be expected to cause a student to fear for his or her physical safety; such conduct, verbal threats, intimidation or abuse includes but is not limited to conduct, verbal threats, intimidation or abuse based on a person's actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender or sex.

9. "Material Incident of Discrimination and/or Harassment" means a single incident or a series of related incidents where a student is subjected to discrimination and/or harassment by a student and/or employee on school property or at a school function that creates a hostile environment by conduct, with or without physical contact and/or by verbal threats, intimidation or abuse, of such severe or pervasive nature that:

a. has or would have the effect of unreasonably and substantially interfering with a student's educational performance, opportunities or benefits, or mental, emotional and/or physical well-being; or

b. reasonably causes or would reasonably be expected to cause a student to fear for his or her physical safety.

Such conduct shall include, but is not limited to, threats, intimidation or abuse based on a person's actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender or sex; provided that nothing in this subdivision shall be construed to prohibit a denial of admission into, or exclusion from, a course of instruction based on a person's gender that would be permissible under Education Law sections 3201-a or 2854(2)(a) and Title IX of the Education Amendments of 1972 (20 U.S.C. section 1681, et seq.), or to prohibit, as discrimination based on disability, actions that would be permissible under section 504 of the Rehabilitation Act of 1973.

2. Reporting of incidents.

i. For the 2012-2013 school year and for each succeeding school year thereafter, each school district, board of cooperative educational services (BOCES) and charter school shall submit to the commissioner an annual report of material incidents of discrimination and/or harassment that occurred in such school year, in accordance with Education Law section 15 and this subdivision. Such report shall be submitted in a manner prescribed by the commissioner, on or before the basic educational data system (BEDS) reporting deadline or such other date as determined by the commissioner.

ii. For purposes of reporting pursuant to this subdivision, a school district, BOCES or charter school shall include in its annual report all material incidents of discrimination and/or harassment that:

a. are the result of the investigation of a written or oral complaint made to the school principal or other school administrator responsible for school discipline, or to any other employee; or

b. are otherwise directly observed by such principal or administrator, or by any other employee regardless of whether a complaint is made.

iii. Such report shall include information describing the specific nature of the incident, including, but not limited to:

a. the type(s) of bias involved (actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender, sex, or other). Where multiple types of bias are involved, they shall all be reported;

b. whether the incident resulted from student and/or employee conduct;

c. whether the incident involved physical contact and/or verbal threats, intimidation or abuse; and

d. the location where the incident occurred (on school property or at a school function).

3. Protection of people who report discrimination and/or harassment.

i. Pursuant to Education Law section 16, any person having reasonable cause to suspect that a student has been subjected to discrimination and/or harassment by an employee or student, on school grounds or at a school function, who acting reasonably and in good faith, either reports such information to school officials, to the commissioner, or to law enforcement authorities or otherwise initiates, testifies, participates or assists in any formal or informal proceedings under this subdivision, shall have immunity from any civil liability that may arise from the making of such report or from initiating, testifying, participating or assisting in such formal or informal proceedings.

ii. No school district, BOCES or charter school, or an employee thereof, shall take, request or cause a retaliatory action against any such person who, acting reasonably and in good faith, either makes such a report or initiates, testifies, participates or assists in such formal or informal proceedings.

Other special infractions or conditions

STATUTES

2503-a. Powers of boards of education to ban fraternities, sororities and other secret societies.

1. In its discretion, the board of education of each school district, may adopt rules and regulations to abolish and/or prohibit any fraternity, sorority or other secret society in any secondary school under its jurisdiction.

2. Prior to the adoption and promulgation of a rule or regulation in accordance with the provisions of subdivision one of this section by any board of education of a school district, the board of education of the school district must find that the fraternity, sorority or secret society group has by virtue of its activities caused or created a disruption of or interference with the academic processes of any secondary school within its jurisdiction or caused or created any interference with or disruption of the academic progress of any individual student or students in any secondary school within its jurisdiction.

3. For the purposes of this chapter a fraternity, sorority, or secret society shall mean any organization composed wholly or in part of pupils enrolled in public secondary schools which exists or seeks to perpetuate itself by taking in additional members from the pupils enrolled in such schools on the decision of the membership rather than upon the free choice of any pupil in such school but shall not be construed to include organizations institutionally sponsored by agencies of public welfare, the Boy Scouts of America, the Girl Scouts of America, the Campfire Girls, Young Men's Christian Association, Young Women's Christian Association, Young Men's Hebrew Association, Young Women's Hebrew Association, Catholic Youth Organization, Kiwanis International, Hi-Y or other similar organizations without limitation to the foregoing.

4. Upon and after the adoption and promulgation of a rule or regulation in accordance with the provisions of subdivision one of this section by the board of education of any such school district, such board of education may in any secondary school under its jurisdiction discipline any pupil who shall promise to join, or shall become a member of, or shall remain a member of, or shall solicit other persons to join any such fraternity, sorority or secret society.

2554-a. Powers of boards of education to ban fraternities, sororities and other secret societies.

1. In its discretion, the board of education of each school district, may adopt rules and regulations to abolish and/or prohibit any fraternity, sorority or other secret society in any secondary school under its jurisdiction.

2. Prior to the adoption and promulgation of a rule or regulation in accordance with the provisions of subdivision one of this section by any board of education of a school district, the board of education of the school district must find that the fraternity, sorority or secret society group has by virtue of its activities caused or created a disruption of or interference with the academic processes of any secondary school within its jurisdiction or caused or created any interference with or disruption of the academic progress of any individual student or students in any secondary school within its jurisdiction.

3. For the purposes of this chapter a fraternity, sorority or secret society shall mean any organization composed wholly or in part of pupils enrolled in public secondary schools which exists or seeks to perpetuate itself by taking in additional members from the pupils enrolled in such schools on the decision of the membership rather than upon the free choice of any pupil in such school but shall not be construed to include organizations institutionally sponsored by agencies of public welfare, the Boy Scouts of America, the Girl Scouts of America, the Campfire Girls, Young Men's Christian Association, Young Women's Christian Association, Young Men's Hebrew Association, Young Women's Hebrew Association, Catholic Youth Organization, Kiwanis International, Hi-Y or other similar organizations without limitation to the foregoing.

4. Upon and after the adoption and promulgation of a rule or regulation in accordance with the provisions of subdivision one of this section by the board of education of any such school district, such board of education may in any secondary school under its jurisdiction discipline any pupil who shall promise to join, or shall become a member of, or shall remain a member of, or shall solicit other persons to join any such fraternity, sorority or secret society.

2801. Codes of conduct on school property.

2. The board of education or the trustees, as defined in section two of this chapter, of every school district within the state, however created, and every board of cooperative educational services and county vocational extension board, shall adopt and amend, as appropriate, a code of conduct for the maintenance of order on school property, including a school function, which shall govern the conduct of students, teachers and other school personnel as well as visitors and shall provide for the enforcement thereof… Such code of conduct shall include, at a minimum:

m. a minimum suspension period for acts that would qualify the pupil to be defined as a violent pupil pursuant to paragraph a of subdivision two-a of section thirty-two hundred fourteen of this chapter, provided that the suspending authority may reduce such period on a case by case basis to be consistent with any other state and federal law;

3214. Student placement, suspensions and transfers.

2-a. a. Violent pupil. For the purposes of this section, a violent pupil is an elementary or secondary student under twenty-one years of age who:

(1) commits an act of violence upon a teacher, administrator or other school employee;

(2) commits, while on school district property, an act of violence upon another student or any other person lawfully upon said property;

(3) possesses, while on school district property, a gun, knife, explosive or incendiary bomb, or other dangerous instrument capable of causing physical injury or death;

(4) displays, while on school district property, what appears to be a gun, knife, explosive or incendiary bomb or other dangerous instrument capable of causing death or physical injury;

(5) threatens, while on school district property, to use any instrument that appears capable of causing physical injury or death;

(6) knowingly and intentionally damages or destroys the personal property of a teacher, administrator, other school district employee or any person lawfully upon school district property; or

(7) knowingly and intentionally damages or destroys school district property.

b. Disruptive pupil. For the purposes of this section, a disruptive pupil is an elementary or secondary student under twenty-one years of age who is substantially disruptive of the educational process or substantially interferes with the teacher's authority over the classroom.

ADMINISTRATIVE CODE

100.2 (L)(2) Code of conduct.

ii. The code of conduct shall include, but is not limited to:

p. a minimum suspension period for acts that would qualify the pupil to be defined as a violent pupil pursuant to Education Law section 3214(2-a)(a), provided that the suspending authority may reduce such period on a case- by-case basis to be consistent with any other State and Federal Law;

Prevention and Behavioral Interventions (Non-Punitive)

Prevention

STATUTES

13. Policies and guidelines.

The board of education and the trustees or sole trustee of every school district shall create policies and guidelines that shall include, but not be limited to:

1. Policies and procedures intended to create a school environment that is free from harassment, bullying and discrimination, that include but are not limited to provisions which:

   g. include a school strategy to prevent harassment, bullying and discrimination;

801-a. Instruction in civility, citizenship and character education.

The regents shall ensure that the course of instruction in grades kindergarten through twelve includes a component on civility, citizenship and character education. Such component shall instruct students on the principles of honesty, tolerance, personal responsibility, respect for others, with an emphasis on discouraging acts of harassment, bullying, discrimination, observance of laws and rules, courtesy, dignity and other traits which will enhance the quality of their experiences in, and contributions to, the community. Such component shall include instruction of safe, responsible use of the internet and electronic communications. The regents shall determine how to incorporate such component in existing curricula and the commissioner shall promulgate any regulations needed to carry out such determination of the regents. For the purposes of this section, "tolerance," "respect for others" and "dignity" shall include awareness and sensitivity to harassment, bullying, discrimination and civility in the relations of people of different races, weights, national origins, ethnic groups, religions, religious practices, mental or physical abilities, sexual orientations, genders, and sexes.

804. Health education regarding alcohol, drugs, tobacco abuse and the prevention and detection of certain cancers.

1. All schools shall include, as an integral part of health education, instruction so as to discourage the misuse and abuse of alcohol, tobacco, and other drugs and promote attitudes and behavior that enhance health, well being, and human dignity.

2. Instruction regarding alcohol, tobacco, and other drugs shall be included in the health education provided for all elementary school pupils and shall be taught by the regular classroom teachers or by teachers certified to teach health education. Such instruction shall be designed according to the needs and abilities of the pupils at successive grade levels with the purpose of developing desirable health behavior, attitudes, and knowledge as well as self-reliance and problem solving capacity.

3. Instruction regarding alcohol, tobacco, and other drugs, in addition to continued health guidance in the junior high school grades and the senior high schools, shall be an integral part of a required health education course at each of these levels in the secondary schools curriculum. Students shall be required to demonstrate knowledge in the subject area through the use of a test, graded project or report, or any other means prescribed by the school authorities regarding alcohol, drugs, and tobacco. Any such course shall be taught by teachers holding a certificate to teach health. Related courses in the secondary school curriculum shall be taught in a manner supportive of health education regarding alcohol, tobacco, and other drugs. In addition, instruction regarding the dangers of driving while under the influence of alcohol or drugs shall be an integral part of a required health education course in the senior high schools. Such

instruction shall be provided in all senior high schools whether or not these schools also provide driver education courses.

4. a. The commissioner may prescribe in regulations such health education courses which include instruction regarding alcohol, tobacco, and other drugs as the commissioner may deem necessary and desirable for the welfare of pupils and the community. The contents may be varied to meet the needs of particular school districts, or portions thereof, and need not be uniform throughout the state, provided, however, that school districts shall utilize either the curriculum for health education instruction regarding alcohol, tobacco and other drugs prescribed by the commissioner or a course approved by the commissioner in accordance with criteria established by the commissioner.

   b. The commissioner shall make available an interpersonal violence prevention education package for grades kindergarten through twelve, which package may consist of student pamphlets, parent pamphlets, videotapes and other informative materials to be distributed to school districts, and shall encourage the use of such material as part of the health or other related curricula or programs.

   c. The regents shall review the health curriculum requirements in existence on the effective date of this paragraph for the purpose of streamlining such curriculum and identifying any outdated components that may be eliminated or consolidated in order to ensure that students have sufficient time and instruction to develop skills to address issues of violence prevention and mental health. To the extent appropriate, the regents shall modify the existing curriculum to provide greater focus on the development of skills, by no later than middle school, that are needed to recognize, cope with and address potentially violent incidents, including an understanding of student's roles in emergency situations, what to do when confronted with another student who is experiencing a mental health problem, and other related skills designed to reduce the threat of violence in schools.

5. School authorities shall provide the needed facilities, time, and place for the instruction set forth herein and shall provide learning aids and curriculum resource materials which contribute to effective teaching methods and learning in health education regarding alcohol, tobacco, and other drugs.

6. All pre-service training programs in the state for elementary teachers shall include adequate preparation regarding the instruction in alcohol, tobacco, and other drugs set forth herein, and no teacher shall be licensed except upon satisfactory demonstration of the competencies included in the institutional proposals approved by the education department.

7. Nothing contained in this section shall be deemed to diminish or impair the duties of the commissioner with respect to the continuing program for critical health problems established by chapter seven hundred eighty-seven of the laws of nineteen hundred sixty-seven as amended. The commissioner shall coordinate actions taken under authority of this section with the provisions of said chapter as they relate to health education in schools, inservice training and training programs, and curriculum or syllabus development regarding the deleterious effects resulting from the use, misuse, and abuse of alcohol, tobacco, and other drugs.

ADMINISTRATIVE CODE

100.2 (C). Instruction in certain subjects

Pursuant to articles 2, 17 and 65 of the Education Law, instruction in certain subjects in elementary and secondary school shall be provided as follows:

2. for all public school students, instruction that supports development of a school environment free of discrimination and harassment, as required by the Dignity For All Students Act (article 2 of the Education Law), including but not limited to instruction that raises awareness and sensitivity to discrimination or harassment based on a person’s actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender or sex ; provided

that in public schools other than charter schools, such instruction shall be provided as part of a component on civility, citizenship and character education in accordance with section 801-a of the Education Law;

4. for all students, health education regarding alcohol, drugs and tobacco abuse, as required by section 804 of the Education Law;

Behavioral interventions and student support services

STATUTES

13. Policies and guidelines.

The board of education and the trustees or sole trustee of every school district shall create policies and guidelines that shall include, but not be limited to:

4. Guidelines relating to the development of measured, balanced and age-appropriate responses to instances of harassment, bullying or discrimination by students, with remedies and procedures following a progressive model that make appropriate use of intervention, discipline and education, vary in method according to the nature of the behavior, the developmental age of the student and the student's history of problem behaviors, and are consistent with the district's code of conduct

Reference CR 201.4 (a)

2801. Codes of conduct on school property.

2. The board of education or the trustees, as defined in section two of this chapter, of every school district within the state, however created, and every board of cooperative educational services and county vocational extension board, shall adopt and amend, as appropriate, a code of conduct for the maintenance of order on school property, including a school function, which shall govern the conduct of students, teachers and other school personnel as well as visitors and shall provide for the enforcement thereof… Such code of conduct shall include, at a minimum:

k. circumstances under and procedures by which referral to appropriate human service agencies shall be made;

ADMINISTRATIVE CODE

100.2 (L)(2) Code of conduct.

ii. The code of conduct shall include, but is not limited to:

n. circumstances under and procedures by which referral to appropriate human service agencies shall be made;

Professional development

STATUTES

13. Policies and guidelines.

The board of education and the trustees or sole trustee of every school district shall create policies and guidelines that shall include, but not be limited to:

2. Guidelines to be used in school training programs to discourage the development of harassment, bullying and discrimination, and to make school employees aware of the effects of harassment, bullying, cyberbullying and discrimination on students and that are designed:

a. to raise the awareness and sensitivity of school employees to potential harassment, bullying and discrimination, and

b. to enable employees to prevent and respond to harassment, bullying and discrimination; and

3. Guidelines relating to the development of nondiscriminatory instructional and counseling methods, and requiring that at least one staff member at every school be thoroughly trained to handle human relations in the areas of race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender, and sex; and

5. Training required by this section shall address the social patterns of harassment, bullying and discrimination, as defined in section eleven of this article, including but not limited to those acts based on a person's actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender or sex, the identification and mitigation of harassment, bullying and discrimination, and strategies for effectively addressing problems of exclusion, bias and aggression in educational settings.

14. Commissioner's responsibilities.

The commissioner shall:

5. The commissioner shall prescribe regulations that school professionals applying on or after July first, two thousand thirteen for a certificate or license, including but not limited to a certificate or license valid for service as a classroom teacher, school counselor, school psychologist, school social worker, school administrator or supervisor or superintendent of schools shall, in addition to all other certification or licensing requirements, have completed training on the social patterns of harassment, bullying and discrimination, as defined in section eleven of this article, including but not limited to those acts based on a person's actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender or sex, the identification and mitigation of harassment, bullying and discrimination, and strategies for effectively addressing problems of exclusion, bias and aggression in educational settings.

804. Health education regarding alcohol, drugs, tobacco abuse and the prevention and detection of certain cancers.

6. All pre-service training programs in the state for elementary teachers shall include adequate preparation regarding the instruction in alcohol, tobacco, and other drugs set forth herein, and no teacher shall be licensed except upon satisfactory demonstration of the competencies included in the institutional proposals approved by the education department.

ADMINISTRATIVE CODE

100.2 (L)(1). School conduct and discipline.

1. Policy on school conduct and discipline.

i. On or before January 1, 1986 each school district shall adopt and implement a written policy on school conduct and discipline … and shall include:

g. guidelines and programs for in-service education programs for all district staff members to ensure effective implementation of school policy on school conduct and discipline

100.2 (L)(2). Code of conduct.

ii. The code of conduct shall include, but is not limited to:

r. guidelines and programs for in-service education programs for all district staff members to ensure effective implementation of school policy on school conduct and discipline, including but not limited to,

guidelines on promoting a safe and supportive school climate while discouraging, among other things, discrimination or harassment against students by students and/or school employees; and including safe and supportive school climate concepts in the curriculum and classroom management.

100.2 (JJ). Dignity for all students school employee training program

1. Definitions. As used in this subdivision:

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

ii. “School function” means a school-sponsored extracurricular event or activity.

iii. "Disability" means disability as defined in Executive Law section 292(21).

iv. “Employee” means an employee as defined in Education Law section 1125(3), including an employee of a charter school.

v. "Sexual orientation" means actual or perceived heterosexuality, homosexuality or bisexuality.

vi. Gender" means actual or perceived sex and shall include a person’s gender identity or expression.

vii. "Discrimination" means discrimination against any student by a student or students and/or an employee or employees on school property or at a school function including, but not limited to, discrimination based on a person’s actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender or sex.

viii. "Harassment" means the creation of a hostile environment by conduct or by verbal threats, intimidation or abuse that has or would have the effect of unreasonably and substantially interfering with a student’s educational performance, opportunities or benefits, or mental, emotional or physical well-being; or conduct, verbal threats, intimidation or abuse that reasonably causes or would reasonably be expected to cause a student to fear for his or her physical safety; such conduct, verbal threats, intimidation or abuse includes but is not limited to conduct, verbal threats, intimidation or abuse based on a person’s actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender or sex.

2. On or before July 1, 2012, each school district and each charter school shall establish guidelines for its school or schools to implement, commencing with the 2012-2013 school year and continuing in each school year thereafter, Dignity for All Students school employee training programs to promote a positive school environment that is free from discrimination and harassment; and to discourage and respond to incidents of discrimination and/or harassment on school property or at a school function. Such guidelines shall be approved by the board of education, trustees or sole trustee of the school district (or by the chancellor of the city school district, in the case of the City School District of the City of New York) or by the board of trustees of the charter school.

3. The guidelines shall include, but not be limited to, providing employees, including school and district administrators and instructional and non-instructional staff, with:

i. training to:

a. raise awareness and sensitivity to potential acts of discrimination and/or harassment directed at students that are committed by students and/or school employees on school property or at a school function; including, but not limited to, discrimination and/or harassment based on a person's actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender or sex; and

b. training to enable employees to prevent and respond to incidents of discrimination and/or harassment;

c. such training may be implemented and conducted in conjunction with existing professional development training pursuant to subparagraph 100.2(dd)(2)(ii) of this Title and/or with any other training for school employees; and

ii. guidelines relating to the development of nondiscriminatory instructional and counseling methods.

4. At least one employee in every school shall be designated as a Dignity Act Coordinator and instructed in the provisions of this subdivision and thoroughly trained to handle human relations in the areas of race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender, and sex.

i. The designation of each Dignity Act Coordinator shall be approved by the board of education, trustees or sole trustee of the school district (or in the case of the City School District of the City of New York, by the principal of the school in which the designated employee is employed) or, in the case of a charter school, by the board of trustees.

ii. The name(s) and contact information for the Dignity Act Coordinator(s) shall be shared with all school personnel, students, and persons in parental relation, which shall include, but is not limited to, providing the name, designated school and contact information of each Dignity Act Coordinator by:

a. listing such information in the code of conduct and updates posted on the Internet web site, if available, of the school or school district, or of the board of cooperative educational services, pursuant to subclause 100.2(l)(2)(iii)(b)(1) of this Part;

b. including such information in the plain language summary of the code of conduct provided to all persons in parental relation to students before the beginning of each school year, pursuant to subclause 100.2(l)(2)(iii)(b)(3);

c. providing such information to parents and persons in parental relation in at least one per school year district or school mailing or other method of distribution including, but not limited to, sending such information home with each student and, if such information changes, in at least one subsequent district or school mailing or other such method of distribution as soon as practicable thereafter;

d. posting such information in highly-visible areas of school buildings; and

e. making such information available at the district and school-level administrative offices.

iii. In the event a Dignity Act Coordinator vacates his or her position, another school employee shall be immediately designated for an interim appointment as Coordinator, pending approval of a successor Coordinator by the applicable governing body as set forth in subparagraph (i) of this paragraph within 30 days of the date the position was vacated. In the event a Coordinator is unable to perform the duties of his or her position for an extended period of time, another school employee shall be immediately designated for an interim appointment as Coordinator, pending return of the previous Coordinator to his or her duties as Coordinator.

5. Nothing in this subdivision shall be construed to prohibit a denial of admission into, or exclusion from, a course of instruction based on a person's gender that would be permissible under Education Law sections 3201-a or 2854(2)(a) and Title IX of the Education Amendments of 1972 (20 U.S.C. section 1681, et seq.), or to prohibit, as discrimination based on disability, actions that would be permissible under section 504 of the Rehabilitation Act of 1973.

Monitoring and Accountability

Formal incident reporting of conduct violations

STATUTES

13. Policies and guidelines.

The board of education and the trustees or sole trustee of every school district shall create policies and guidelines that shall include, but not be limited to:

1. Policies and procedures intended to create a school environment that is free from harassment, bullying and discrimination, that include but are not limited to provisions which:

   a. identify the principal, superintendent or the principal's or superintendent's designee as the school employee charged with receiving reports of harassment, bullying and discrimination;

   b. enable students and parents to make an oral or written report of harassment, bullying or discrimination to teachers, administrators and other school personnel that the school district deems appropriate;

   c. require school employees who witness harassment, bullying or discrimination, or receive an oral or written report of harassment, bullying or discrimination, to promptly orally notify the principal, superintendent or the principal's or superintendent's designee not later than one school day after such school employee witnesses or receives a report of harassment, bullying or discrimination, and to file a written report with the principal, superintendent or the principal or superintendent's designee not later than two school days after making such oral report;

   d. require the principal, superintendent or the principal's or superintendent's designee to lead or supervise the thorough investigation of all reports of harassment, bullying and discrimination, and to ensure that such investigation is completed promptly after receipt of any written reports made under this section;

   e. require the school, when an investigation reveals any such verified harassment, bullying or discrimination, to take prompt actions reasonably calculated to end the harassment, bullying or discrimination, eliminate any hostile environment, create a more positive school culture and climate, prevent recurrence of the behavior, and ensure the safety of the student or students against whom such harassment, bullying or discrimination was directed. Such actions shall be consistent with the guidelines created pursuant to subdivision four of this section;

   f. prohibit retaliation against any individual who, in good faith, reports, or assists in the investigation of, harassment, bullying or discrimination;

   h. require the principal to make a regular report on data and trends related to harassment, bullying and discrimination to the superintendent;

15. Reporting by commissioner.

The commissioner shall create a procedure under which material incidents of harassment, bullying and discrimination on school grounds or at a school function are reported to the department at least on an annual basis. Such procedure shall provide that such reports shall, wherever possible, also delineate the specific nature of such incidents of harassment, bullying and discrimination, provided that the commissioner may comply with the requirements of this section through use of the existing uniform violent incident reporting system. In addition the department may conduct research or undertake studies to determine compliance throughout the state with the provisions of this article.

Parental notification

STATUTES

2801. Codes of conduct on school property.

2. The board of education or the trustees, as defined in section two of this chapter, of every school district within the state, however created, and every board of cooperative educational services and county vocational extension board, shall adopt and amend, as appropriate, a code of conduct for the maintenance of order on school property, including a school function, which shall govern the conduct of students, teachers and other school personnel as well as visitors and shall provide for the enforcement thereof… Such code of conduct shall include, at a minimum:

i. provisions setting forth the circumstances under and procedures by which persons in parental relation to the student shall be notified of code violations;

3213. Supervisors of attendance; attendance teachers; attendance officers; appointment, compensation, powers and duties.

c. Notification upon absence. It shall be the duty of every school district to inform persons in parental relation to elementary school pupils of such person's right to be notified when such pupil is deemed absent from attendance at his designated school. Persons in parental relation to elementary school pupils shall, if such notification is desired, forward a request in writing to the principal of the pupil's designated school. Such request shall contain the telephone number of person or persons in parental relation to the pupil or other information to facilitate communication with such persons by the most expedient means available. No civil or criminal liability shall arise or attach to any school district or employee thereof for any act or omission to act as a result of, or in connection with, the duties or activities authorized or directed by this paragraph.

d. Notification when deemed absent. A supervisor of attendance, attendance teacher, attendance officer, or other person authorized by the school district, as the case may be, shall, where a request for notification has been made pursuant to paragraph c of this subdivision, notify a person in parental relation to any elementary school pupil by the means designated in such request when such pupil is deemed absent from required attendance at his designated school without prior notification and consent to such absence by the person in parental relation. No civil or criminal liability shall arise or attach to any school district or employee thereof for any act or omission to act as a result of, or in connection with, the duties or activities authorized or directed by this paragraph.

3214. Student placement, suspensions and transfers.

3-a.

b. The principal shall inform the person in parental relation to such pupil of the removal and the reasons therefor within twenty-four hours of the pupil's removal. The pupil and the person in parental relation shall, upon request, be given an opportunity for an informal conference with the principal to discuss the reasons for the removal. If the pupil denies the charges, the principal shall provide an explanation of the basis for the removal and allow the pupil and/or person in parental relation to the pupil an opportunity to present the pupil's version of relevant events. Such informal hearing shall be held within forty-eight hours of the pupil's removal.

5. Involuntary transfers of pupils who have not been determined to be a student with a disability or a student presumed to have a disability for discipline purposes.

b. A school principal may initiate a non-requested transfer where it is believed that such a pupil would benefit from the transfer, or when the pupil would receive an adequate and appropriate education in another school program or facility. No recommendation for pupil transfer shall be initiated by the

principal until such pupil and a person in parental relation has been sent written notification of the consideration of transfer recommendation. Such notice shall set a time and place of an informal conference with the principal and shall inform such person in parental relation and such pupil of their right to be accompanied by counsel or an individual of their choice.

c. After the conference and if the principal concludes that the pupil would benefit from a transfer or that the pupil would receive an adequate and appropriate education in another school program or facility, the principal may issue a recommendation of transfer to the superintendent. Such recommendation shall include a description of behavior and/or academic problems indicative of the need for transfer; a description of alternatives explored and prior action taken to resolve the problem. A copy of that letter shall be sent to the person in parental relation and to the pupil.

d. Upon receipt of the principal's recommendation for transfer and a determination to consider that recommendation, the superintendent shall notify the person in parental relation and the pupil of the proposed transfer and of their right to a fair hearing as provided in paragraph c of subdivision three of this section and shall list community agencies and free legal assistance which may be of assistance. The written notice shall include a statement that the pupil or person in parental relation has ten days to request a hearing and that the proposed transfer shall not take effect, except upon written parental consent, until the ten day period has elapsed, or, if a fair hearing is requested, until after a formal decision following the hearing is rendered, whichever is later. Parental consent to a transfer shall not constitute a waiver of the right to a fair hearing.

ADMINISTRATIVE CODE

100.2 (L)(2) Code of conduct.

ii. The code of conduct shall include, but is not limited to:

l. provisions setting forth the circumstances under and procedures by which persons in parental relation to the student shall be notified of code violations;

100.2 (L)(4). Parental notification of student suspension

When suspension of a student from attendance for a period of five days or less pursuant to section 3214(3) of the Education Law is proposed, school district officials shall immediately notify the parents or the persons in parental relation in writing that the student may be suspended from school. Written notice shall be provided by personal delivery, express mail delivery, or equivalent means reasonably calculated to assure receipt of such notice within 24 hours of the decision to propose suspension at the last known address or addresses of the parents or persons in parental relation. Where possible, notification shall also be provided by telephone if the school has been provided with a telephone number(s) for the purpose of contacting parents or persons in parental relation. Such notice shall provide a description of the incident(s) for which suspension is proposed and shall inform the parents or persons in parental relation of their right to request an immediate informal conference with the principal in accordance with the provisions of Education Law, section 3214(3)(b). Such notice and informal conference shall be in the dominant language or mode of communication used by the parents or persons in parental relation to the pupil. Such notice and opportunity for an informal conference shall take place prior to the suspension of the student unless the student's presence in the school poses a continuing danger to persons or property or an ongoing threat of disruption to the academic process, in which case the notice and opportunity for an informal conference shall take place as soon after the suspension as is reasonably practicable.

Reporting and referrals between schools and law enforcement

STATUTES

13. Policies and guidelines.

The board of education and the trustees or sole trustee of every school district shall create policies and guidelines that shall include, but not be limited to:

1. Policies and procedures intended to create a school environment that is free from harassment, bullying and discrimination, that include but are not limited to provisions which:

   i. require the principal, superintendent or the principal's or superintendent's designee, to notify promptly the appropriate local law enforcement agency when such principal, superintendent or the principal's or superintendent's designee, believes that any harassment, bullying or discrimination constitutes criminal conduct;

2801. Codes of conduct on school property.

2. The board of education or the trustees, as defined in section two of this chapter, of every school district within the state, however created, and every board of cooperative educational services and county vocational extension board, shall adopt and amend, as appropriate, a code of conduct for the maintenance of order on school property, including a school function, which shall govern the conduct of students, teachers and other school personnel as well as visitors and shall provide for the enforcement thereof… Such code of conduct shall include, at a minimum:

h. provisions setting forth the procedures by which local law enforcement agencies shall be notified of code violations which constitute a crime;

j. provisions setting forth the circumstances under and procedures by which a complaint in criminal court, a juvenile delinquency petition or person in need of supervision petition as defined in articles three and seven of the family court act will be filed;

ADMINISTRATIVE CODE

100.2 (L)(2) Code of conduct.

ii. The code of conduct shall include, but is not limited to:

k. provisions setting forth the procedures by which local law enforcement agencies shall be notified of code violations which constitute a crime;

m. provisions setting forth the circumstances under and procedures by which a complaint in criminal court, a juvenile delinquency petition or person in need of supervision petition as defined in Articles three and seven of the Family Court Act will be filed;

Disclosure of school records

STATUTES

3214. Student placement, suspensions and transfers.

* 7. Transfer of disciplinary records. Notwithstanding any other provision of law to the contrary, each local educational agency, as such term is defined in subsection twenty-six of section ninety-one hundred one of the Elementary and Secondary Education Act of 1965, as amended, shall establish procedures in accordance with section forty-one hundred fifty-five of the Elementary and Secondary Education Act of 1965, as amended, and the Family Educational Rights and Privacy Act of 1974, to facilitate the transfer of

disciplinary records relating to the suspension or expulsion of a student to any public or nonpublic elementary or secondary school in which such student enrolls or seeks, intends or is instructed to enroll, on a full-time or part-time basis.

* NB Repealed June 30, 2014

Data collection, review, and reporting of disciplinary policies and actions

STATUTES

13. Policies and guidelines.

The board of education and the trustees or sole trustee of every school district shall create policies and guidelines that shall include, but not be limited to:

1. Policies and procedures intended to create a school environment that is free from harassment, bullying and discrimination, that include but are not limited to provisions which:

   h. require the principal to make a regular report on data and trends related to harassment, bullying and discrimination to the superintendent;

2801. Codes of conduct on school property.

5. a. The board of education, chancellor or other governing body shall annually review and update the district's codes of conduct if necessary, taking into consideration the effectiveness of code provisions and the fairness and consistency of its administration. Each school district is authorized to establish a committee and to facilitate the review of the code of conduct and the district's response to code of conduct violations. Any such committee shall be comprised of similar individuals described in subdivision three of this section. The school board, chancellor, or other governing body shall reapprove any such updated code only after at least one public hearing that provides for the participation of school personnel, parents, students and any other interested parties.

   b. Each district shall file a copy of its codes of conduct with the commissioner and all amendments to such code shall be filed with the commissioner no later than thirty days after their adoption.

2802. Uniform violent incident reporting system.

1. The commissioner, in conjunction with the division of criminal justice services, shall promulgate regulations defining "violent or disruptive incidents" for the purposes of this section.

2. The commissioner, in conjunction with the division of criminal justice services, shall establish a statewide uniform violent incident reporting system which public school districts, boards of cooperative educational services and county vocational education and extension boards shall follow.

3. The uniform violent incident reporting system shall require public school districts, boards of cooperative educational services and county vocational education and extension boards to annually report to the commissioner in a form and by a date prescribed by the commissioner, the following information concerning violent and disruptive incidents that occurred in the prior school year:

   a. the type of offenders;

   b. if any offender is a student, the age and grade of the student;

   c. the location at which the incident occurred;

   d. the type of incident;

   e. whether the incident occurred during or outside of regular school hours;

   f. where the incident involves a weapon, whether the weapon was a firearm, knife or other weapon;

g. the actions taken by the school in response to the incident, including when the incident was reported to law enforcement officials and whether disciplinary action was taken against the offenders;

h. any student discipline or referral action taken against a student/offender, including but not limited to an out-of-school suspension, an involuntary transfer to an alternative placement, an in-school suspension, a referral for community service, a referral for counseling, or a referral to the juvenile justice system, and the duration of such action; and

i. the nature of the victim and the victim's age and grade where appropriate.

4. The commissioner shall require a summary of such information to be included, in a form prescribed by the commissioner, in the school district report cards or board of cooperative educational services report cards required by this chapter.

5. By April first of each year, the commissioner shall report to the governor, the legislature and the regents concerning the prevalence of violence and disruptive incidents in the public schools, and the effectiveness of school programs undertaken to reduce violence and assure the safety and security of students and school personnel. The report shall summarize the information available from the incident reporting system, and compare the incidence of violent and disruptive incidents of schools and school districts and boards with other schools and school districts and boards based on similarity in size and grade levels and other characteristics, including student need and resources, as determined by the commissioner. The report shall also, to the extent possible, relate the results available from the incident reporting system, together with such other analysis and information as the commissioner determines is appropriate, to the effectiveness of school violence measures undertaken by participating schools and school districts, including the school codes and school safety plans required by sections twenty-eight hundred one and twenty-eight hundred one-a of this article.

6. The commissioner, in conjunction with the commissioner of the division of criminal justice services, shall promulgate regulations to implement the provisions of this section and to assure to the extent practicable that the reports used by school districts are uniform and comparable with respect to the types of incidents reported and the responses of the schools and the school districts. Such regulations shall provide for the confidentiality of all personally identifiable information and shall ensure that any personally identifiable information which is collected is used only for its intended purpose.

7. Notwithstanding any other provision of state or local law, rule or regulation to the contrary, any student who attends a persistently dangerous public elementary or secondary school, as determined by the commissioner pursuant to paragraph a of this subdivision, or who is a victim of a violent criminal offense, as defined pursuant to paragraph b of this subdivision, that occurred on the grounds of a public elementary or secondary school that the student attends, shall be allowed to attend a safe public school within the local educational agency to the extent required by section ninety-five hundred thirty-two of the No Child Left Behind Act of 2001.

a. The commissioner shall annually determine which public elementary and secondary schools are persistently dangerous in accordance with regulations of the commissioner developed in consultation with a representative sample of local educational agencies. Such determination shall be based on data submitted through the uniform violent incident reporting system over a period prescribed in the regulations, which shall not be less than two years.

b. Each local educational agency required to provide unsafe school choice shall establish procedures for determinations by the superintendent of schools or other chief school officer of whether a student is the victim of a violent criminal offense that occurred on school grounds of the school that the student attends. Such superintendent of schools or other chief school officer shall, prior to making any such determination, consult with any law enforcement agency investigating such alleged violent criminal offense and consider any reports or records provided by such agency. The trustees or board of education or other governing board of a local educational agency may provide, by local rule or by-law,

for appeal of the determination of the superintendent of schools to such governing board. Notwithstanding any other provision of law to the contrary, the determination of such chief school officer pursuant to this paragraph shall not have collateral estoppel effect in any student disciplinary proceeding brought against the alleged victim or perpetrator of such violent criminal offense. For purposes of this subdivision, "violent criminal offense" shall mean a crime that involved infliction of serious physical injury upon another as defined in the penal law, a sex offense that involved forcible compulsion or any other offense defined in the penal law that involved the use or threatened use of a deadly weapon.

c. Each local educational agency, as defined in subsection twenty-six of section ninety-one hundred one of the No Child Left Behind Act of 2001, that is required to provide school choice pursuant to section ninety-five hundred thirty-two of the No Child Left Behind Act of 2001 shall establish procedures for notification of parents of, or persons in parental relation to, students attending schools that have been designated as persistently dangerous and parents of, or persons in parental relation to, students who are victims of violent criminal offenses of their right to transfer to a safe public school within the local educational agency and procedures for such transfer, except that nothing in this subdivision shall be construed to require such notification where there are no other public schools within the local educational agency at the same grade level or such transfer to a safe public school within the local educational agency is otherwise impossible or to require a local educational agency that has only one public school within the local educational agency or only one public school at each grade level to develop such procedures. The commissioner shall be authorized to adopt any regulations deemed necessary to assure that local educational agencies implement the provisions of this subdivision.

* NB Repealed June 30, 2014

ADMINISTRATIVE CODE

100.2 (L)(1) School conduct and discipline.

1. Policy on school conduct and discipline.

i. On or before January 1, 1986 each school district shall adopt and implement a written policy on school conduct and discipline … and shall include:

ii. The board of education shall adopt such a policy and review it on an annual basis and amend it when appropriate. Each school district's policy on school conduct and discipline shall be filed in each school building and shall be available for review by any individual.

100.2 (L)(2) Code of conduct.

iii. Additional responsibilities.

a. Each board of education and, in the case of the City School District of the City of New York, the chancellor of such city school district, and each board of cooperative educational services shall annually review and update as necessary its code of conduct, taking into consideration the effectiveness of code provisions and the fairness and consistency of its administration. A school district may establish a committee pursuant to Education Law section 2801(5)(a) to facilitate the review of its code of conduct and the district's response to code of conduct violations. A board of education or board of cooperative educational services may adopt any revision to the code of conduct only after at least one public hearing that provides for the participation of school personnel, parents, students and any other interested party. Each district shall file a copy of its code of conduct and any amendments with the commissioner, in a manner prescribed by the commissioner, no later than 30 days after their respective adoptions.

100.2 (L)(3). Corporal punishment.

ii. In every school district and supervisory district, the trustee, trustees, board of education or board of cooperative educational services, shall submit a written semiannual report to the Commissioner of Education, by January 15th and July 15th of each year, commencing July 1, 1985, setting forth the substance of each complaint about the use of corporal punishment received by the local school authorities during the reporting period, the results of each investigation, and the action, if any, taken by the school authorities in each case.

100.2 (GG). Uniform violent or disruptive incident reporting system.

School districts, boards of cooperative educational services, charter schools and county vocational education and extension boards shall submit to the commissioner annual reports of violent or disruptive incidents that occurred in the prior school year, commencing with the 2001-2002 school year, in accordance with Education Law, section 2802 and this subdivision.

1. Definitions. For the purposes of this subdivision:

i. School function means a school-sponsored or school-authorized extracurricular event or activity, regardless of where such event or activity takes plae, including any event or activty that may take place in another state.

ii. School property shall mean in or within any building, structure, athletic playing field, playground, parking lot or land contained within the real property boundary line of a public elementary or secondary school; or in or on a school bus, as defined in section one 142 of the Vehicle and Traffic Law; or at a school function.

iii. Physical injury means impairment of physical condition or substantial pain.

iv. Serious physical injury means physical injury which creates a substantial risk of death or which causes death or serious and protracted disfigurement or protracted impairment of health or protracted loss or impairment of the function of any bodily organ.

v. Weapon means one or more of the following dangerous instruments:

a. a firearm, including but not limited to a rifle, shotgun, pistol, handgun, silencer, electronic dart gun, stun gun, machine gun, airgun or spring gun;

b. a switchblade knife, gravity knife, pilum ballistic knife, cane sword, dagger, stiletto, dirk, razor, box cutter, metal knuckle knife, utility knife or other dangerous knife;

c. a billy club, blackjack, bludgeon, chukka stick, or metal knuckles;

d. a sandbag or sandclub;

e. a sling shot or slungshot;

f. a martial arts instrument, including but not limited to a kung fu star, ninja star, nin chuck, or shirken;

g. an explosive, including but not limited to a firecracker or other fireworks;

h. a deadly or dangerous chemical, including but not limited to a strong acid or base, mace, or pepper spray;

i. an imitation gun;

j. loaded or blank cartridges or other ammunition; or

k. any other dangerous or deadly instrument possessed with intent to use the same unlawfully against another.

vi. Violent or disruptive incident shall mean one of the following categories of incidents that occurs on school property of the school district, board of cooperative educational services, charter school or

county vocational education and extension board, committed with or without a weapon (except in the case of weapons possession):

a. Homicide. Any conduct which results in the death of another person.

b. Sex offenses.

1. Forcible sex offenses. Forcible sex offenses involving forcible compulsion. Incidents involving forcible compulsion and completed or attempted sexual intercourse, oral sexual conduct, anal sexual conduct or aggravated sexual contact with or without a weapon, including, but not limited to, rape and sodomy.

2. Other sex offenses. Other sex offenses involving inappropriate sexual contact but no forcible compulsion, including, but not limited to, conduct that may be consensual or involve a child who is incapable of consent by reason of disability or because he or she is under 17 years of age, provided that such term shall not include consensual sexual conduct involving only students, and/or non-students 18 years of age or under, unless at least one of the individuals participating in the conduct is at least four years older than the youngest individual participating in the conduct.

c. Robbery. Forcible stealing of property from a person by using or threatening the immediate use of physical force upon that person, with or without the use of a weapon.

d. Assault involving serious physical injury. Intentionally or recklessly causing serious physical injury to another person, with or without a weapon, in violation of the school district code of conduct.

e. Arson. Deliberately starting a fire with intent to damage or destroy property.

f. Kidnapping. To abduct, as defined in section 135.00 of the Penal Law, a person, so as to restrain such person with intent to prevent his or her liberation, by either:

1. secreting or holding him or her in a place where he or she is not likely to be found; or

2 .using or threatening to use deadly physical force.

g. Other assaults involving physical injury. Intentionally or recklessly causing physical injury to another person, with or without a weapon, in violation of the school district code of conduct.

h. Reckless endangerment. Subjecting individuals to danger by recklessly engaging in conduct that creates a grave risk of death or serious physical injury, but no actual physical injury.

i. Minor altercations involving physical contact and no physical injury. Striking, shoving or kicking another person or subjecting another person to unwanted physical contact with intent to harass, alarm or seriously annoy another person, but no physical injury results.

j. Intimidation, harassment, menacing or bullying behavior and no physical contact.Threatening, stalking or seeking to coerce or compel a person to do something; intentionally placing or attempting to place another person in fear of imminent physical injury; or engaging in verbal or physical conduct that threatens another with harm, including intimidation through the use of epithets or slurs involving race, ethnicity, national origin, religion, religious practices, gender, sexual orientation, age or disability that substantially disrupts the educational process.

k. Burglary. Entering or remaining unlawfully on school property with intent to commit a crime.

l. Criminal mischief. Intentional or reckless damaging of the property of the school or of another person, including but not limited to vandalism and the defacing of property with graffiti.

m. Larceny and other theft offenses. Unlawful taking and carrying away of personal property with intent to deprive the rightful owner of property permanently or unlawfully withholding property from another.

n. Bomb threat. A telephoned, written or electronic message that a bomb, explosive, chemical or biological weapon has been or will be placed on school property.

o. False alarm. Falsely activating a fire alarm or other disaster alarm.

p. Riot. Simultaneously with four or more persons engages in tumultuous and violent conduct and thereby intentionally or recklessly causes or creates a grave risk of physical injury or substantial property damage or causes public alarm.

q. Weapons possession. Possession of a weapon, except possession in a classroom or laboratory as part of an instructional program or in a school-related activity under the supervision of a teacher or other school personnel as authorized by school officials.

r. Drug use, possession or sale. Illegally using or possessing a controlled substance or marijuana, on school property, including having such substance on a person in a locker, vehicle, or other personal space; selling or distributing a controlled substance or marijuana, on school property; finding a controlled substance or marijuana, on school property that is not in the possession of any person; provided that nothing herein shall be construed to apply to the lawful administration of a prescription drug on school property.

s. Alcohol use, possession or sale. Illegally using or possessing alcohol on school property, including having such substance on a person or in a locker, vehicle, or other personal space; illegally selling or distributing alcohol on school property; finding alcohol on school property that is not in the possession of any person.

t. Other disruptive incidents. Other incidents involving disruption of the educational process.

2. Recording of offenses.

i. For purposes of reporting pursuant to this subdivision, each incident shall be reported once in the highest ranking category of offense that applies, except that incidents involving a weapon and one of the offenses listed in clauses (1)(vi)(a) through (p) of this subdivision shall be reported in the highest ranking category of offense that applies as an offense committed with a weapon, and not in weapons possession; and incidents involving drug use, possession or sale and/or alcohol use, possession or sale and another offense shall be reported in the highest ranking category in clauses (1)(vi)(a) through (q) of this subdivision that applies. If the offense involves only the use, possession or sale of drugs or alcohol, it shall be recorded in the applicable category of drug or alcohol use, possession or sale as an incident involving drug or alcohol use, possession or sale only. For purposes of determining the highest ranking offense pursuant to this subparagraph, offenses shall be ranked in the order that they appear in clauses (1)(vi)(a) through (p) of this subdivision, followed by weapons possession, drug use, possession or sale and alcohol use, possession or sale, and other disruptive incidents.

ii. The offenses described in clauses (1)(vi)(i), (k), (l), (m), (p) and (t) of this subdivision shall only be reported where such behavior, under the district's code of conduct, is of sufficient seriousness to warrant the suspension or removal of a student or the referral of a student to a counseling or treatment program or transfer of a student to an alternative education program, or the referral of a student to the juvenile justice system, or disciplinary action against or dismissal of a school employee, or notification of law enforcement of the commission of a crime, whether or not the perpetrators are identified. All incidents involving bomb threats or false alarms as defined in clauses (1)(vi)(n) and (o) of this subdivision shall be reported. All incidents involving intimidation, harassment, menacing or bullying behavior as defined in clause (1)(vi)(j) of this subdivision that are the subject of a written or oral complaint to the school principal or other school administrator responsible for school discipline, or are otherwise directly observed by such principal or administrator, shall be reported.

3. Submission of report. Each school district, board of cooperative educational services, charter school and county vocational education and extension board shall annually submit its report on violent or disruptive incidents, in the manner prescribed by the commissioner, on or before the basic educational data system (BEDS) reporting deadline or such other date as determined by the commissioner.

4. Content of report. Each individual violent or disruptive incident report shall be in a form prescribed by the commissioner and shall contain the following information concerning each violent or disruptive incident that occurred in the prior school year:

i. the number and types of offenders, identified as student, teacher, school safety officer, other school staff, student intruder, visitor, unknown or other

ii. if any offender is a student, the age and grade of the student;

iii. the location at which the incident occurred, including:

a. the school building in which the incident occurred or whose real property boundary line includes the athletic playing field, playground, parking lot or land on which the incident occurred, and whether the incident occurred in a classroom, laboratory, hall, staircase, gymnasium, locker room or pool, cafeteria, bathroom, auditorium, playground or athletic field or otherwise on school grounds; or

b. where applicable, that the incident occurred on a school bus; or

c. where applicable, that the incident occurred at a school function conducted off school grounds.

iv. the types of incident, identified by category listed in clauses (1)(vi)(a) through (t) of this subdivision;

v. whether the incident occurred during or outside of regular school hours;

vi. where the incident involves a weapon, whether the weapon was a firearm, knife or other weapon;

vii. whether the incident was bias-related, drug-related, or gang or group-related;

viii. the actions taken by the school in response to the incident, including when the incident was reported to police or other law enforcement officials and whether disciplinary action was taken against the offenders

ix. any student discipline or referral action taken against a student/offender, including but not limited to an out-of-school suspension, a teacher removal, an involuntary transfer to an alternative placement, an in-school suspension, a referral for community service, a referral for counseling, or a referral to the juvenile justice system or the criminal justice system, and the duration of such action; and

x. the number and nature of the victims, identified as a student, teacher, school safety officer, other school staff or other and the victim's age and grade where the victim is a student.

5. Preparation of report. Each annual violent or disruptive incident report shall be in a form prescribed by the commissioner and shall contain such information as the commissioner shall prescribe, including but not limited to information on the frequency and types of incidents, offenders, victims and student discipline or referral actions taken, as is available on the date the annual report is submitted.

6. Local procedures. The governing body of each school district, board of cooperative educational services, charter school and county vocational education and extension board shall establish local procedures for the reporting of violent or disruptive incidents by each building and/or program under its jurisdiction. Such procedures shall assure that copies of each violent or disruptive incident report at the building or program level are retained for period prescribed by the commissioner in the applicable records retention schedule, and are available for inspection by the department upon request; provided that a district or board that adopts an electronic reporting system may fulfill such requirement by retaining an electronic record of the information reported at the building or program level.

7. Confidentiality. Pursuant to subdivision 6 of section 2802 of the Education Law, all personally identifiable information included in a violent or disruptive incident report shall be confidential, and shall not be disclosed to any person for use by any person for purposes other than the purposes of section 2802 of the Education Law, except as otherwise authorized by law.

8. School violence index. Each school year, commencing with the 2005-2006 school year, the department shall establish a school violence index as a comparative measure of the level of school

violence in a school. The school violence index will be computed in accordance with a formula established by the commissioner that takes into account the enrollment of the school and is weighted to reflect the most serious violent incidents, which shall include but need not be limited to the following categories of incidents: homicide, forcible sexual offense, robbery, assault resulting in serious physical injury, arson, kidnapping, and incidents involving the possession, use or threatened use of a weapon.

100.2 (KK). Dignity Act reporting requirements.

2. Reporting of incidents.

i. For the 2012-2013 school year and for each succeeding school year thereafter, each school district, board of cooperative educational services (BOCES) and charter school shall submit to the commissioner an annual report of material incidents of discrimination and/or harassment that occurred in such school year, in accordance with Education Law section 15 and this subdivision. Such report shall be submitted in a manner prescribed by the commissioner, on or before the basic educational data system (BEDS) reporting deadline or such other date as determined by the commissioner.

ii. For purposes of reporting pursuant to this subdivision, a school district, BOCES or charter school shall include in its annual report all material incidents of discrimination and/or harassment that:

a. are the result of the investigation of a written or oral complaint made to the school principal or other school administrator responsible for school discipline, or to any other employee; or

b. are otherwise directly observed by such principal or administrator, or by any other employee regardless of whether a complaint is made.

iii. Such report shall include information describing the specific nature of the incident, including, but not limited to:

a. the type(s) of bias involved (actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender, sex, or other). Where multiple types of bias are involved, they shall all be reported;

b. whether the incident resulted from student and/or employee conduct;

c. whether the incident involved physical contact and/or verbal threats, intimidation or abuse; and

d. the location where the incident occurred (on school property or at a school function).

3. Protection of people who report discrimination and/or harassment.

i. Pursuant to Education Law section 16, any person having reasonable cause to suspect that a student has been subjected to discrimination and/or harassment by an employee or student, on school grounds or at a school function, who acting reasonably and in good faith, either reports such information to school officials, to the commissioner, or to law enforcement authorities or otherwise initiates, testifies, participates or assists in any formal or informal proceedings under this subdivision, shall have immunity from any civil liability that may arise from the making of such report or from initiating, testifying, participating or assisting in such formal or informal proceedings.

ii. No school district, BOCES or charter school, or an employee thereof, shall take, request or cause a retaliatory action against any such person who, acting reasonably and in good faith, either makes such a report or initiates, testifies, participates or assists in such formal or informal proceedings.

School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers

Authority and power to implement school arrest

STATUTES

3213. Supervisors of attendance; attendance teachers; attendance officers; appointment, compensation, powers and duties.

2. Powers and duties. a. Arrest of truants. A supervisor of attendance, attendance teacher or attendance officer, as the case may be, may arrest without warrant any minor who is unlawfully absent from attendance upon instruction. He shall forthwith place the minor so arrested in attendance upon required instruction and shall notify the parent or guardian of the minor, and he may then begin proceedings for his commitment as a school delinquent or arraign him before a court having jurisdiction. Where a minor resides in one school district and attends school in another school district, the supervisor of attendance, attendance teacher or attendance officer of the district where the minor resides and the supervisor of attendance, attendance teacher or attendance officer of the district where said minor attends school shall have concurrent jurisdiction with reference to said minor and to the person or persons in parental relation to him.

4111. Arrest of truants.

Any attendance officer may arrest without warrant anywhere within the state any Indian child between six and sixteen years of age, found away from his home and who is then a truant from instruction upon which he is lawfully required to attend within the districts of which such attendance officer has jurisdiction. He shall forthwith deliver a child so arrested either to the person in parental relation to the child, or to the teacher of the school from which said child is then a truant, or in case of habitual or incorrigible truants, shall bring them before a magistrate for commitment to a school for delinquents, as provided in section forty-one hundred twelve.

Certification or training

No relevant statutes found.

MOUs, authorization, and/or funding

STATUTES

3211. Records of attendance upon instruction.

3. Inspection of records of attendance. An attendance officer, or any other duly authorized representative of the school authorities, may at any time during school hours, demand the production of the records of attendance of minors required to be kept by the provisions of part one of this article, and may inspect or copy the same and make all proper inquiries of a teacher or principal concerning the records and the attendance of such minors.

3213. Supervisors of attendance; attendance teachers; attendance officers; appointment, compensation, powers and duties.

1. Appointment, removal, compensation and supervision.

a. To the end that children shall not suffer through unnecessary failure to attend school for any cause whatsoever, it shall be the duty of each attendance teacher and each attendance supervisor to secure for every child his right to educational opportunities which will enable him to develop his fullest potentialities for education, physical, social and spiritual growth as an individual and to provide for the school adjustment of any nonattendant child in cooperation with school authorities, special school services and community and social agencies.

The school authorities of each city school district, union free school district, central school district, central high school district, or common school district whose limits include in whole or in part an incorporated village, shall appoint and may remove one or more supervisors of attendance or attendance teachers of such district. A supervisor of attendance shall be appointed in accordance with the civil service law and rules, unless he or she is a licensed attendance teacher or a teacher licensed to teach in New York state, with such further qualifications as the board of regents shall establish. On and after July first, nineteen hundred fifty-five no full-time supervisor of attendance shall be appointed unless he or she holds a license as attendance teacher. Such supervisors of attendance and those holding full-time positions who are similarly licensed teachers or who hold attendance teacher licenses shall be assigned to the step in the salary schedule of the school district commensurate with the salary being paid such supervisors or teachers. Such persons shall be paid thereafter in accordance with such schedule. If the amount of salary received on said July first, nineteen hundred fifty-five is less than the minimum step of the salary schedule, such supervisor or teacher shall be paid until June thirtieth, nineteen hundred fifty-six at the rate of the first step and in accordance with the schedule thereafter.

No supervisor of attendance or attendance teacher shall be appointed who is not twenty-one years of age and in proper physical condition. In the establishment of an eligible list advanced education related to attendance service shall be taken into consideration in the grading of the candidates. Experience in teaching, in social service and welfare work, and in business or in the professional field shall likewise be taken into consideration.

Paragraph a of subdivision one of this section shall apply to a city in which attendance supervisors are appointed from an eligible list now prepared by a board of examiners.

Supervisors of attendance in a city having a board of examiners shall be licensed as attendance teachers only when they comply with the regulations for such license as established by the commissioner of education and any additional requirements which may be established by the board of examiners.

The board of education shall fix the compensation of part-time supervisors of attendance and prescribe their duties not inconsistent with part one of this article and make rules and regulations for the performance thereof. The superintendent of schools or district superintendent of schools shall supervise the enforcement of part one of this article within such city or school district.

b. The town board of each town, with the approval, in writing, of the district superintendent, shall appoint, on or before August first of each year, one or more attendance officers and shall fix their compensation. During the school year it shall also fill promptly any vacancy after notification thereof by the district superintendent. The district superintendent shall promptly notify the town board of his approval or disapproval of an appointment. If within one month a town board shall not comply with the foregoing provisions, the district superintendent, subject to appeal to the commissioner of education, shall exercise the powers and duties of the town board with respect thereto. An attendance officer appointed for a town shall have jurisdiction over all school districts of the town which are not otherwise provided for by this section. He shall be removable at the pleasure of the district superintendent. His compensation and his necessary expenses in attending conferences called by the district superintendent shall be a town charge.

c. In case a school district shall include territory lying within the boundaries of more than one town, the attendance officer appointed by the town in which the schoolhouse is located shall have jurisdiction over the entire school district.

2. Powers and duties.

a. Arrest of truants. A supervisor of attendance, attendance teacher or attendance officer, as the case may be, may arrest without warrant any minor who is unlawfully absent from attendance upon instruction. He shall forthwith place the minor so arrested in attendance upon required instruction and shall notify the parent or guardian of the minor, and he may then begin proceedings for his commitment as a school delinquent or arraign him before a court having jurisdiction. Where a minor resides in one school district and attends school in another school district, the supervisor of attendance, attendance teacher or attendance officer of the district where the minor resides and the supervisor of attendance, attendance teacher or attendance officer of the district where said minor attends school shall have concurrent jurisdiction with reference to said minor and to the person or persons in parental relation to him.

b. Right of entry.

(1) A supervisor of attendance, attendance teacher or attendance officer, as the case may be, in the performance of his duties, may enter during business hours any factory, mercantile or other establishment, or other place in which a minor is believed to be employed within the city or school district in which he is appointed, and shall be entitled to examine on demand the employment certificates or work permits of minors therein employed, for whose lawful employment such certificates or permits are required by the provisions of part one of this article.

(2) He may also enter any public place during the hours in which the public have access thereto, to ascertain if any minor is therein who is required to attend upon instruction by the provisions of part one of this article, or engaged in a street trade contrary to the provisions of part one of this article, or to collect information required for the school census.

c. Notification upon absence. It shall be the duty of every school district to inform persons in parental relation to elementary school pupils of such person's right to be notified when such pupil is deemed absent from attendance at his designated school. Persons in parental relation to elementary school pupils shall, if such notification is desired, forward a request in writing to the principal of the pupil's designated school. Such request shall contain the telephone number of person or persons in parental relation to the pupil or other information to facilitate communication with such persons by the most expedient means available. No civil or criminal liability shall arise or attach to any school district or employee thereof for any act or omission to act as a result of, or in connection with, the duties or activities authorized or directed by this paragraph.

d. Notification when deemed absent. A supervisor of attendance, attendance teacher, attendance officer, or other person authorized by the school district, as the case may be, shall, where a request for notification has been made pursuant to paragraph c of this subdivision, notify a person in parental relation to any elementary school pupil by the means designated in such request when such pupil is deemed absent from required attendance at his designated school without prior notification and consent to such absence by the person in parental relation. No civil or criminal liability shall arise or attach to any school district or employee thereof for any act or omission to act as a result of, or in connection with, the duties or activities authorized or directed by this paragraph.

e. To the extent that supervisors of attendance, attendance teachers and attendance officers act pursuant to this subdivision and subdivision one of this section for the purpose of carrying out the provisions of part one of this article, they shall be deemed to have acted within the scope of their employment. Such personnel shall continue to have all the powers, duties and responsibilities conferred on them by law prior to the date on which the provisions of this paragraph become effective.

State Education Agency Support

State model policies and implementation support

STATUTES

14. Commissioner's responsibilities.

The commissioner shall:

1. Provide direction, which may include development of model policies and, to the extent possible, direct services, to school districts related to preventing harassment, bullying and discrimination and to fostering an environment in every school where all children can learn free of manifestations of bias;
2. Provide grants, from funds appropriated for such purpose, to local school districts to assist them in implementing the guidelines set forth in this section;
3. Promulgate regulations to assist school districts in implementing this article including, but not limited to, regulations to assist school districts in developing measured, balanced, and age-appropriate responses to violations of this policy, with remedies and procedures following a progressive model that make appropriate use of intervention, discipline and education and provide guidance related to the application of regulations; and
4. Provide guidance and educational materials to school districts related to best practices in addressing cyberbullying and helping families and communities work cooperatively with schools in addressing cyberbullying, whether on or off school property or at or away from a school function.
5. The commissioner shall prescribe regulations that school professionals applying on or after July first, two thousand thirteen for a certificate or license, including but not limited to a certificate or license valid for service as a classroom teacher, school counselor, school psychologist, school social worker, school administrator or supervisor or superintendent of schools shall, in addition to all other certification or licensing requirements, have completed training on the social patterns of harassment, bullying and discrimination, as defined in section eleven of this article, including but not limited to those acts based on a person's actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender or sex, the identification and mitigation of harassment, bullying and discrimination, and strategies for effectively addressing problems of exclusion, bias and aggression in educational settings.

Funding appropriations

STATUTES

14. Commissioner's responsibilities.

The commissioner shall:

2. Provide grants, from funds appropriated for such purpose, to local school districts to assist them in implementing the guidelines set forth in this section;

Other/Uncategorized

Professional immunity or liability

STATUTES

16. Protection of people who report harassment, bullying or discrimination.

Any person having reasonable cause to suspect that a student has been subjected to harassment, bullying or discrimination, by an employee or student, on school grounds or at a school function, who, acting reasonably and in good faith, reports such information to school officials, to the commissioner or to law enforcement authorities, acts in compliance with paragraph e or i of subdivision one of section thirteen of this article, or otherwise initiates, testifies, participates or assists in any formal or informal proceedings under this article, shall have immunity from any civil liability that may arise from the making of such report or from initiating, testifying, participating or assisting in such formal or informal proceedings, and no school district or employee shall take, request or cause a retaliatory action against any such person who, acting reasonably and in good faith, either makes such a report or initiates, testifies, participates or assists in such formal or informal proceedings.

3028-a. Students under twenty-one years of age suspected of alcohol abuse or narcotic addiction.

Any teacher, school administrator, school guidance counselor, school psychologist, school drug counselor, school nurse, supervisor of attendance, attendance teacher or attendance officer having reasonable cause to suspect that a secondary or elementary student under twenty-one years of age is a substance or alcohol abuser or substance dependent, who report such information to the appropriate secondary or elementary school officials pursuant to the school's drug policy or if the school has no drug policy to the school's principal or the parents or legal guardians of such student under twenty-one years of age shall have immunity from any civil liability that might otherwise be incurred or imposed as a result of the making of such a report.

3028-c. Protection of school employees who report acts of violence and weapons possession.

Any school employee having reasonable cause to suspect that a person has committed an act of violence while in or on school property, or having reasonable cause to suspect that a person has committed an act of violence upon a student, school employee or volunteer either upon school grounds or elsewhere, or having reasonable cause to suspect that a person has brought a gun, knife, bomb or other instrument capable of or that appears capable of causing death or physical injury upon school grounds who in good faith reports such information to school officials, to the commissioner, or to law enforcement authorities, shall have immunity from any civil liability that may arise from the making of such report, and no school district or school district employee shall take, request or cause a retaliatory action against any such employee who makes such report.

ADMINISTRATIVE CODE

100.2 (KK). Dignity Act reporting requirements.

3. Protection of people who report discrimination and/or harassment.

   i. Pursuant to Education Law section 16, any person having reasonable cause to suspect that a student has been subjected to discrimination and/or harassment by an employee or student, on school grounds or at a school function, who acting reasonably and in good faith, either reports such information to school officials, to the commissioner, or to law enforcement authorities or otherwise initiates, testifies,

participates or assists in any formal or informal proceedings under this subdivision, shall have immunity from any civil liability that may arise from the making of such report or from initiating, testifying, participating or assisting in such formal or informal proceedings.

ii. No school district, BOCES or charter school, or an employee thereof, shall take, request or cause a retaliatory action against any such person who, acting reasonably and in good faith, either makes such a report or initiates, testifies, participates or assists in such formal or informal proceedings.

Community input or involvement

STATUTES

2801. Codes of conduct on school property.

2. The board of education or the trustees, as defined in section two of this chapter, of every school district within the state, however created, and every board of cooperative educational services and county vocational extension board, shall adopt and amend, as appropriate, a code of conduct for the maintenance of order on school property, including a school function, which shall govern the conduct of students, teachers and other school personnel as well as visitors and shall provide for the enforcement thereof. Such policy may be adopted by the school board or trustees only after at least one public hearing that provides for the participation of school personnel, parents, students and any other interested parties.

3. The district code of conduct shall be developed in collaboration with student, teacher, administrator, and parent organizations, school safety personnel and other school personnel and shall be approved by the board of education, or other governing body, or by the chancellor of the city school district in the case of the city school district of the city of New York. In the city school district of the city of New York, each community school district board shall be authorized to adopt and implement additional policies, which are consistent with the city district's district-wide code of conduct, to reflect the individual needs of each community school district provided that such additional policies shall require the approval of the chancellor.

Other/Uncategorized

STATUTES

3214. Student placement, suspensions and transfers.

4. Expense.

a. The expense attending the commitment and costs of maintenance of any school delinquent shall be a charge against the city or district where he resides, if such city or district employs a superintendent of schools; otherwise it shall be a county charge.

b. The school authorities may institute proceedings before a court having jurisdiction to determine the liability of a person in parental relation to contribute towards the maintenance of a school delinquent under sixteen years of age ordered to attend upon instruction under confinement. If the court shall find the person in parental relation able to contribute towards the maintenance of such a minor, it may issue an order fixing the amount to be paid weekly.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by New York provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
Website		
Violent and Disruptive Incident Reporting (VADIR)	Information on the VADIR system.	http://www.p12.nysed.gov/irs/school_safety/school_safety_data_collection.html
The Dignity for All Students Act	Information on New York's Dignity for All Students Act.	http://www.p12.nysed.gov/dignityact
Corporal Punishment	Information on corporal punishment.	http://www.p12.nysed.gov/sss/pps/corporalpunishment
New York Codes, Rules and Regulations (NYCRR)	State regulations on student discipline	http://www.p12.nysed.gov/sss/lawsregs/#StudentDiscipline
	State regulations on student suspension	http://www.p12.nysed.gov/sss/lawsregs/#StudentSuspension
Documents		
No relevant resources found		
Other Resources		
New York State Safe Schools Against Violence in Education (SAVE)	Resources for violence prevention programs in schools & safe supportive environment	http://www.p12.nysed.gov/sss/ssae/schoolsafety/save/

North Carolina Compilation of School Discipline Laws and Regulations

Prepared: August 12, 2013

Introduction

This compilation presents school discipline-related state statutes, school discipline-related regulations, and, where available, links to state-sponsored websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSLE). For example, one major category encompasses all state laws or regulations mandating specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of state legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in each state.

Discipline categories were not mutually exclusive. Statutes and regulations often appeared across multiple categories. For states with more extensive statutes covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. State laws, ordered by chapter and section number, appear first within each category followed by state regulations. All statutes and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists statutes by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to state-sponsored websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of May 2013, with the exception of the state laws related to seclusion and restraint, which are complete and current as of December 2012. Readers should also note that the information in this document was compiled from individual state sources that are created by each state and which are maintained and updated with varying frequencies. Readers should consult the source information provided for each state directly in order to check for updates to this state's laws and regulations or conduct further research.

For further information, including definitions of the different policy categories, please refer to the Discipline Laws and Regulations Compendium posted on the Center's website.

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Safe Supportive Learning
Engagement | Safety | Environment

Table of Contents

North Carolina State Codes Cited **1**

General Provisions **3**

Authority to develop and establish rules of conduct 3
Scope 5
Communication of policy 5

In-School Discipline **6**

Use of multi-tiered discipline approaches 6
Teacher authority to remove students from classrooms 6
Alternatives to suspension 6
Use of corporal punishment 7
Use of student and locker searches 8
Other in-school disciplinary approaches 8

Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements **9**

Grounds for possible suspension or expulsion 9
Grounds for mandatory suspension or expulsion 9
Limitations, conditions or exclusions for use of suspension and expulsion 9
Administrative procedures related to suspension and expulsion 11
In-school suspension 14
Return to school following removal 14
Use of restraint and seclusion 15
Alternative placements 19

Disciplinary Approaches Addressing Specific Infractions and Conditions **23**

Firearms (as required by the Guns-Free Schools Act) 23
Other weapons 23
Students with chronic disciplinary issues 23
Attendance and truancy 24
Substance use 25
Bullying, harassment, or hazing 25
Other special infractions or conditions 27

Prevention and Behavioral Interventions (Non-Punitive) **28**

Prevention 28
Behavioral interventions and student support services 28
Professional development 28

Monitoring and Accountability **29**

Formal incident reporting of conduct violations 29
Parental notification 29
Reporting and referrals between schools and law enforcement 30
Disclosure of school records 31
Data collection, review, and reporting of disciplinary policies and actions 31

School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers 32
Authority and power to implement school arrest 32
Certification or training 32
MOUs, authorization, and/or funding 32
State Education Agency Support 33
State model policies and implementation support 33
Funding appropriations 33
Other/Uncategorized 34
Professional immunity or liability 34
Community input or involvement 34
Other/Uncategorized 34
State-Sponsored, Publicly Available Websites or Other Resources on School Discipline 35

North Carolina State Codes Cited

North Carolina Revised Statutes

Chapter 115C. Elementary and Secondary Education

Article 2. State Board of Education

115C-12. Powers and duties of the board generally

Article 19. Principals and Supervisors

115C-288. Powers and duties of principal

Article 27. Discipline

115C-390.2. Discipline policies
115C-390.3. Reasonable force
115C-390.4. Corporal punishment
115C-390.5. Short-term suspension
115C-390.6. Short-term suspension procedures
115C-390.7. Long-term suspension
115C-390.8. Long-term suspension procedures
115C-390.9. Alternative education services
115C-390.10. 365-day suspension for gun possession
115C-390.11. Expulsion
115C-390.12. Request for readmission
115C-391.1. Permissible use of seclusion and restraint
115C-392. Appeal of disciplinary measures

Article 27A. Management and Placement of Disruptive Students

115C-397.1. Management and placement of disruptive students

Article 29. Protective Provisions and Maintenance of Student Records

115C-402. Student records; maintenance; contents; confidentiality

Article 29A. Policy Prohibiting Use of Tobacco Products

115C-407. Policy prohibiting tobacco use in school buildings, grounds, and at school-sponsored events

Article 29C. School Violence Prevention

115C-407.15. Bullying and harassing behavior
115C-407.16. Policy against bullying or harassing behavior

North Carolina Administrative Code

Title 16. Education

Chapter 6. Elementary and Secondary Education

Subchapter 6E. Students

16 NCAC 06E .0103 Enforcement
16 N.C.A.C. 6E.0104. Involuntary suspensions

General Provisions

Authority to develop and establish rules of conduct

STATUTES

§ 115C-390.2. Discipline policies.

(a) Local boards of education shall adopt policies to govern the conduct of students and establish procedures to be followed by school officials in disciplining students. These policies must be consistent with the provisions of this Article and the constitutions, statutes, and regulations of the United States and the State of North Carolina.

(b) Board policies shall include or provide for the development of a Code of Student Conduct that notifies students of the standards of behavior expected of them, conduct that may subject them to discipline, and the range of disciplinary measures that may be used by school officials.

(c) Board policies may authorize suspension for conduct not occurring on educational property, but only if the student's conduct otherwise violates the Code of Student Conduct and the conduct has or is reasonably expected to have a direct and immediate impact on the orderly and efficient operation of the schools or the safety of individuals in the school environment.

(d) Board policies shall not allow students to be long-term suspended or expelled from school solely for truancy or tardiness offenses and shall not allow short-term suspension of more than two days for such offenses.

(e) Board policies shall not impose mandatory long-term suspensions or expulsions for specific violations unless otherwise provided in State or federal law.

(f) Board policies shall minimize the use of long-term suspension and expulsion by restricting the availability of long-term suspension or expulsion to those violations deemed to be serious violations of the board's Code of Student Conduct that either threaten the safety of students, staff, or school visitors or threaten to substantially disrupt the educational environment. Examples of conduct that would not be deemed to be a serious violation include the use of inappropriate or disrespectful language, noncompliance with a staff directive, dress code violations, and minor physical altercations that do not involve weapons or injury. The principal may, however, in his or her discretion, determine that aggravating circumstances justify treating a minor violation as a serious violation.

(g) Board policies shall not prohibit the superintendent and principals from considering the student's intent, disciplinary and academic history, the potential benefits to the student of alternatives to suspension, and other mitigating or aggravating factors when deciding whether to recommend or impose long-term suspension.

(h) Board policies shall include the procedures to be followed by school officials in suspending, expelling, or administering corporal punishment to any student, which shall be consistent with this Article.

(i) Each local board shall publish all policies, administrative procedures, or school rules mandated by this section and make them available to each student and his or her parent at the beginning of each school year and upon request.

(j) Local boards of education are encouraged to include in their safe schools plans, adopted pursuant to G.S. 115C-105.47, research-based behavior management programs that take positive approaches to improving student behaviors.

(k) School officials are encouraged to use a full range of responses to violations of disciplinary rules, such as conferences, counseling, peer mediation, behavior contracts, instruction in conflict resolution and

anger management, detention, academic interventions, community service, and other similar tools that do not remove a student from the classroom or school building.

§ 115C-407. Policy prohibiting tobacco use in school buildings, grounds, and at school-sponsored events.

(a) Not later than August 1, 2008, local boards of education shall adopt, implement, and enforce a written policy prohibiting at all times the use of any tobacco product by any person in school buildings, in school facilities, on school campuses, and in or on any other school property owned or operated by the local school administrative unit. The policy shall further prohibit the use of all tobacco products by persons attending a school-sponsored event at a location not listed in this subsection when in the presence of students or school personnel or in an area where smoking is otherwise prohibited by law.

(b) The policy shall include at least all of the following elements:

(1) Adequate notice to students, parents, the public, and school personnel of the policy.

(2) Posting of signs prohibiting at all times the use of tobacco products by any person in and on school property.

(3) Requirements that school personnel enforce the policy.

(c) The policy may permit tobacco products to be included in instructional or research activities in public school buildings if the activity is conducted or supervised by the faculty member overseeing the instruction or research and the activity does not include smoking, chewing, or otherwise ingesting the tobacco product.

(d) The North Carolina Health and Wellness Trust Fund Commission shall work with local boards of education to provide assistance with the implementation of this policy including providing information regarding smoking cessation and prevention resources. Nothing in this section, G.S. 143-595 through G.S. 143-601, or any other section prohibits a local board of education from adopting and enforcing a more restrictive policy on the use of tobacco in school buildings, in school facilities, on school campuses, or at school-related or school-sponsored events, and in or on other school property.

§ 115C-407.16. Policy against bullying or harassing behavior.

(a) Before December 31, 2009, each local school administrative unit shall adopt a policy prohibiting bullying or harassing behavior.

(b) The policy shall contain, at a minimum, the following components:

(1) A statement prohibiting bullying or harassing behavior.

(2) A definition of bullying or harassing behavior no less inclusive than that set forth in this Article.

(3) A description of the type of behavior expected for each student and school employee.

(4) Consequences and appropriate remedial action for a person who commits an act of bullying or harassment.

(5) A procedure for reporting an act of bullying or harassment, including a provision that permits a person to report such an act anonymously. This shall not be construed to permit formal disciplinary action solely on the basis of an anonymous report.

(6) A procedure for prompt investigation of reports of serious violations and complaints of any act of bullying or harassment, identifying either the principal or the principal's designee as the person responsible for the investigation.

(7) A statement that prohibits reprisal or retaliation against any person who reports an act of bullying or harassment, and the consequence and appropriate remedial action for a person who engages in reprisal or retaliation.

(8) A statement of how the policy is to be disseminated and publicized, including notice that the policy applies to participation in school-sponsored functions.

(c) Nothing in this Article shall prohibit a local school administrative unit from adopting a policy that includes components beyond the minimum components provided in this section or that is more inclusive than the requirements of this Article.

(d) Notice of the local policy shall appear in any school unit publication that sets forth the comprehensive rules, procedures, and standards of conduct for schools within the school unit and in any student and school employee handbook.

(e) Information regarding the local policy against bullying or harassing behavior shall be incorporated into a school's employee training program.

(f) To the extent funds are appropriated for these purposes, a local school administrative unit shall, by March 1, 2010, provide training on the local policy to school employees and volunteers who have significant contact with students.

Scope

STATUTES

§ 115C-390.2. Discipline policies.

(c) Board policies may authorize suspension for conduct not occurring on educational property, but only if the student's conduct otherwise violates the Code of Student Conduct and the conduct has or is reasonably expected to have a direct and immediate impact on the orderly and efficient operation of the schools or the safety of individuals in the school environment.

Communication of policy

STATUTES

§ 115C-390.2. Discipline policies.

(b) Board policies shall include or provide for the development of a Code of Student Conduct that notifies students of the standards of behavior expected of them, conduct that may subject them to discipline, and the range of disciplinary measures that may be used by school officials.

(i) Each local board shall publish all policies, administrative procedures, or school rules mandated by this section and make them available to each student and his or her parent at the beginning of each school year and upon request.

In-School Discipline

Use of multi-tiered discipline approaches

STATUTES

§ 115C-390.2. Discipline policies.

(k) School officials are encouraged to use a full range of responses to violations of disciplinary rules, such as conferences, counseling, peer mediation, behavior contracts, instruction in conflict resolution and anger management, detention, academic interventions, community service, and other similar tools that do not remove a student from the classroom or school building.

§ 115C-397.1. Management and placement of disruptive students.

If, after a teacher has requested assistance from the principal two or more times due to a student's disruptive behavior, the teacher finds that the student's disruptive behavior continues to interfere with the academic achievement of that student or other students in the class, then the teacher may refer the matter to a school-based committee. The teacher may request that additional classroom teachers participate in the committee's proceedings. For the purposes of this section, the committee shall notify the student's parent, guardian, or legal custodian and shall encourage that person's participation in the proceedings of the committee concerning the student. Nothing in this section requires a student to be screened, evaluated, or identified as a child with a disability under Article 9 of this Chapter. The committee shall review the matter and shall take one or more of the following actions: (i) advise the teacher on managing the student's behavior more effectively, (ii) recommend to the principal the transfer of the student to another class within the school, (iii) recommend to the principal a multidisciplinary evaluation of the student, (iv) recommend to the principal that the student be assigned to an alternative learning program, or (v) recommend to the principal that the student receive any additional services that the school or the school unit has the resources to provide for the student. If the principal does not follow the recommendation of the committee, the principal shall provide a written explanation to the committee, the teacher who referred the matter to the committee, and the superintendent, of any actions taken to resolve the matter and of the reason the principal did not follow the recommendation of the committee.

This section shall be in addition to the supplemental to disciplinary action taken in accordance with any other law. The recommendation of the committee is final and shall not be appealed under G.S. 115C-45(c). Nothing in this section shall authorize a student to refer a disciplinary matter to this committee or to have the matter of the student's behavior referred to this committee before any discipline is imposed on the student.

Teacher authority to remove students from classrooms

No relevant statutes found.

Alternatives to suspension

STATUTES

§ 115C-390.2. Discipline policies.

(k) School officials are encouraged to use a full range of responses to violations of disciplinary rules, such as conferences, counseling, peer mediation, behavior contracts, instruction in conflict resolution and

anger management, detention, academic interventions, community service, and other similar tools that do not remove a student from the classroom or school building.

§ 115C-397.1. Management and placement of disruptive students.

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This section shall be in addition to the supplemental to disciplinary action taken in accordance with any other law. The recommendation of the committee is final and shall not be appealed under G.S. 115C-45(c). Nothing in this section shall authorize a student to refer a disciplinary matter to this committee or to have the matter of the student's behavior referred to this committee before any discipline is imposed on the student.

Use of corporal punishment

STATUTES

§ 115C-390.4. Corporal punishment.

(a) Each local board of education shall determine whether corporal punishment will be permitted in its school administrative unit. Notwithstanding a local board of education's prohibition on the use of corporal punishment, school personnel may use physical restraint in accordance with federal law and G.S. 115C-391.1 and reasonable force pursuant to G.S. 115C-390.3.

(b) To the extent that corporal punishment is permitted, the policies adopted for the administration of corporal punishment shall include at a minimum the following:

(1) Corporal punishment shall not be administered in a classroom with other students present.

(2) Only a teacher, principal, or assistant principal may administer corporal punishment and may do so only in the presence of a principal, assistant principal, or teacher who shall be informed beforehand and in the student's presence of the reason for the punishment.

(3) A school person shall provide the student's parent with notification that corporal punishment has been administered, and the person who administered the corporal punishment shall provide the student's parent a written explanation of the reasons and the name of the second person who was present.

(4) The school shall maintain records of each administration of corporal punishment and the reasons for its administration.

(5) In no event shall excessive force be used in the administration of corporal punishment. Excessive force includes force that results in injury to the child that requires medical attention beyond simple first aid.

(6) Corporal punishment shall not be administered on a student whose parent or guardian has stated in writing that corporal punishment shall not be administered to that student. Parents and guardians shall be given a form to make such an election at the beginning of the school year or when the student first enters the school during the year. The form shall advise the parent or guardian that the student may be subject to suspension, among other possible punishments, for offenses that would otherwise not require suspension if corporal punishment were available. If the parent or guardian does not return the form, corporal punishment may be administered on the student.

(c) Each local board of education shall report annually to the State Board of Education, in a manner prescribed by the State Board of Education, on the number of times that corporal punishment was administered. The report shall be in compliance with the federal Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g, and shall include the following:

(1) The number of students who received corporal punishment.

(2) The number of students who received corporal punishment who were also students with disabilities and were eligible to receive special education and related services under the federal Individuals with Disabilities Education Act,20 U.S.C. § 1400, et seq.

(3) The grade level of the students who received corporal punishment.

(4) The race, gender, and ethnicity of the students who received corporal punishment.

(5) The reason for the administration of the corporal punishment for each student who received corporal punishment.

Use of student and locker searches

No relevant statutes found.

Other in-school disciplinary approaches

No relevant statutes found.

Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements

Grounds for possible suspension or expulsion

STATUTES

§ 115C-390.5. Short-term suspension.

(a) The principal shall have authority to impose short-term suspension on a student who willfully engages in conduct that violates a provision of the Code of Student Conduct authorizing short-term suspension.

§ 115C-390.7. Long-term suspension.

(a) A principal may recommend to the superintendent the long-term suspension of any student who willfully engages in conduct that violates a provision of the Code of Student Conduct that authorizes long-term suspension.

§ 115C-390.11. Expulsion.

(a) Upon recommendation of the superintendent, a local board of education may expel any student 14 years of age or older whose continued presence in school constitutes a clear threat to the safety of other students or school staff. Prior to the expulsion of any student, the local board shall conduct a hearing to determine whether the student's continued presence in school constitutes a clear threat to the safety of other students or school staff. The student shall be given reasonable notice of the recommendation in accordance with G.S. 115C-390.8(a) and (b), as well as reasonable notice of the time and place of the scheduled hearing.

Grounds for mandatory suspension or expulsion

No relevant statutes found.

Limitations, conditions or exclusions for use of suspension and expulsion

STATUTES

§ 115C-390.2. Discipline policies.

(e) Board policies shall not impose mandatory long-term suspensions or expulsions for specific violations unless otherwise provided in State or federal law.

(f) Board policies shall minimize the use of long-term suspension and expulsion by restricting the availability of long-term suspension or expulsion to those violations deemed to be serious violations of the board's Code of Student Conduct that either threaten the safety of students, staff, or school visitors or threaten to substantially disrupt the educational environment. Examples of conduct that would not be deemed to be a serious violation include the use of inappropriate or disrespectful language, noncompliance with a staff directive, dress code violations, and minor physical altercations that do not involve weapons or injury. The principal may, however, in his or her discretion, determine that aggravating circumstances justify treating a minor violation as a serious violation.

(g) Board policies shall not prohibit the superintendent and principals from considering the student's intent, disciplinary and academic history, the potential benefits to the student of alternatives to

suspension, and other mitigating or aggravating factors when deciding whether to recommend or impose long-term suspension.

§ 115C-390.5. Short-term suspension.

(b) If a student's short-term suspensions accumulate to more than 10 days in a semester, to the extent the principal has not already done so, he or she shall invoke the mechanisms provided for in the applicable safe schools plan adopted pursuant to G.S. 115C-105.47(b)(5) and (b)(6).

(c) A student subject to short-term suspension shall be provided the following:

(1) The opportunity to take textbooks home for the duration of the suspension.

(2) Upon request, the right to receive all missed assignments and, to the extent practicable, the materials distributed to students in connection with the assignment.

(3) The opportunity to take any quarterly, semester, or grading period examinations missed during the suspension period.

§ 115C-390.6. Short-term suspension procedures.

(a) Except as authorized in this section, no short-term suspension shall be imposed upon a student without first providing the student an opportunity for an informal hearing with the principal. The notice to the student of the charges may be oral or written, and the hearing may be held immediately after the notice is given. The student has the right to be present, to be informed of the charges and the basis for the accusations, and to make statements in defense or mitigation of the charges.

§ 115C-390.7. Long-term suspension.

(a) Only the superintendent has the authority to long-term suspend a student.

(b) Before the superintendent's imposition of a long-term suspension, the student must be provided an opportunity for a hearing consistent with G.S. 115C-390.8.

(c) If the student recommended for long-term suspension declines the opportunity for a hearing, the superintendent shall review the circumstances of the recommended long-term suspension. Following such review, the superintendent (i) may impose the suspension if is it consistent with board policies and appropriate under the circumstances, (ii) may impose another appropriate penalty authorized by board policy, or (iii) may decline to impose any penalty.

(d) If a teacher is assaulted or injured by a student and as a result the student is long-term suspended or reassigned to alternative education services, the student shall not be returned to that teacher's classroom unless the teacher consents.

§ 115C-390.11. Expulsion.

(b) During the expulsion, the student is not entitled to be present on any property of the local school administrative unit and is not considered a student of the local board of education. Nothing in this section shall prevent a local board of education from offering access to some type of alternative educational services that can be provided to the student in a manner that does not create safety risks to other students and school staff.

Administrative procedures related to suspension and expulsion

STATUTES

§ 115C-390.2. Discipline policies.

(h) Board policies shall include the procedures to be followed by school officials in suspending, expelling, or administering corporal punishment to any student, which shall be consistent with this Article.

§ 115C-390.6. Short-term suspension procedures.

(a) Except as authorized in this section, no short-term suspension shall be imposed upon a student without first providing the student an opportunity for an informal hearing with the principal. The notice to the student of the charges may be oral or written, and the hearing may be held immediately after the notice is given. The student has the right to be present, to be informed of the charges and the basis for the accusations, and to make statements in defense or mitigation of the charges.

(b) The principal may impose a short-term suspension without providing the student an opportunity for a hearing if the presence of the student creates a direct and immediate threat to the safety of other students or staff, or substantially disrupts or interferes with the education of other students or the maintenance of discipline at the school. In such cases, the notice of the charges and informal hearing described in subsection (a) of this section shall occur as soon as practicable.

(c) The principal shall provide notice to the student's parent of any short-term suspension, including the reason for the suspension and a description of the alleged student conduct upon which the suspension is based. The notice shall be given by the end of the workday during which the suspension is imposed when reasonably possible, but in no event more than two days after the suspension is imposed. The notice shall be given by certified mail, telephone, facsimile, e-mail, or any other method reasonably designed to achieve actual notice.

(d) If English is the second language of the parent, the notice shall be provided in the parent's primary language, when the appropriate foreign language resources are readily available, and in English, and both versions shall be in plain language and shall be easily understandable.

(e) A student is not entitled to appeal the principal's decision to impose a short-term suspension to the superintendent or local board of education. Further, such a decision is not subject to judicial review. Notwithstanding this subsection, the local board of education, in its discretion, may provide students an opportunity for a review or appeal of a short-term suspension to the superintendent or local board of education.

§ 115C-390.8. Long-term suspension procedures.

(a) When a student is recommended by the principal for long-term suspension, the principal shall give written notice to the student's parent. The notice shall be provided to the student's parent by the end of the workday during which the suspension was recommended when reasonably possible or as soon thereafter as practicable. The written notice shall provide at least the following information:

(1) A description of the incident and the student's conduct that led to the long-term suspension recommendation.

(2) A reference to the provisions of the Code of Student Conduct that the student is alleged to have violated.

(3) The specific process by which the parent may request a hearing to contest the decision, including the number of days within which the hearing must be requested.

(4) The process by which a hearing will be held, including, at a minimum, the procedures described in subsection (e) of this section.

(5) Notice that the parent is permitted to retain an attorney to represent the student in the hearing process.

(6) The extent to which the local board policy permits the parent to have an advocate, instead of an attorney, accompany the student to assist in the presentation of his or her appeal.

(7) Notice that the parent has the right to review and obtain copies of the student's educational records before the hearing.

(8) A reference to the local board policy on the expungement of discipline records as required by G.S. 115C-402.

(b) Written notice may be provided by certified mail, fax, e-mail, or any other written method reasonably designed to achieve actual notice of the recommendation for long-term suspension. When school personnel are aware that English is not the primary language of the parent or guardian, the notice shall be written in both English and in the primary language of the parent or guardian when the appropriate foreign language resources are readily available. All notices described in this section shall be written in plain English, and shall include the following information translated into the dominant non-English language used by residents within the local school administrative unit:

(1) The nature of the document, i.e., that it is a long-term suspension notice.

(2) The process by which the parent may request a hearing to contest the long-term suspension.

(3) The identity and phone number of a school employee that the parent may call to obtain assistance in understanding the English language information included in the document.

(c) No long-term suspension shall be imposed on a student until an opportunity for a formal hearing is provided to the student. If a hearing is timely requested, it shall be held and a decision issued before a long-term suspension is imposed, except as otherwise provided in this subsection. The student and parent shall be given reasonable notice of the time and place of the hearing.

(1) If no hearing is timely requested, the superintendent shall follow the procedures described in G.S. 115C-390.7(c).

(2) If the student or parent requests a postponement of the hearing, or if the hearing is requested beyond the time set for such request, the hearing shall be scheduled, but the student shall not have the right to return to school pending the hearing.

(3) If neither the student nor parent appears for the scheduled hearing, after having been given reasonable notice of the time and place of the hearing, the parent and student are deemed to have waived the right to a hearing and the superintendent shall conduct the review required by G.S. 115C-390.7(c).

(d) The formal hearing may be conducted by the local board of education, by the superintendent, or by a person or group of persons appointed by the local board or superintendent to serve as a hearing officer or hearing panel. Neither the board nor the superintendent shall appoint any individual to serve as a hearing officer or on a hearing panel who is under the direct supervision of the principal recommending suspension. If the hearing is conducted by an appointed hearing officer or hearing panel, such officer or panel shall determine the relevant facts and credibility of witnesses based on the evidence presented at the hearing. Following the hearing, the superintendent or local board shall make a final decision regarding the suspension. The superintendent or board shall adopt the hearing officer's or panel's factual determinations unless they are not supported by substantial evidence in the record.

(e) Long-term suspension hearings shall be conducted in accordance with policies adopted by the board of education. Such policies shall offer the student procedural due process including, but not limited to, the following:

(1) The right to be represented at the hearing by counsel or, in the discretion of the local board, a non-attorney advocate.

(2) The right to be present at the hearing, accompanied by his or her parents.

(3) The right of the student, parent, and the student's representative to review before the hearing any audio or video recordings of the incident and, consistent with federal and State student records laws and regulations, the information supporting the suspension that may be presented as evidence at the hearing, including statements made by witnesses related to the charges consistent with subsection (h) of this section.

(4) The right of the student, parent, or the student's representative to question witnesses appearing at the hearing.

(5) The right to present evidence on his or her own behalf, which may include written statements or oral testimony, relating to the incident leading to the suspension, as well as any of the factors listed in G.S. 115C-390.2(g).

(6) The right to have a record made of the hearing.

(7) The right to make his or her own audio recording of the hearing.

(8) The right to a written decision, based on substantial evidence presented at the hearing, either upholding, modifying, or rejecting the principal's recommendation of suspension and containing at least the following information:

a. The basis for the decision, including a reference to any policy or rule that the student is determined to have violated.

b. Notice of what information will be included in the student's official record pursuant to G.S. 115C-402.

c. The student's right to appeal the decision and notice of the procedures for such appeal.

(f) Following the issuance of the decision, the superintendent shall implement the decision by authorizing the student's return to school or by imposing the suspension reflected in the decision.

(g) Unless the decision was made by the local board, the student may appeal the decision to the local board in accordance with G.S. 115C-45(c) and policies adopted by the board. Notwithstanding the provisions of G.S. 115C-45(c), a student's appeal to the board of a decision upholding a long-term suspension shall be heard and a final written decision issued in not more than 30 calendar days following the request for such appeal.

(h) Nothing in this section shall compel school officials to release names or other information that could allow the student or his or her representative to identify witnesses when such identification could create a safety risk for the witness.

(i) A decision of the local board to uphold the long-term suspension of a student is subject to judicial review in accordance with Article 4 of Chapter 150B of the General Statutes. The action must be brought within 30 days of the local board's decision. A person seeking judicial review shall file a petition in the superior court of the county where the local board made its decision. Local rules notwithstanding, petitions for judicial review of a long-term suspension shall be set for hearing in the first succeeding term of superior court in the county following the filing of the certified copy of the official record.

§ 115C-390.10. 365-day suspension for gun possession.

(e) The procedures described in G.S. 115C-390.8 apply to students facing a 365-day suspension pursuant to this section.

§ 115C-390.11. Expulsion.

(a) Upon recommendation of the superintendent, a local board of education may expel any student 14 years of age or older whose continued presence in school constitutes a clear threat to the safety of other students or school staff. Prior to the expulsion of any student, the local board shall conduct a hearing to determine whether the student's continued presence in school constitutes a clear threat to the safety of other students or school staff. The student shall be given reasonable notice of the recommendation in accordance with G.S. 115C-390.8(a) and (b), as well as reasonable notice of the time and place of the scheduled hearing.

(1) The procedures described in G.S. 115C-390.8(e)(1)-(8) apply to students facing expulsion pursuant to this section, except that the decision to expel a student by the local board of education shall be based on clear and convincing evidence that the student's continued presence in school constitutes a clear threat to the safety of other students and school staff.

(2) A local board of education may expel any student subject to G.S. 14-208.18 in accordance with the procedures of this section. Prior to ordering the expulsion of a student, the local board of education shall consider whether there are alternative education services that may be offered to the student. As provided by G.S. 14-208.18(f), if the local board of education determines that the student shall be provided educational services on school property, the student shall be under the supervision of school personnel at all times.

(3) At the time a student is expelled under this section, the student shall be provided notice of the right to petition for readmission pursuant to G.S. 115C-390.12.

§ 115C-392. Appeal of disciplinary measures.

Appeals of disciplinary measures are subject to the provisions of G.S. 115C-45(c).

In-school suspension

No relevant statutes found.

Return to school following removal

STATUTES

§ 115C-390.12. Request for readmission.

(a) All students suspended for 365 days or expelled may, after 180 calendar days from the date of the beginning of the student's suspension or expulsion, request in writing readmission to the local school administrative unit. The local board of education shall develop and publish written policies and procedures for the readmission of all students who have been expelled or suspended for 365 days, which shall provide, at a minimum, the following process:

(1) The process for 365-day suspended students.

a. At the local board's discretion, either the superintendent or the local board itself shall consider and decide on petitions for readmission. If the decision maker is the superintendent, the superintendent shall offer the student an opportunity for an in-person meeting. If the decision maker is the local board of education, the board may offer the student an in-person meeting or may make a determination based on the records submitted by the student and the superintendent.

b. The student shall be readmitted if the student demonstrates to the satisfaction of the board or superintendent that the student's presence in school no longer constitutes a threat to the safety of other students or staff.

c. A superintendent's decision not to readmit the student may be appealed to the local board of education pursuant to G.S. 115C-45(c). The superintendent shall notify the parents of the right to appeal.

d. There is no right to judicial review of the board's decision not to readmit a 365-day suspended student.

e. A decision on readmission under this subsection shall be issued within 30 days of the petition.

(2) The process for expelled students.

a. The board of education shall consider all petitions for readmission of expelled students, together with the recommendation of the superintendent on the matter, and shall rule on the request for readmission. The board shall consider the petition based on the records submitted by the student and the response by the administration and shall allow the parties to be heard in the same manner as provided by G.S. 115C-45(c).

b. The student shall be readmitted if the student demonstrates to the satisfaction of the board or superintendent that his or her presence in a school no longer constitutes a clear threat to the safety of other students or staff.

c. A decision by a board of education to deny readmission of an expelled student is not subject to judicial review.

d. An expelled student may subsequently request readmission not more often than every six months. The local board of education is not required to consider subsequent readmission petitions filed sooner than six months after the previous petition was filed.

e. A decision on readmission under this section shall be issued within 30 days of the petition.

(b) If a student is readmitted under this section, the board and the superintendent have the right to assign the student to any program within the school system and to place reasonable conditions on the readmission.

(c) If a teacher was assaulted or injured by a student, and as a result the student was expelled, the student shall not be returned to that teacher's classroom following readmission unless the teacher consents.

Use of restraint and seclusion

STATUTES

§ 115C-390.3. Reasonable force.

(a) School personnel may use physical restraint only in accordance with G.S. 115C-391.1.

(b) School personnel may use reasonable force to control behavior or to remove a person from the scene in those situations when necessary for any of the following reasons:

(1) To correct students.

(2) To quell a disturbance threatening injury to others.

(3) To obtain possession of weapons or other dangerous objects on the person, or within the control, of a student.

(4) For self-defense.

(5) For the protection of persons or property.

(6) To maintain order on educational property, in the classroom, or at a school-related activity on or off educational property.

(c) Notwithstanding any other law, no officer or employee of the State Board of Education or of a local board of education shall be civilly liable for using reasonable force in conformity with State law, State or local rules, or State or local policies regarding the control, discipline, suspension, and expulsion of students. Furthermore, the burden of proof is on the claimant to show that the amount of force used was not reasonable.

(d) No school employee shall be reprimanded or dismissed for acting or failing to act to stop or intervene in an altercation between students if the employee's actions are consistent with local board policies. Local boards of education shall adopt policies, pursuant to their authority under G.S. 115C-47(18), which provide guidelines for an employee's response if the employee has personal knowledge or actual notice of an altercation between students.

§ 115C-391.1. Permissible use of seclusion and restraint.

(a) It is the policy of the State of North Carolina to:

(1) Promote safety and prevent harm to all students, staff, and visitors in the public schools.

(2) Treat all public school students with dignity and respect in the delivery of discipline, use of physical restraints or seclusion, and use of reasonable force as permitted by law.

(3) Provide school staff with clear guidelines about what constitutes use of reasonable force permissible in North Carolina public schools.

(4) Improve student achievement, attendance, promotion, and graduation rates by employing positive behavioral interventions to address student behavior in a positive and safe manner.

(5) Promote retention of valuable teachers and other school personnel by providing appropriate training in prescribed procedures, which address student behavior in a positive and safe manner.

(b) The following definitions apply in this section:

(1) "Assistive technology device" means any item, piece of equipment, or product system that is used to increase, maintain, or improve the functional capacities of a child with a disability.

(2) "Aversive procedure" means a systematic physical or sensory intervention program for modifying the behavior of a student with a disability which causes or reasonably may be expected to cause one or more of the following:

a. Significant physical harm, such as tissue damage, physical illness, or death.

b. Serious, foreseeable long-term psychological impairment.

c. Obvious repulsion on the part of observers who cannot reconcile extreme procedures with acceptable, standard practice, for example: electric shock applied to the body; extremely loud auditory stimuli; forcible introduction of foul substances to the mouth, eyes, ears, nose, or skin; placement in a tub of cold water or shower; slapping, pinching, hitting, or pulling hair; blindfolding or other forms of visual blocking; unreasonable withholding of meals; eating one's own vomit; or denial of reasonable access to toileting facilities.

(3) "Behavioral intervention" means the implementation of strategies to address behavior that is dangerous, disruptive, or otherwise impedes the learning of a student or others.

(4) "IEP" means a student's Individualized Education Plan.

(5) "Isolation" means a behavior management technique in which a student is placed alone in an enclosed space from which the student is not prevented from leaving.

(6) "Law enforcement officer" means a sworn law enforcement officer with the power to arrest.

(7) "Mechanical restraint" means the use of any device or material attached or adjacent to a student's body that restricts freedom of movement or normal access to any portion of the student's body and that the student cannot easily remove.

(8) "Physical restraint" means the use of physical force to restrict the free movement of all or a portion of a student's body.

(9) "School personnel" means:

a. Employees of a local board of education.

b. Any person working on school grounds or at a school function under a contract or written agreement with the public school system to provide educational or related services to students.

c. Any person working on school grounds or at a school function for another agency providing educational or related services to students.

(10) "Seclusion" means the confinement of a student alone in an enclosed space from which the student is:

a. Physically prevented from leaving by locking hardware or other means.

b. Not capable of leaving due to physical or intellectual incapacity.

(11) "Time-out" means a behavior management technique in which a student is separated from other students for a limited period of time in a monitored setting.

(c) Physical Restraint:

(1) Physical restraint of students by school personnel shall be considered a reasonable use of force when used in the following circumstances:

a. As reasonably needed to obtain possession of a weapon or other dangerous objects on a person or within the control of a person.

b. As reasonably needed to maintain order or prevent or break up a fight.

c. As reasonably needed for self-defense.

d. As reasonably needed to ensure the safety of any student, school employee, volunteer, or other person present, to teach a skill, to calm or comfort a student, or to prevent self-injurious behavior.

e. As reasonably needed to escort a student safely from one area to another.

f. If used as provided for in a student's IEP or Section 504 plan or behavior intervention plan.

g. As reasonably needed to prevent imminent destruction to school or another person's property.

(2) Except as set forth in subdivision (1) of this subsection, physical restraint of students shall not be considered a reasonable use of force, and its use is prohibited.

(3) Physical restraint shall not be considered a reasonable use of force when used solely as a disciplinary consequence.

(4) Nothing in this subsection shall be construed to prevent the use of force by law enforcement officers in the lawful exercise of their law enforcement duties.

(d) Mechanical Restraint:

(1) Mechanical restraint of students by school personnel is permissible only in the following circumstances:

a. When properly used as an assistive technology device included in the student's IEP or Section 504 plan or behavior intervention plan or as otherwise prescribed for the student by a medical or related service provider.

b. When using seat belts or other safety restraints to secure students during transportation.

c. As reasonably needed to obtain possession of a weapon or other dangerous objects on a person or within the control of a person.

d. As reasonably needed for self-defense.

e. As reasonably needed to ensure the safety of any student, school employee, volunteer, or other person present.

(2) Except as set forth in subdivision (1) of this subsection, mechanical restraint, including the tying, taping, or strapping down of a student, shall not be considered a reasonable use of force, and its use is prohibited.

(3) Nothing in this subsection shall be construed to prevent the use of mechanical restraint devices such as handcuffs by law enforcement officers in the lawful exercise of their law enforcement duties.

(e) Seclusion:

(1) Seclusion of students by school personnel may be used in the following circumstances:

a. As reasonably needed to respond to a person in control of a weapon or other dangerous object.

b. As reasonably needed to maintain order or prevent or break up a fight.

c. As reasonably needed for self-defense.

d. As reasonably needed when a student's behavior poses a threat of imminent physical harm to self or others or imminent substantial destruction of school or another person's property.

e. When used as specified in the student's IEP, Section 504 plan, or behavior intervention plan; and

1. The student is monitored while in seclusion by an adult in close proximity who is able to see and hear the student at all times.

2. The student is released from seclusion upon cessation of the behaviors that led to the seclusion or as otherwise specified in the student's IEP or Section 504 plan.

3. The space in which the student is confined has been approved for such use by the local education agency.

4. The space is appropriately lighted.

5. The space is appropriately ventilated and heated or cooled.

6. The space is free of objects that unreasonably expose the student or others to harm.

(2) Except as set forth in subdivision (1) of this subsection, the use of seclusion is not considered reasonable force, and its use is not permitted.

(3) Seclusion shall not be considered a reasonable use of force when used solely as a disciplinary consequence.

(4) Nothing in this subsection shall be construed to prevent the use of seclusion by law enforcement officers in the lawful exercise of their law enforcement duties.

(f) Isolation. -- Isolation is permitted as a behavior management technique provided that:

(1) The space used for isolation is appropriately lighted, ventilated, and heated or cooled.

(2) The duration of the isolation is reasonable in light of the purpose of the isolation.

(3) The student is reasonably monitored while in isolation.

(4) The isolation space is free of objects that unreasonably expose the student or others to harm.

(g) Time-Out. -- Nothing in this section is intended to prohibit or regulate the use of time-out as defined in this section.

(h) Aversive Procedures. -- The use of aversive procedures as defined in this section is prohibited in public schools.

(i) Nothing in this section modifies the rights of school personnel to use reasonable force as permitted under G.S. 115C-390.3 or modifies the rules and procedures governing discipline under G.S. 115C-390.1 through G.S. 115C-390.12.

(j) Notice, Reporting, and Documentation.

(1) Notice of procedures. -- Each local board of education shall provide copies of this section and all local board policies developed to implement this section to school personnel and parents or guardians at the beginning of each school year.

(2) Notice of specified incidents:

a. School personnel shall promptly notify the principal or principal's designee of:

1. Any use of aversive procedures.

2. Any prohibited use of mechanical restraint.

3. Any use of physical restraint resulting in observable physical injury to a student.

4. Any prohibited use of seclusion or seclusion that exceeds 10 minutes or the amount of time specified on a student's behavior intervention plan.

b. When a principal or principal's designee has personal knowledge or actual notice of any of the events described in this subdivision, the principal or principal's designee shall promptly notify the student's parent or guardian and will provide the name of a school employee the parent or guardian can contact regarding the incident.

(3) As used in subdivision (2) of this subsection, "promptly notify" means by the end of the workday during which the incident occurred when reasonably possible, but in no event later than the end of following workday.

(4) The parent or guardian of the student shall be provided with a written incident report for any incident reported under this section within a reasonable period of time, but in no event later than 30 days after the incident. The written incident report shall include:

a. The date, time of day, location, duration, and description of the incident and interventions.

b. The events or events that led up to the incident.

c. The nature and extent of any injury to the student.

d. The name of a school employee the parent or guardian can contact regarding the incident.

(5) No local board of education or employee of a local board of education shall discharge, threaten, or otherwise retaliate against another employee of the board regarding that employee's compensation, terms, conditions, location, or privileges of employment because the employee makes a report alleging a prohibited use of physical restraint, mechanical restraint, aversive procedure, or seclusion, unless the employee knew or should have known that the report was false.

(k) Nothing in this section shall be construed to create a private cause of action against any local board of education, its agents or employees, or any institutions of teacher education or their agents or employees or to create a criminal offense.

Alternative placements

STATUTES

§ 115C-105.47A. Proposals to establish alternative learning programs or alternative schools.

(a) Before establishing any alternative learning program or alternative school, the local board of education shall develop a proposal to implement the program or school that includes all of the following:

(1) The educational and behavioral goals for students assigned to the program or school.

(2) The policies and procedures for the operation of the program or school based on the State Board's standards adopted under G.S. 115C-12(24). The policies and procedures shall address the assignment of students to the program or school.

(3) Identified strategies that will be used to improve student achievement and behavior.

(4) Documentation that similar programs and schools in or out of the State, or both, have demonstrated success in improving the academic achievement and behavior of students assigned to them.

(5) The estimated actual cost of operating the program or school. To the extent practicable, this shall include the cost of:

a. Staffing the program or school with teachers who have at least four years' teaching experience and who have received an overall rating of at least above standard on a formal evaluation and are certified in the areas and grade levels being taught;

b. Providing optimum learning environments, resources and materials, and high quality, ongoing professional development that will ensure students who are placed in the program or school are provided enhanced educational opportunities in order to achieve their full potential;

c. Providing support personnel, including school counselors, psychiatrists, clinical psychologists, social workers, nurses, and other professionals to help students and their families work out complex issues and problems;

d. Maintaining safe and orderly learning environments; and

e. Providing transitional supports for students exiting the program or school and reentering the referring school.

(6) Documented support of school personnel and the community for the implementation of the program or school.

(b) After the local board completes the proposal under subsection (a) of this section, the board shall submit the proposal to the State Board of Education for its review. The State Board shall review the proposal expeditiously and, if appropriate, may offer recommendations to modify the proposal. The local board shall consider any recommendations made by the State Board before implementing the alternative learning program or alternative school.

§ 115C-105.48. Placement of students in alternative schools/alternative learning programs.

(a) Prior to referring a student to an alternative school or an alternative learning program, the referring school shall:

(1) Document the procedures that were used to identify the student as being at risk of academic failure or as being disruptive or disorderly.

(2) Provide the reasons for referring the student to an alternative school or an alternative learning program.

(3) Provide to the alternative school or alternative learning program all relevant student records, including anecdotal information.

(b) When a student is placed in an alternative school or an alternative learning program, the appropriate staff of the alternative school or alternative learning program shall meet to review the records forwarded by the referring school and to determine what support services and intervention strategies are recommended for the student. The parents shall be encouraged to provide input regarding the students' needs.

§ 115C-390.7. Long-term suspension.

(e) Disciplinary reassignment of a student to a full-time educational program that meets the academic requirements of the standard course of study established by the State Board of Education as provided in G.S. 115C-12 and provides the student with the opportunity to make timely progress towards graduation and grade promotion is not a long-term suspension requiring the due process procedures described in G.S. 115C-390.8.No relevant statutes found.

§ 115C-390.9. Alternative education services.

(a) Students who are long-term suspended shall be offered alternative education services unless the superintendent provides a significant or important reason for declining to offer such services. The following may be significant or important reasons, depending on the circumstances and the nature and setting of the alternative education services:

(1) The student exhibits violent behavior.

(2) The student poses a threat to staff or other students.

(3) The student substantially disrupts the learning process.

(4) The student otherwise engaged in serious misconduct that makes the provision of alternative educational services not feasible.

(5) Educationally appropriate alternative education services are not available in the local school administrative unit due to limited resources.

(6) The student failed to comply with reasonable conditions for admittance into an alternative education program.

(b) If the superintendent declines to provide alternative education services to the suspended student, the student may seek review of such decision by the local board of education as permitted by G.S. 115C-45(c)(2). If the student seeks such review, the superintendent shall provide to the student and the local board, in advance of the board's review, a written explanation for the denial of services together with any documents or other information supporting the decision.

§ 115C-390.10. 365-day suspension for gun possession.

(f) Students who are suspended for 365 days pursuant to this section shall be considered for alternative educational services consistent with the provisions of G.S. 115C-390.9.

§ 115C-390.11. Expulsion.

(2) A local board of education may expel any student subject to G.S. 14-208.18 in accordance with the procedures of this section. Prior to ordering the expulsion of a student, the local board of education shall consider whether there are alternative education services that may be offered to the student. As provided by G.S. 14-208.18(f), if the local board of education determines that the student shall be provided educational services on school property, the student shall be under the supervision of school personnel at all times.

§ 115C-397.1. Management and placement of disruptive students.

If, after a teacher has requested assistance from the principal two or more times due to a student's disruptive behavior, the teacher finds that the student's disruptive behavior continues to interfere with the academic achievement of that student or other students in the class, then the teacher may refer the matter to a school-based committee. The teacher may request that additional classroom teachers participate in the committee's proceedings. For the purposes of this section, the committee shall notify the student's parent, guardian, or legal custodian and shall encourage that person's participation in the proceedings of the committee concerning the student. Nothing in this section requires a student to be screened, evaluated, or identified as a child with a disability under Article 9 of this Chapter. The committee shall review the matter and shall take one or more of the following actions:

(i) advise the teacher on managing the student's behavior more effectively,

(ii) recommend to the principal the transfer of the student to another class within the school,

(iii) recommend to the principal a multidisciplinary evaluation of the student,

(iv) recommend to the principal that the student be assigned to an alternative learning program, or

(v) recommend to the principal that the student receive any additional services that the school or the school unit has the resources to provide for the student. If the principal does not follow the recommendation of the committee, the principal shall provide a written explanation to the committee, the teacher who referred the matter to the committee, and the superintendent, of any actions taken to resolve the matter and of the reason the principal did not follow the recommendation of the committee.

This section shall be in addition to the supplemental to disciplinary action taken in accordance with any other law. The recommendation of the committee is final and shall not be appealed under G.S. 115C-45(c). Nothing in this section shall authorize a student to refer a disciplinary matter to this committee or to have the matter of the student's behavior referred to this committee before any discipline is imposed on the student.

Disciplinary Approaches Addressing Specific Infractions and Conditions

Firearms (as required by the Guns-Free Schools Act)

STATUTES

§ 115C-390.10. 365-day suspension for gun possession.

(a) All local boards of education shall develop and implement written policies and procedures, as required by the federal Gun Free Schools Act, 20 U.SC. § 7151, requiring suspension for 365 calendar days of any student who is determined to have brought or been in possession of a firearm or destructive device on educational property, or to a school-sponsored event off of educational property. A principal shall recommend to the superintendent the 365-day suspension of any student believed to have violated board policies regarding weapons. The superintendent has the authority to suspend for 365 days a student who has been recommended for such suspension by the principal when such recommendation is consistent with board policies. Notwithstanding the foregoing, the superintendent may modify, in writing, the required 365-day suspension for an individual student on a case-by-case basis. The superintendent shall not impose a 365-day suspension if the superintendent determines that the student took or received the firearm or destructive device from another person at school or found the firearm or destructive device at school, provided that the student delivered or reported the firearm or destructive device as soon as practicable to a law enforcement officer or a school employee and had no intent to use such firearm or destructive device in a harmful or threatening way.

(b) The principal must report all incidents of firearms or destructive devices on educational property or at a school-sponsored event as required by G.S. 115C-288(g) and State Board of Education policy.

(c) Nothing in this provision shall apply to a firearm that was brought onto educational property for activities approved and authorized by the local board of education, provided that the local board of education has adopted appropriate safeguards to protect student safety.

(d) At the time the student and parent receive notice that the student is suspended for 365 days under this section, the superintendent shall provide notice to the student and the student's parent of the right to petition the local board of education for readmission pursuant to G.S. 115C-390.12.

(e) The procedures described in G.S. 115C-390.8 apply to students facing a 365-day suspension pursuant to this section.

(f) Students who are suspended for 365 days pursuant to this section shall be considered for alternative educational services consistent with the provisions of G.S. 115C-390.9.

Other weapons

No relevant statutes found.

Students with chronic disciplinary issues

STATUTES

§ 115C-397.1. Management and placement of disruptive students.

If, after a teacher has requested assistance from the principal two or more times due to a student's disruptive behavior, the teacher finds that the student's disruptive behavior continues to interfere with the

academic achievement of that student or other students in the class, then the teacher may refer the matter to a school-based committee. The teacher may request that additional classroom teachers participate in the committee's proceedings. For the purposes of this section, the committee shall notify the student's parent, guardian, or legal custodian and shall encourage that person's participation in the proceedings of the committee concerning the student. Nothing in this section requires a student to be screened, evaluated, or identified as a child with a disability under Article 9 of this Chapter. The committee shall review the matter and shall take one or more of the following actions: (i) advise the teacher on managing the student's behavior more effectively, (ii) recommend to the principal the transfer of the student to another class within the school, (iii) recommend to the principal a multidisciplinary evaluation of the student, (iv) recommend to the principal that the student be assigned to an alternative learning program, or (v) recommend to the principal that the student receive any additional services that the school or the school unit has the resources to provide for the student. If the principal does not follow the recommendation of the committee, the principal shall provide a written explanation to the committee, the teacher who referred the matter to the committee, and the superintendent, of any actions taken to resolve the matter and of the reason the principal did not follow the recommendation of the committee.

This section shall be in addition to the supplemental to disciplinary action taken in accordance with any other law. The recommendation of the committee is final and shall not be appealed under G.S. 115C-45(c). Nothing in this section shall authorize a student to refer a disciplinary matter to this committee or to have the matter of the student's behavior referred to this committee before any discipline is imposed on the student.

Attendance and truancy

STATUTES

§ 115C-390.2. Discipline policies.

(d) Board policies shall not allow students to be long-term suspended or expelled from school solely for truancy or tardiness offenses and shall not allow short-term suspension of more than two days for such offenses.

ADMINISTRATIVE CODE

16 N.C.A.C. 06E.0103. Enforcement.

Each LEA must enforce the state laws and regulations which relate to compulsory attendance. LEAs may adopt rules which allow teachers to consider a student's absences in the computation of the student's grades.

16 N.C.A.C. 6E.0104. (2013) Involuntary Suspensions.

The absence of a student which results from the suspension or expulsion of that student for misconduct pursuant to the provisions of G.S. 115C-391 shall not be used for a compulsory attendance violation action.

Substance use

STATUTES

§ 115C-407. Policy prohibiting tobacco use in school buildings, grounds, and at school-sponsored events.

(a) Not later than August 1, 2008, local boards of education shall adopt, implement, and enforce a written policy prohibiting at all times the use of any tobacco product by any person in school buildings, in school facilities, on school campuses, and in or on any other school property owned or operated by the local school administrative unit. The policy shall further prohibit the use of all tobacco products by persons attending a school-sponsored event at a location not listed in this subsection when in the presence of students or school personnel or in an area where smoking is otherwise prohibited by law.

(b) The policy shall include at least all of the following elements:

(1) Adequate notice to students, parents, the public, and school personnel of the policy.

(2) Posting of signs prohibiting at all times the use of tobacco products by any person in and on school property.

(3) Requirements that school personnel enforce the policy.

(c) The policy may permit tobacco products to be included in instructional or research activities in public school buildings if the activity is conducted or supervised by the faculty member overseeing the instruction or research and the activity does not include smoking, chewing, or otherwise ingesting the tobacco product.

(d) The North Carolina Health and Wellness Trust Fund Commission shall work with local boards of education to provide assistance with the implementation of this policy including providing information regarding smoking cessation and prevention resources. Nothing in this section, G.S. 143-595 through G.S. 143-601, or any other section prohibits a local board of education from adopting and enforcing a more restrictive policy on the use of tobacco in school buildings, in school facilities, on school campuses, or at school-related or school-sponsored events, and in or on other school property.

§ 115C-149. Policy. Chemically dependent children excluded from provisions of Article 9.

The General Assembly of North Carolina hereby declares that the policy of the State is to ensure that an appropriate education is provided for drug and alcohol addicted children; however, drug and alcohol addicted children are not "children with disabilities" within the meaning of G.S. 115C-106.3(1) unless because of some other condition they meet that definition.

§ 115C-150. State Board to adopt rules.

The State Board of Education shall adopt rules to ensure that local school administrative units provide an appropriate education for drug and alcohol addicted children.

Bullying, harassment, or hazing

STATUTES

§ 115C-407.15. Bullying and harassing behavior.

(a) As used in this Article, "bullying or harassing behavior" is any pattern of gestures or written, electronic, or verbal communications, or any physical act or any threatening communication, that takes place on school property, at any school-sponsored function, or on a school bus, and that:

(1) Places a student or school employee in actual and reasonable fear of harm to his or her person or damage to his or her property; or

(2) Creates or is certain to create a hostile environment by substantially interfering with or impairing a student's educational performance, opportunities, or benefits. For purposes of this section, "hostile environment" means that the victim subjectively views the conduct as bullying or harassing behavior and the conduct is objectively severe or pervasive enough that a reasonable person would agree that it is bullying or harassing behavior.

Bullying or harassing behavior includes, but is not limited to, acts reasonably perceived as being motivated by any actual or perceived differentiating characteristic, such as race, color, religion, ancestry, national origin, gender, socioeconomic status, academic status, gender identity, physical appearance, sexual orientation, or mental, physical, developmental, or sensory disability, or by association with a person who has or is perceived to have one or more of these characteristics.

(b) No student or school employee shall be subjected to bullying or harassing behavior by school employees or students.

(c) No person shall engage in any act of reprisal or retaliation against a victim, witness, or a person with reliable information about an act of bullying or harassing behavior.

(d) A school employee who has witnessed or has reliable information that a student or school employee has been subject to any act of bullying or harassing behavior shall report the incident to the appropriate school official.

(e) A student or volunteer who has witnessed or has reliable information that a student or school employee has been subject to any act of bullying or harassing behavior should report the incident to the appropriate school official.

§ 115C-407.16. Policy against bullying or harassing behavior.

(a) Before December 31, 2009, each local school administrative unit shall adopt a policy prohibiting bullying or harassing behavior.

(b) The policy shall contain, at a minimum, the following components:

(1) A statement prohibiting bullying or harassing behavior.

(2) A definition of bullying or harassing behavior no less inclusive than that set forth in this Article.

(3) A description of the type of behavior expected for each student and school employee.

(4) Consequences and appropriate remedial action for a person who commits an act of bullying or harassment.

(5) A procedure for reporting an act of bullying or harassment, including a provision that permits a person to report such an act anonymously. This shall not be construed to permit formal disciplinary action solely on the basis of an anonymous report.

(6) A procedure for prompt investigation of reports of serious violations and complaints of any act of bullying or harassment, identifying either the principal or the principal's designee as the person responsible for the investigation.

(7) A statement that prohibits reprisal or retaliation against any person who reports an act of bullying or harassment, and the consequence and appropriate remedial action for a person who engages in reprisal or retaliation.

(8) A statement of how the policy is to be disseminated and publicized, including notice that the policy applies to participation in school-sponsored functions.

(c) Nothing in this Article shall prohibit a local school administrative unit from adopting a policy that includes components beyond the minimum components provided in this section or that is more inclusive than the requirements of this Article.

(d) Notice of the local policy shall appear in any school unit publication that sets forth the comprehensive rules, procedures, and standards of conduct for schools within the school unit and in any student and school employee handbook.

(e) Information regarding the local policy against bullying or harassing behavior shall be incorporated into a school's employee training program.

(f) To the extent funds are appropriated for these purposes, a local school administrative unit shall, by March 1, 2010, provide training on the local policy to school employees and volunteers who have significant contact with students.

§ 115C-407.17. Prevention of school violence.

Schools shall develop and implement methods and strategies for promoting school environments that are free of bullying or harassing behavior.

§ 115C-407.18. Construction of this Article.

(a) This Article shall not be construed to permit school officials to punish student expression or speech based on an undifferentiated fear or apprehension of disturbance or out of a desire to avoid the discomfort and unpleasantness that always accompany an unpopular viewpoint.

(b) This Article shall not be interpreted to prevent a victim of bullying or harassing behavior from seeking redress under any other available law, either civil or criminal.

(c) Nothing in this Article shall be construed to require an exhaustion of the administrative complaint process before civil or criminal law remedies may be pursued regarding bullying or harassing behavior.

(d) The provisions of this Article are severable, and if any provision of this Article is held invalid by a court of competent jurisdiction, the invalidity shall not affect other provisions of this Article which can be given effect without the invalid provision.

(e) The provisions of this Article shall be liberally construed to give effect to its purposes.

(f) Nothing in this act shall be construed to create any classification, protected class, suspect category, or preference beyond those existing in present statute or case law.

Other special infractions or conditions

No relevant statutes found.

Prevention and Behavioral Interventions (Non-Punitive)

Prevention

STATUTES

§ 115C-407.17. Prevention of school violence.

Schools shall develop and implement methods and strategies for promoting school environments that are free of bullying or harassing behavior.

Behavioral interventions and student support services

STATUTES

§ 115C-390.2. Discipline policies.

(j) Local boards of education are encouraged to include in their safe schools plans, adopted pursuant to G.S. 115C-105.47, research-based behavior management programs that take positive approaches to improving student behaviors.

§ 115C-391.1. Permissible use of seclusion and restraint.

(a) It is the policy of the State of North Carolina to:

(4) Improve student achievement, attendance, promotion, and graduation rates by employing positive behavioral interventions to address student behavior in a positive and safe manner.

Professional development

STATUTES

§ 115C-391.1. Permissible use of seclusion and restraint.

(a) It is the policy of the State of North Carolina to:

(5) Promote retention of valuable teachers and other school personnel by providing appropriate training in prescribed procedures, which address student behavior in a positive and safe manner.

§ 115C-407.16. Policy against bullying or harassing behavior.

(e) Information regarding the local policy against bullying or harassing behavior shall be incorporated into a school's employee training program.

(f) To the extent funds are appropriated for these purposes, a local school administrative unit shall, by March 1, 2010, provide training on the local policy to school employees and volunteers who have significant contact with students.

Monitoring and Accountability

Formal incident reporting of conduct violations

STATUTES

§ 115C-12. Powers and duties of the Board generally.

(21) Duty to Monitor Acts of School Violence. -- The State Board of Education shall monitor and compile an annual report on acts of violence in the public schools. The State Board shall adopt standard definitions for acts of school violence and shall require local boards of education to report them to the State Board in a standard format adopted by the State Board. The State Board shall submit its report on acts of violence in the public schools to the Joint Legislative Education Oversight Committee by March 15 of each year. […]

Parental notification

STATUTES

§ 115C-390.6. Short-term suspension procedures.

(c) The principal shall provide notice to the student's parent of any short-term suspension, including the reason for the suspension and a description of the alleged student conduct upon which the suspension is based. The notice shall be given by the end of the workday during which the suspension is imposed when reasonably possible, but in no event more than two days after the suspension is imposed. The notice shall be given by certified mail, telephone, facsimile, e-mail, or any other method reasonably designed to achieve actual notice.

(d) If English is the second language of the parent, the notice shall be provided in the parent's primary language, when the appropriate foreign language resources are readily available, and in English, and both versions shall be in plain language and shall be easily understandable.

§ 115C-390.8. Long-term suspension procedures.

(a) When a student is recommended by the principal for long-term suspension, the principal shall give written notice to the student's parent. The notice shall be provided to the student's parent by the end of the workday during which the suspension was recommended when reasonably possible or as soon thereafter as practicable. The written notice shall provide at least the following information:

(1) A description of the incident and the student's conduct that led to the long-term suspension recommendation.

(2) A reference to the provisions of the Code of Student Conduct that the student is alleged to have violated.

(3) The specific process by which the parent may request a hearing to contest the decision, including the number of days within which the hearing must be requested.

(4) The process by which a hearing will be held, including, at a minimum, the procedures described in subsection (e) of this section.

(5) Notice that the parent is permitted to retain an attorney to represent the student in the hearing process.

(6) The extent to which the local board policy permits the parent to have an advocate, instead of an attorney, accompany the student to assist in the presentation of his or her appeal.

(7) Notice that the parent has the right to review and obtain copies of the student's educational records before the hearing.

(8) A reference to the local board policy on the expungement of discipline records as required by G.S. 115C-402.

(b) Written notice may be provided by certified mail, fax, e-mail, or any other written method reasonably designed to achieve actual notice of the recommendation for long-term suspension. When school personnel are aware that English is not the primary language of the parent or guardian, the notice shall be written in both English and in the primary language of the parent or guardian when the appropriate foreign language resources are readily available. All notices described in this section shall be written in plain English, and shall include the following information translated into the dominant non-English language used by residents within the local school administrative unit:

(1) The nature of the document, i.e., that it is a long-term suspension notice.

(2) The process by which the parent may request a hearing to contest the long-term suspension.

(3) The identity and phone number of a school employee that the parent may call to obtain assistance in understanding the English language information included in the document.

§ 115C-390.10. 365-day suspension for gun possession.

(d) At the time the student and parent receive notice that the student is suspended for 365 days under this section, the superintendent shall provide notice to the student and the student's parent of the right to petition the local board of education for readmission pursuant to G.S. 115C-390.12.

Reporting and referrals between schools and law enforcement

STATUTES

§ 115C-390.10. 365-day suspension for gun possession.

(b) The principal must report all incidents of firearms or destructive devices on educational property or at a school-sponsored event as required by G.S. 115C-288(g) and State Board of Education policy.

§ 115C-288. Powers and duties of principal.

(g) To Report Certain Acts to Law Enforcement and the Superintendent. – When the principal has personal knowledge or actual notice from school personnel that an act has occurred on school property involving assault resulting in serious personal injury, sexual assault, sexual offense, rape, kidnapping, indecent liberties with a minor, assault involving the use of a weapon, possession of a firearm in violation of the law, possession of a weapon in violation of the law, or possession of a controlled substance in violation of the law, the principal shall immediately report the act to the appropriate local law enforcement agency.

Notwithstanding any other provision of law, the State Board of Education shall not require the principal to report to law enforcement acts in addition to those required to be reported by law.

For purposes of this subsection, "school property" shall include any public school building, bus, public school campus, grounds, recreational area, or athletic field, in the charge of the principal.

The principal or the principal's designee shall notify the superintendent or the superintendent's designee in writing or by electronic mail regarding any report made to law enforcement under this subsection. This notification shall occur by the end of the workday in which the incident occurred when reasonably possible but not later than the end of the following workday. The superintendent shall provide the information to the local board of education.

Disclosure of school records

STATUTES

§ 115C-402. Student records; maintenance; contents; confidentiality.

(b) The official record shall contain, as a minimum, adequate identification data including date of birth, attendance data, grading and promotion data, and such other factual information as may be deemed appropriate by the local board of education having jurisdiction over the school wherein the record is maintained. Each student's official record also shall include notice of any long-term suspension or expulsion imposed pursuant to G.S. 115C-390.7 through G.S. 115C-390.11 and the conduct for which the student was suspended or expelled. The superintendent or the superintendent's designee shall expunge from the record the notice of suspension or expulsion if the following criteria are met:

(1) One of the following persons makes a request for expungement:

a. The student's parent, legal guardian, or custodian.

b. The student, if the student is at least 16 years old or is emancipated.

(2) The student either graduates from high school or is not expelled or suspended again during the two-year period commencing on the date of the student's return to school after the expulsion or suspension.

(3) The superintendent or the superintendent's designee determines that the maintenance of the record is no longer needed to maintain safe and orderly schools.

(4) The superintendent or the superintendent's designee determines that the maintenance of the record is no longer needed to adequately serve the child.

(c) Notwithstanding subdivision (b)(1) of this section, a superintendent or the superintendent's designee may expunge from a student's official record any notice of suspension or expulsion provided all other criteria under subsection (b) are met.

(d) Each local board's policy on student records shall include information on the procedure for expungement under subsection (b) of this section.

(e) The official record of each student is not a public record as the term "public record" is defined by G.S. 132-1. The official record shall not be subject to inspection and examination as authorized by G.S. 132-6.

Data collection, review, and reporting of disciplinary policies and actions

STATUTES

§ 115C-12. Powers and duties of the Board generally.

(27) Reporting Dropout Rates, Corporal Punishment, Suspensions, Expulsions, and Alternative Placements. -- The State Board shall report by March 15 of each year to the Joint Legislative Education Oversight Committee on the numbers of students who have dropped out of school, been subjected to corporal punishment, been suspended, been expelled, been reassigned for disciplinary purposes, or been provided alternative education services. The data shall be reported in a disaggregated manner, reflecting the local school administrative unit, race, gender, grade level, ethnicity, and disability status of each affected student. Such data shall be readily available to the public. The State Board shall not include students that have been expelled from school when calculating the dropout rate. The Board shall maintain a separate record of the number of students who are expelled from school and the reasons for the expulsion. […]

School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers

Authority and power to implement school arrest

No relevant statutes found.

Certification or training

No relevant statutes found.

MOUs, authorization, and/or funding

No relevant statutes found.

State Education Agency Support

State model policies and implementation support

No relevant statutes found.

Funding appropriations

STATUTES

§ 115C-407. Policy prohibiting tobacco use in school buildings, grounds, and at school-sponsored events.

(d) The North Carolina Health and Wellness Trust Fund Commission shall work with local boards of education to provide assistance with the implementation of this policy including providing information regarding smoking cessation and prevention resources.[...]

Other/Uncategorized

Professional immunity or liability

STATUTES

§ 115C-390.3. Reasonable force.

(c) Notwithstanding any other law, no officer or employee of the State Board of Education or of a local board of education shall be civilly liable for using reasonable force in conformity with State law, State or local rules, or State or local policies regarding the control, discipline, suspension, and expulsion of students. Furthermore, the burden of proof is on the claimant to show that the amount of force used was not reasonable.

(d) No school employee shall be reprimanded or dismissed for acting or failing to act to stop or intervene in an altercation between students if the employee's actions are consistent with local board policies. Local boards of education shall adopt policies, pursuant to their authority under G.S. 115C-47(18), which provide guidelines for an employee's response if the employee has personal knowledge or actual notice of an altercation between students.

Community input or involvement

No relevant statutes found.

Other/Uncategorized

No relevant statutes found.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by North Carolina provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
Website		
No relevant resources found		
Documents		
Annual Report of School Crime and Violence and Annual Study of Suspensions and Expulsions	Provides reports on school crime, violence, suspensions, and expulsions for multiple years.	http://www.ncpublicschools.org/research/discipline/reports/
North Carolina Discipline Data Reporting Procedures	Describes procedures for discipline data reporting	http://www.dpi.state.nc.us/docs/research/discipline/collection/discipline-reporting-procedures.pdf
Other Resources		
No relevant resources found		

North Dakota Compilation of School Discipline Laws and Regulations

Prepared: August 12, 2013

Introduction

This compilation presents school discipline-related state statutes, school discipline-related regulations, and, where available, links to state-sponsored websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSLE). For example, one major category encompasses all state laws or regulations mandating specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of state legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in each state.

Discipline categories were not mutually exclusive. Statutes and regulations often appeared across multiple categories. For states with more extensive statutes covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. State laws, ordered by chapter and section number, appear first within each category followed by state regulations. All statutes and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists statutes by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to state-sponsored websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of May 2013, with the exception of the state laws related to seclusion and restraint, which are complete and current as of December 2012. Readers should also note that the information in this document was compiled from individual state sources that are created by each state and which are maintained and updated with varying frequencies. Readers should consult the source information provided for each state directly in order to check for updates to this state's laws and regulations or conduct further research.

For further information, including definitions of the different policy categories, please refer to the Discipline Laws and Regulations Compendium posted on the Center's website.

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Safe Supportive Learning
Engagement | Safety | Environment

Table of Contents

North Dakota State Codes Cited **1**

General Provisions **3**

Authority to develop and establish rules of conduct 3
Scope 4
Communication of Policy 4

In-School Discipline **5**

Use of multi-tiered discipline approaches 5
Teacher authority to remove students from classrooms 5
Alternatives to suspension 5
Use of corporal punishment 5
Use of student and locker searches 5
Other in-school disciplinary approaches 5

Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements **6**

Grounds for possible suspension or expulsion 6
Grounds for mandatory suspension or expulsion 6
Limitations, conditions, or exclusions for use of suspension and expulsion 7
Administrative procedures related to suspensions and expulsion 7
In-school suspension 7
Return to school following removal 7
Use of restraint and seclusion 8
Alternative Placements 9

Disciplinary Approaches Addressing Specific Infractions and Conditions **10**

Firearms (as required by the Guns-Free Schools Act) 10
Other weapons 10
Students with chronic disciplinary issues 11
Attendance and truancy 11
Substance use 13
Bullying, harassment, or hazing 14
Other special infractions or conditions 15

Prevention and Behavioral Interventions (Non-Punitive) **16**

Prevention 16
Behavioral interventions and student support services 17
Professional development 17

Monitoring and Accountability **18**

Formal incident reporting of conduct violations 18
Parental notification 19
Reporting and referrals between schools and law enforcement 19
Disclosure of school records 20

School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers 22
Authority and power to implement school arrest 22
Certification or training 22
MOUs, authorization and/or funding 22
State Education Agency Support 23
State model policies and implementation support 23
Funding appropriations 23
Other/Uncategorized 24
Professional immunity or liability 24
Community input or involvement 24
Other/uncategorized 25
State-Sponsored, Publicly Available Websites or Other Resources on School Discipline 26

North Dakota State Codes Cited

North Dakota Revised Statutes

North Dakota Century Code

Title 15.1. Elementary and Secondary Education

Chapter 15.1-19. Students and Safety

15.1-19-02. Corporal punishment -- Prohibition -- Consistent policies
15.1-19-09. Students -- Suspension and expulsion – Rules
15.1-19-10. Possession of a weapon -- Policy -- Expulsion from school
15.1-19-11. School safety patrols -- Establishment -- Adoption of rules
15.1-19-12. School safety patrols -- Immunity from liability
15.1-19-13. Alcohol or controlled substance -- Use or possession by student -- Notification of principal–Exception
15.1-19-14. School law enforcement unit
15.1-19-15. Record retention
15.1-19-17. Bullying - Definition
15.1-19-18. Bullying -- Prohibition by policy
15.1-19-19. Professional development activities
15.1-19-20. Bullying prevention programs
15.1-19-21. Causes of action -- Immunity -- School districts
15.1-19-24. Youth suicide prevention - Training

Chapter 15.1-20. School Attendance

15.1-20-01. Compulsory attendance
15.1-20-02. Compulsory attendance - Exceptions
15.1-20-02.1. Attendance -- Determination – Policies
15.1-20-03. Compulsory attendance law - Enforcement - Penalty
15.1-20-03.2. Truancy prevention and intervention programs – Resources

Chapter 15.1-24. Chemical Abuse Prevention

15.1-24-01. Chemical abuse prevention program – Rules
15.1-24-02. Staff
15.1-24-03. Chemical abuse preassessment team - Building level support team
15.1-24-04. Treatment or assistance records - Confidential
15.1-24-05. Law enforcement agencies -- Duty to inform team
15.1-24-06. Report of chemical abuse - Immunity from liability

Chapter 15.1-30. Transportation of Students

15.1-30-13. Transportation of students -- Control and discipline

Title 25. Mental and Physical Illness or Disability

Chapter 25.25-01.2 Developmental Disability

25-01.2-01. Definitions
25-01.2-09. Punishment - Isolation - Physical restraints - Psychosurgery - Sterilization - Shock treatment
25-01.2-10. Seclusion or physical restraint - Facility administrator to be notified

North Dakota Administrative Code

No relevant regulations found.

General Provisions

Authority to develop and establish rules of conduct

STATUTES

15.1-19-02. Corporal punishment -- Prohibition -- Consistent policies

4.a. The board of each school district shall develop policies setting forth standards for student behavior, procedures to be followed if the standards are not met, and guidelines detailing how all incidents are to be investigated.

b. The board shall ensure that the policies, procedures, and guidelines applicable to all elementary schools in the district are identical, that the policies, procedures, and guidelines applicable to all middle schools in the district are identical, and that the policies, procedures, and guidelines applicable to all high schools in the district are identical.

15.1-19-09. Students -- Suspension and expulsion – Rules

1. The board of a school district shall adopt rules regarding the suspension and expulsion of a student. The rules for expulsion must provide for a procedural due process hearing in the manner provided for in subsection 2 of section 15.1-19-10, before the determination to expel a student is made. A student's parent or representative must be allowed to participate in the expulsion hearing.

15.1-19-10. Possession of a weapon - Policy - Expulsion from school

1. The board of each school district shall adopt a policy governing the possession of weapons and firearms on school property or at a school function and provide for the punishment of any student found to be in violation of the policy.

15.1-19-18. Bullying - Prohibition by policy

1. Before July 1, 2012, each school district shall adopt a policy providing that while at a public school, on school district premises, in a district owned or leased school bus or school vehicle, or at any public school or school district sanctioned or sponsored activity or event, a student may not:

a. Engage in bullying; or

b. Engage in reprisal or retaliation against:

(1) A victim of bullying;

(2) An individual who witnesses an alleged act of bullying;

(3) An individual who reports an alleged act of bullying; or

(4) An individual who provides information about an alleged act of bullying.

2. The policy required by this section must:

a. Include a definition of bullying that at least encompasses the conduct described in section 15.1-19-17;

b. Establish procedures for reporting and documenting alleged acts of bullying, reprisal, or retaliation, and include procedures for anonymous reporting of such acts;

c. Establish procedures, including timelines, for school district personnel to follow in investigating reports of alleged bullying, reprisal, or retaliation;

d. Establish a schedule for the retention of any documents generated while investigating reports of alleged bullying, reprisal, or retaliation;

e. Set forth the disciplinary measures applicable to an individual who engaged in bullying or who engaged in reprisal or retaliation, as set forth in subsection 1;

f. Require the notification of law enforcement personnel if an investigation by school district personnel results in a reasonable suspicion that a crime might have occurred;

g. Establish strategies to protect a victim of bullying, reprisal, or retaliation; and

h. Establish disciplinary measures to be imposed upon an individual who makes a false accusation, report, or complaint pertaining to bullying, reprisal, or retaliation.

3. In developing the bullying policy required by this section, a school district shall involve parents, school district employees, volunteers, students, school district administrators, law enforcement personnel, domestic violence sexual assault organizations as defined by subsection 3 of section 14-07.1-01, and community representatives.

4. Upon completion of the policy required by this section, a school district shall:

a. Ensure that the policy is explained to and discussed with its students;

b. File a copy of the policy with the superintendent of public instruction; and

c. Make the policy available in student and personnel handbooks.

5. Each school district shall review and revise its policy as it determines necessary and shall file a copy of the revised policy with the superintendent of public instruction.

Scope

No relevant statutes found.

Communication of Policy

STATUTES

15.1-19-18. Bullying - Prohibition by policy

4. Upon completion of the policy required by this section, a school district shall:

a. Ensure that the policy is explained to and discussed with its students;

b. File a copy of the policy with the superintendent of public instruction; and

c. Make the policy available in student and personnel handbooks.

15.1-20-03.2. Truancy prevention and intervention programs – Resources

The superintendent of public instruction shall disseminate to school districts and nonpublic schools information regarding truancy prevention and intervention programs and research pertaining to best practices in truancy prevention efforts.

In-School Discipline

Use of multi-tiered discipline approaches

No relevant statutes found.

Teacher authority to remove students from classrooms

No relevant statutes found.

Alternatives to suspension

No relevant statutes found.

Use of corporal punishment

STATUTES

15.1-19-02. Corporal punishment -- Prohibition -- Consistent policies

1. A school district employee may not inflict, cause to be inflicted, or threaten to inflict corporal punishment on a student.

2. This section does not prohibit a school district employee from using the degree of force necessary:

   a. To quell a physical disturbance that threatens physical injury to an individual or damage to property;

   b. To quell a verbal disturbance;

   c. For self-defense;

   d. For the preservation of order; or

   e. To obtain possession of a weapon or other dangerous object within the control of a student.

3. For purposes of this section, corporal punishment means the willful infliction of physical pain on a student; willfully causing the infliction of physical pain on a student; or willfully allowing the infliction of physical pain on a student. Physical pain or discomfort caused by athletic competition or other recreational activities voluntarily engaged in by a student is not corporal punishment. A school board may not expand through policy the definition of corporal punishment beyond that provided by this subsection.

4.a. The board of each school district shall develop policies setting forth standards for student behavior, procedures to be followed if the standards are not met, and guidelines detailing how all incidents are to be investigated.

   b. The board shall ensure that the policies, procedures, and guidelines applicable to all elementary schools in the district are identical, that the policies, procedures, and guidelines applicable to all middle schools in the district are identical, and that the policies, procedures, and guidelines applicable to all high schools in the district are identical.

Use of student and locker searches

No relevant statutes found.

Other in-school disciplinary approaches

No relevant statues found.

Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements

Grounds for possible suspension or expulsion

STATUTES

15.1-19-09. Students -- Suspension and expulsion – Rules

2. A student may be suspended for up to ten days for insubordination, habitual indolence, disorderly conduct, or for violating a school district weapons policy.

3. A student enrolled in an alternative education program for which state per student payments are available may be suspended for up to twenty days for insubordination, habitual indolence, disorderly conduct, or for violating a school district weapons policy.

4. A student, including one enrolled in an alternative education program, may be expelled from school for insubordination, habitual indolence, or disorderly conduct; provided the expulsion does not last beyond the termination of the current school year. A student who violates the school district's weapons policy may be expelled for up to twelve months.

Grounds for mandatory suspension or expulsion

STATUTES

15.1-19-10. Possession of a weapon -- Policy -- Expulsion from school

1. The board of each school district shall adopt a policy governing the possession of weapons and firearms on school property or at a school function and provide for the punishment of any student found to be in violation of the policy.

2. The policy must prohibit the possession of a weapon or a firearm by a student on school property and at school functions and provide for the punishment of any student found to be in violation. Punishment must include immediate suspension from school and expulsion. A student who possesses a firearm in violation of this section must be expelled for at least one year. The school district firearms policy must authorize the school district superintendent or the school principal, if the school district does not have a superintendent, to modify an expulsion for firearms possession under this section on a case-by-case basis in accordance with criteria established by the board. Before expelling a student, a school board or its designated hearing officer, within ten days of the student's suspension, shall provide the student with a hearing at which time the school board or its designated hearing officer shall take testimony and consider evidence, including the existence of mitigating circumstances. If a designated hearing officer orders that a student be expelled, the student may seek a review of the decision by the school board, based on the record of the expulsion hearing.

3. If a school district expels a student under this section, the district may authorize the provision of educational services to the student in an alternative setting.

4. Actions under this section may not conflict with state special education laws or with the Individuals With Disabilities Education Act

5. This section does not apply to any student participating in a school-sponsored shooting sport, provided the student informs the school principal of the student's participation and the student complies with all requirements set by the principal regarding the safe handling and storage of the firearm.

6. For purposes of this section:

a. "Firearm" has the meaning provided in Public Law No. 90-351 [82 Stat. 197; 18 U.S.C. 921].

b. "School property" includes all land within the perimeter of the school site and all school buildings, structures, facilities, and school vehicles, whether owned or leased by a school district, and the site of any school-sponsored event or activity.

Limitations, conditions, or exclusions for use of suspension and expulsion

No relevant statutes found.

Administrative procedures related to suspensions and expulsion

STATUTES

15.1-19-09. Students -- Suspension and expulsion – Rules

1. The board of a school district shall adopt rules regarding the suspension and expulsion of a student. The rules for expulsion must provide for a procedural due process hearing in the manner provided for in subsection 2 of section 15.1-19-10, before the determination to expel a student is made. A student's parent or representative must be allowed to participate in the expulsion hearing.

15.1-19-10. Possession of a weapon -- Policy -- Expulsion from school

2. […] The school district firearms policy must authorize the school district superintendent or the school principal, if the school district does not have a superintendent, to modify an expulsion for firearms possession under this section on a case-by-case basis in accordance with criteria established by the board. Before expelling a student, a school board or its designated hearing officer, within ten days of the student's suspension, shall provide the student with a hearing at which time the school board or its designated hearing officer shall take testimony and consider evidence, including the existence of mitigating circumstances. If a designated hearing officer orders that a student be expelled, the student may seek a review of the decision by the school board, based on the record of the expulsion hearing.

3. If a school district expels a student under this section, the district may authorize the provision of educational services to the student in an alternative setting.

4. Actions under this section may not conflict with state special education laws or with the Individuals With Disabilities Education Act

5. This section does not apply to any student participating in a school-sponsored shooting sport, provided the student informs the school principal of the student's participation and the student complies with all requirements set by the principal regarding the safe handling and storage of the firearm.

In-school suspension

No relevant statutes found.

Return to school following removal

No relevant statutes found.

Use of restraint and seclusion

STATUTES

25-01.2-01. Definitions

In this chapter, unless the context or subject matter otherwise requires:

1. "Developmental disability" means a severe, chronic disability of a person which:
   a. Is attributable to a mental or physical impairment or combination of mental and physical impairments;
   b. Is manifested before the person attains age twenty-two;
   c. Is likely to continue indefinitely;
   d. Results in substantial functional limitations in three or more of the following areas of major life activity:
      (1) Self-care;
      (2) Receptive and expressive language;
      (3) Learning;
      (4) Mobility;
      (5) Self-direction;
      (6) Capacity for independent living; and
      (7) Economic sufficiency; and
   e. Reflects the person's needs for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services which are of lifelong or extended duration and are individually planned and coordinated.

2. "Institution or facility" means any school, hospital, residence center, group home, or any other facility operated by any public or private agency, organization, or institution, which provides services to developmentally disabled persons.

3. "Least restrictive appropriate setting" means that setting which allows the developmentally disabled person to develop and realize the person's fullest potential and enhances the person's ability to cope with the person's environment without unnecessarily curtailing fundamental personal liberties.

4. "Service or services for developmentally disabled persons" means services provided by any public or private agency, organization, or institution, directed toward the alleviation of a developmental disability or toward the social, personal, physical, or economic habilitation or rehabilitation of a developmentally disabled person.

25-01.2-09. Punishment - Isolation - Physical restraints - Psychosurgery – Sterilization - Shock treatment.

No person receiving services at any institution or facility for the developmentally disabled may at any time:

1. Be subjected to any corporal punishment.

2. Be isolated or secluded, except in emergency situations when necessary for the control of violent, disturbed, or depressed behavior which may immediately result, or has resulted, in harm to that person or other persons.

3. Be physically restrained in any manner, except in emergency situations when necessary for the control of violent, disturbed, or depressed behavior which may immediately result, or has resulted, in harm to that person or to other persons.

4. Be subjected to psychosurgery, sterilization, medical behavioral research, or pharmacological research, except in conformity with an order of a court of competent jurisdiction. Under no circumstances may a person receiving treatment be subjected to hazardous or intrusive experimental research which is not directly related to the specific goals of that person's treatment program.

5. Be subjected to electroconvulsive therapy or shock treatment without that person's written and informed consent. If the recipient of services is a minor, the recipient's parent or guardian may provide informed consent for that treatment which the parent or guardian believes to be in the recipient's best interests.

25-01.2-10. Seclusion or physical restraint - Facility administrator to be notified

Whenever a person is placed in seclusion or is physically restrained, the facility administrator or the administrator's representative must be notified and shall determine if the isolation or restraint is necessary. The isolation or restraint may be continued only upon written order of the administrator or the administrator's representative and for a period of not more than twenty-four hours. Any person who is in seclusion or who is physically restrained must be checked by an attendant at least once every thirty minutes.

Alternative Placements

STATUTES

15.1-19-09. Students -- Suspension and expulsion – Rules

3. A student enrolled in an alternative education program for which state per student payments are available may be suspended for up to twenty days for insubordination, habitual indolence, disorderly conduct, or for violating a school district weapons policy.

4. A student, including one enrolled in an alternative education program, may be expelled from school for insubordination, habitual indolence, or disorderly conduct; provided the expulsion does not last beyond the termination of the current school year. A student who violates the school district's weapons policy may be expelled for up to twelve months.

15.1-19-10. Possession of a weapon -- Policy -- Expulsion from school

3. If a school district expels a student under this section, the district may authorize the provision of educational services to the student in an alternative setting.

Disciplinary Approaches Addressing Specific Infractions and Conditions

Firearms (as required by the Guns-Free Schools Act)

STATUTES

15.1-19-10. Possession of a weapon -- Policy -- Expulsion from school

1. The board of each school district shall adopt a policy governing the possession of weapons and firearms on school property or at a school function and provide for the punishment of any student found to be in violation of the policy.

2. The policy must prohibit the possession of a weapon or a firearm by a student on school property and at school functions and provide for the punishment of any student found to be in violation. Punishment must include immediate suspension from school and expulsion. A student who possesses a firearm in violation of this section must be expelled for at least one year. The school district firearms policy must authorize the school district superintendent or the school principal, if the school district does not have a superintendent, to modify an expulsion for firearms possession under this section on a case-by-case basis in accordance with criteria established by the board. Before expelling a student, a school board or its designated hearing officer, within ten days of the student's suspension, shall provide the student with a hearing at which time the school board or its designated hearing officer shall take testimony and consider evidence, including the existence of mitigating circumstances. If a designated hearing officer orders that a student be expelled, the student may seek a review of the decision by the school board, based on the record of the expulsion hearing.

3. If a school district expels a student under this section, the district may authorize the provision of educational services to the student in an alternative setting.

4. Actions under this section may not conflict with state special education laws or with the Individuals With Disabilities Education Act

5. This section does not apply to any student participating in a school-sponsored shooting sport, provided the student informs the school principal of the student's participation and the student complies with all requirements set by the principal regarding the safe handling and storage of the firearm.

6. For purposes of this section:

a. "Firearm" has the meaning provided in Public Law No. 90-351 [82 Stat. 197; 18 U.S.C. 921].

b. "School property" includes all land within the perimeter of the school site and all school buildings, structures, facilities, and school vehicles, whether owned or leased by a school district, and the site of any school-sponsored event or activity.

Other weapons

STATUTES

15.1-19-10. Possession of a weapon -- Policy -- Expulsion from school

1. The board of each school district shall adopt a policy governing the possession of weapons and firearms on school property or at a school function and provide for the punishment of any student found to be in violation of the policy.

2. The policy must prohibit the possession of a weapon or a firearm by a student on school property and at school functions and provide for the punishment of any student found to be in violation. Punishment must include immediate suspension from school and expulsion. A student who possesses a firearm in violation of this section must be expelled for at least one year. The school district firearms policy must authorize the school district superintendent or the school principal, if the school district does not have a superintendent, to modify an expulsion for firearms possession under this section on a case-by-case basis in accordance with criteria established by the board. Before expelling a student, a school board or its designated hearing officer, within ten days of the student's suspension, shall provide the student with a hearing at which time the school board or its designated hearing officer shall take testimony and consider evidence, including the existence of mitigating circumstances. If a designated hearing officer orders that a student be expelled, the student may seek a review of the decision by the school board, based on the record of the expulsion hearing.

3. If a school district expels a student under this section, the district may authorize the provision of educational services to the student in an alternative setting.

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5. This section does not apply to any student participating in a school-sponsored shooting sport, provided the student informs the school principal of the student's participation and the student complies with all requirements set by the principal regarding the safe handling and storage of the firearm.

6. For purposes of this section:

a. "Firearm" has the meaning provided in Public Law No. 90-351

b. "School property" includes all land within the perimeter of the school site and all school buildings, structures, facilities, and school vehicles, whether owned or leased by a school district, and the site of any school-sponsored event or activity.

Students with chronic disciplinary issues

STATUTES

15.1-19-09. Students -- Suspension and expulsion – Rules

2. A student may be suspended for up to ten days for insubordination, habitual indolence, disorderly conduct, or for violating a school district weapons policy.

3. A student enrolled in an alternative education program for which state per student payments are available may be suspended for up to twenty days for insubordination, habitual indolence, disorderly conduct, or for violating a school district weapons policy.

4. A student, including one enrolled in an alternative education program, may be expelled from school for insubordination, habitual indolence, or disorderly conduct; provided the expulsion does not last beyond the termination of the current school year. A student who violates the school district's weapons policy may be expelled for up to twelve months.

Attendance and truancy

STATUTES

15.1-20-01. Compulsory attendance

1. Any person having responsibility for a child between the ages of seven and sixteen years shall ensure that the child is in attendance at a public school for the duration of each school year.

2. If a person enrolls a child of age six in a public school, the person shall ensure that the child is in attendance at the public school for the duration of each school year. The person may withdraw a child of age six from the public school. However, once the child is withdrawn, the person may not reenroll the child until the following school year. This subsection does not apply if the reason for the withdrawal is the child's relocation to another school district.

3. This section does not apply if a child is exempted under the provisions of section 15.1-20-02.

15.1-20-02. Compulsory attendance – Exceptions

1. The provisions of section 15.1-20-01 do not apply if the person having responsibility for the child demonstrates to the satisfaction of the school board that:

a. The child is in attendance for the same length of time at an approved nonpublic school;

b. The child has completed high school;

c. The child is necessary to the support of the child's family;

d. A multidisciplinary team that includes the child's school district superintendent, the director of the child's special education unit, the child's classroom teacher, the child's physician, and the child's parent has determined that the child has a disability that renders attendance or participation in a regular or special education program inexpedient or impracticable; or

e. The child is receiving home education.

15.1-20-02.1. Attendance -- Determination – Policies

1. To be deemed in attendance for purposes of this chapter, a student may not be absent from school without excuse for more than:

a. Three consecutive school days during either the first half or the second half of a school or school district's calendar;

b. Six half days during either the first half or the second half of a school or school district's calendar; or

c. Twenty-one class periods.

2. The board of each school district and governing body of each nonpublic school shall adopt a policy that:

a. Defines an excused absence as any absence from school, if that absence is supported by either a verbal or written excuse supplied by the student's parent, teacher, or school administrator; and

b. Articulates the type of documentation that may be requested to verify a student's absence.

3. This chapter does not preclude a school district or nonpublic school from withholding credit, removing a student from a course, or taking other punitive measures against a student who does not arrive in a timely fashion or who exceeds a specific number of absences, as determined by the school district or nonpublic school.

15.1-20-03. Compulsory attendance law - Enforcement - Penalty.

1. Each teacher and administrator is charged with the enforcement of compulsory attendance provisions. The compulsory attendance provisions are applicable to any student who is offered school facilities by a school district, regardless of whether or not the student actually resides in the district.

2. If a teacher determines that a student is not in attendance as required by this chapter and that the student has not been excused in accordance with this chapter or in accordance with the school district's or nonpublic school's policies, the teacher shall notify the administrator of the school.

3. Upon receiving notice of a student's absence under subsection 2, the administrator shall initiate an investigation into the cause of the absence. If the administrator has reason to believe that the person

having responsibility for the student has failed to ensure that the student is in attendance, the administrator shall refer the matter to the local law enforcement agency.

4. Any person who fails to ensure that a student is in attendance as required by this chapter is guilty of an infraction for a first offense and is guilty of a class B misdemeanor for a second or subsequent offense.

5. In a prosecution for an offense under this section, it is an affirmative defense if the person responsible for ensuring that the student is in attendance has made substantial and reasonable efforts to comply with the requirements of this section, but is unable to compel the student to attend school. If the court determines that the affirmative defense is valid, the court shall dismiss the complaint against the person.

15.1-20-03.2. Truancy prevention and intervention programs – Resources

The superintendent of public instruction shall disseminate to school districts and nonpublic schools information regarding truancy prevention and intervention programs and research pertaining to best practices in truancy prevention efforts.

Substance use

STATUTES

15.1-19-13. Alcohol or controlled substance -- Use or possession by student -- Notification of principal – Exception

If a teacher knows or has reason to believe that a student is using, is in possession of, or is delivering alcohol or a controlled substance while the student is on school property, involved in a school-related activity, or in attendance at a school-sponsored event, the teacher shall notify the student's principal. The notification requirement in this section does not apply to a teacher or administrator who participates in a juvenile drug court program and receives confidential information regarding a student as a result of participation in the program. This section does not prevent a teacher or any other school employee from reporting to a law enforcement agency any violation of law occurring on school property, at a school-related activity, or at a school-sponsored event.

15.1-24-01. Chemical abuse prevention program - Rules.

1. The superintendent of public instruction shall adopt rules regarding the implementation of chemical abuse prevention programs in this state's schools. The rules may include:

a. Community involvement through a citizens' advisory committee.

b. An assessment of services and resources available locally.

c. An assessment of student and staff needs.

d. The coordination of activities with public and private entities.

e. The development of an implementation plan.

f. An evaluation mechanism.

g. The development of a budget to fund the program.

2. If funds are appropriated or otherwise become available, the superintendent shall call for and review school district applications for development of a program. School districts may apply for funds independently or jointly. The superintendent shall award the funds according to the merit of each application.

3. The superintendent shall develop a plan for the coordination of services with other agencies, including the department of human services, the state department of health, the department of transportation, and law enforcement agencies.

15.1-24-03. Chemical abuse preassessment team - Building level support team.

Any school may appoint a chemical abuse preassessment team consisting of a school counselor, a social worker, and other appropriately trained individuals or a school may use a building support team to carry out chemical abuse prevention services under this chapter. The team shall review and act upon law enforcement reports of chemical abuse violations by students. Within fourteen days of receiving a report, the team shall determine whether to provide to the student, or if the student is a minor to the student's parent or guardian, information regarding chemical abuse and school and community services available to assist individuals who engage in chemical abuse.

Bullying, harassment, or hazing

STATUTES

15.1-19-17. Bullying - Definition.

As used in sections 15.1-19-17 through 15.1-19-22:

1. "Bullying" means:

a. Conduct that occurs in a public school, on school district premises, in a district owned or leased schoolbus or school vehicle, or at any public school or school district sanctioned or sponsored activity or event and which:

(1) Is so severe, pervasive, or objectively offensive that it substantially interferes with the student's educational opportunities;

(2) Places the student in actual and reasonable fear of harm;

(3) Places the student in actual and reasonable fear of damage to property of the student; or

(4) Substantially disrupts the orderly operation of the public school; or

b. Conduct that is received by a student while the student is in a public school, on school district premises, in a district owned or leased schoolbus or school vehicle, or at any public school or school district sanctioned or sponsored activity or event and which:

(1) Is so severe, pervasive, or objectively offensive that it substantially interferes with the student's educational opportunities;

(2) Places the student in actual and reasonable fear of harm;

(3) Places the student in actual and reasonable fear of damage to property of the student; or

(4) Substantially disrupts the orderly operation of the public school.

2. "Conduct" includes the use of technology or other electronic media.

15.1-19-18. Bullying - Prohibition by policy

1. Before July 1, 2012, each school district shall adopt a policy providing that while at a public school, on school district premises, in a district owned or leased school bus or school vehicle, or at any public school or school district sanctioned or sponsored activity or event, a student may not:

a. Engage in bullying; or

b. Engage in reprisal or retaliation against:

(1) A victim of bullying;

(2) An individual who witnesses an alleged act of bullying;

(3) An individual who reports an alleged act of bullying; or

(4) An individual who provides information about an alleged act of bullying.

2. The policy required by this section must:

a. Include a definition of bullying that at least encompasses the conduct described in section 15.1-19-17;

b. Establish procedures for reporting and documenting alleged acts of bullying, reprisal, or retaliation, and include procedures for anonymous reporting of such acts;

c. Establish procedures, including timelines, for school district personnel to follow in investigating reports of alleged bullying, reprisal, or retaliation;

d. Establish a schedule for the retention of any documents generated while investigating reports of alleged bullying, reprisal, or retaliation;

e. Set forth the disciplinary measures applicable to an individual who engaged in bullying or who engaged in reprisal or retaliation, as set forth in subsection 1;

f. Require the notification of law enforcement personnel if an investigation by school district personnel results in a reasonable suspicion that a crime might have occurred;

g. Establish strategies to protect a victim of bullying, reprisal, or retaliation; and

h. Establish disciplinary measures to be imposed upon an individual who makes a false accusation, report, or complaint pertaining to bullying, reprisal, or retaliation.

3. In developing the bullying policy required by this section, a school district shall involve parents, school district employees, volunteers, students, school district administrators, law enforcement personnel, domestic violence sexual assault organizations as defined by subsection 3 of section 14-07.1-01, and community representatives.

4. Upon completion of the policy required by this section, a school district shall:

a. Ensure that the policy is explained to and discussed with its students;

b. File a copy of the policy with the superintendent of public instruction; and

c. Make the policy available in student and personnel handbooks.

5. Each school district shall review and revise its policy as it determines necessary and shall file a copy of the revised policy with the superintendent of public instruction.

15.1-19-20. Bullying prevention programs

Each school district shall provide bullying prevention programs to all students from kindergarten through grade twelve.

15.1-19-21. Causes of action -- Immunity -- School districts

2. Any individual who promptly, reasonably, and in good faith reports an incident of bullying, reprisal, or retaliation to the school district employee or official designated in the school district bullying policy is immune from civil or criminal liability resulting from or relating to the report or to the individual's participation in any administrative or judicial proceeding stemming from the report.

3. A school district and its employees are immune from any liability that might otherwise be incurred as a result of a student having been the recipient of bullying, if the school district implemented a bullying policy, as required by section 15.1-19-18 and substantially complied with that policy.

Other special infractions or conditions

No relevant statutes found.

Prevention and Behavioral Interventions (Non-Punitive)

Prevention

STATUTES

15.1-19-20. Bullying prevention programs

Each school district shall provide bullying prevention programs to all students from kindergarten through grade twelve.

15.1-20-03.2. Truancy prevention and intervention programs – Resources

The superintendent of public instruction shall disseminate to school districts and nonpublic schools information regarding truancy prevention and intervention programs and research pertaining to best practices in truancy prevention efforts.

15.1-24-01. Chemical abuse prevention program - Rules.

1. The superintendent of public instruction shall adopt rules regarding the implementation of chemical abuse prevention programs in this state's schools. The rules may include:

a. Community involvement through a citizens' advisory committee.

b. An assessment of services and resources available locally.

c. An assessment of student and staff needs.

d. The coordination of activities with public and private entities.

e. The development of an implementation plan.

f. An evaluation mechanism.

g. The development of a budget to fund the program.

2. If funds are appropriated or otherwise become available, the superintendent shall call for and review school district applications for development of a program. School districts may apply for funds independently or jointly. The superintendent shall award the funds according to the merit of each application.

3. The superintendent shall develop a plan for the coordination of services with other agencies, including the department of human services, the state department of health, the department of transportation, and law enforcement agencies.

15.1-24-02. Staff

The superintendent of public instruction may employ an individual as a chemical abuse project coordinator. The coordinator shall:

1. Develop rules, in consultation with other private and public entities.

2. Disseminate rules developed under this chapter.

3. Provide communities, through their schools, with technical assistance in the planning and implementation of a chemical abuse and prevention program.

4. Collect data for reporting and program evaluation purposes.

5. Facilitate coordination of this program with prevention and educational programs conducted by other state agencies.

6. Provide the superintendent of public instruction with a written program evaluation.

7. Serve as a resource specialist to schools regarding the development and implementation of chemical abuse prevention programs.

15.1-24-03. Chemical abuse preassessment team - Building level support team.

Any school may appoint a chemical abuse preassessment team consisting of a school counselor, a social worker, and other appropriately trained individuals or a school may use a building support team to carry out chemical abuse prevention services under this chapter. The team shall review and act upon law enforcement reports of chemical abuse violations by students. Within fourteen days of receiving a report, the team shall determine whether to provide to the student, or if the student is a minor to the student's parent or guardian, information regarding chemical abuse and school and community services available to assist individuals who engage in chemical abuse.

Behavioral interventions and student support services

STATUTES

15.1-24-03. Chemical abuse preassessment team - Building level support team.

Any school may appoint a chemical abuse preassessment team consisting of a school counselor, a social worker, and other appropriately trained individuals or a school may use a building support team to carry out chemical abuse prevention services under this chapter. The team shall review and act upon law enforcement reports of chemical abuse violations by students. Within fourteen days of receiving a report, the team shall determine whether to provide to the student, or if the student is a minor to the student's parent or guardian, information regarding chemical abuse and school and community services available to assist individuals who engage in chemical abuse.

Professional development

STATUTES

15.1-19-19. Professional development activities

Each school district shall include, in professional development activities, information regarding the prevention of bullying and shall provide information regarding the prevention of bullying to all volunteers and nonlicensed personnel who have contact with students.

15.1-19-24. Youth suicide prevention – Training

1. Once every two years, each school district shall provide to middle school and high school teachers and administrators at least two hours of professional development relating to youth suicide risk indicators, appropriate staff responses, and referral sources.

2. The superintendent of public instruction shall collaborate with the state department of health to obtain and disseminate to school districts and nonpublic schools, free of charge, information and training materials, including those available through the Jason foundation.

Monitoring and Accountability

Formal incident reporting of conduct violations

STATUTES

15.1-19-13. Alcohol or controlled substance -- Use or possession by student -- Notification of principal – Exception

If a teacher knows or has reason to believe that a student is using, is in possession of, or is delivering alcohol or a controlled substance while the student is on school property, involved in a school-related activity, or in attendance at a school-sponsored event, the teacher shall notify the student's principal. The notification requirement in this section does not apply to a teacher or administrator who participates in a juvenile drug court program and receives confidential information regarding a student as a result of participation in the program. This section does not prevent a teacher or any other school employee from reporting to a law enforcement agency any violation of law occurring on school property, at a school-related activity, or at a school-sponsored event.

15.1-19-18. Bullying - Prohibition by policy

2. The policy required by this section must:

a. Include a definition of bullying that at least encompasses the conduct described in section 15.1-19-17;

b. Establish procedures for reporting and documenting alleged acts of bullying, reprisal, or retaliation, and include procedures for anonymous reporting of such acts;

c. Establish procedures, including timelines, for school district personnel to follow in investigating reports of alleged bullying, reprisal, or retaliation;

d. Establish a schedule for the retention of any documents generated while investigating reports of alleged bullying, reprisal, or retaliation;

e. Set forth the disciplinary measures applicable to an individual who engaged in bullying or who engaged in reprisal or retaliation, as set forth in subsection 1;

f. Require the notification of law enforcement personnel if an investigation by school district personnel results in a reasonable suspicion that a crime might have occurred;

g. Establish strategies to protect a victim of bullying, reprisal, or retaliation; and

h. Establish disciplinary measures to be imposed upon an individual who makes a false accusation, report, or complaint pertaining to bullying, reprisal, or retaliation.

15.1-20-03. Compulsory attendance law - Enforcement - Penalty.

2. If a teacher determines that a student is not in attendance as required by this chapter and that the student has not been excused in accordance with this chapter or in accordance with the school district's or nonpublic school's policies, the teacher shall notify the administrator of the school.

3. Upon receiving notice of a student's absence under subsection 2, the administrator shall initiate an investigation into the cause of the absence. If the administrator has reason to believe that the person having responsibility for the student has failed to ensure that the student is in attendance, the administrator shall refer the matter to the local law enforcement agency.

4. Any person who fails to ensure that a student is in attendance as required by this chapter is guilty of an infraction for a first offense and is guilty of a class B misdemeanor for a second or subsequent offense.

5. In a prosecution for an offense under this section, it is an affirmative defense if the person responsible for ensuring that the student is in attendance has made substantial and reasonable efforts to comply with the requirements of this section, but is unable to compel the student to attend school. If the court determines that the affirmative defense is valid, the court shall dismiss the complaint against the person.

Parental notification

No relevant statutes found.

Reporting and referrals between schools and law enforcement

STATUTES

15.1-24-05. Law enforcement agencies -- Duty to inform team

1. A law enforcement agency shall notify a school principal in writing if the agency has probable cause to believe that a student enrolled in the school has violated section 5-01-08, section 12.1-31-03, chapter 19-03.1, chapter 19-03.2, chapter 19-03.4, section 39-08-01, or section 39-08-18. The law enforcement agency shall provide the notice within two weeks of an incident.

3. Subsection 1 does not apply if, in the opinion of the law enforcement agency, providing the notice would jeopardize the conclusion of a criminal investigation.

15.1-19-18. Bullying - Prohibition by policy

2. The policy required by this section must:

f. Require the notification of law enforcement personnel if an investigation by school district personnel results in a reasonable suspicion that a crime might have occurred;

3. In developing the bullying policy required by this section, a school district shall involve parents, school district employees, volunteers, students, school district administrators, law enforcement personnel, domestic violence sexual assault organizations as defined by subsection 3 of section 14-07.1-01, and community representatives.

15.1-20-03. Compulsory attendance law - Enforcement - Penalty.

2. If a teacher determines that a student is not in attendance as required by this chapter and that the student has not been excused in accordance with this chapter or in accordance with the school district's or nonpublic school's policies, the teacher shall notify the administrator of the school.

3. Upon receiving notice of a student's absence under subsection 2, the administrator shall initiate an investigation into the cause of the absence. If the administrator has reason to believe that the person having responsibility for the student has failed to ensure that the student is in attendance, the administrator shall refer the matter to the local law enforcement agency.

4. Any person who fails to ensure that a student is in attendance as required by this chapter is guilty of an infraction for a first offense and is guilty of a class B misdemeanor for a second or subsequent offense.

5. In a prosecution for an offense under this section, it is an affirmative defense if the person responsible for ensuring that the student is in attendance has made substantial and reasonable efforts to comply with the requirements of this section, but is unable to compel the student to attend school. If the court determines that the affirmative defense is valid, the court shall dismiss the complaint against the person.

Disclosure of school records

STATUTES

15.1-19-14. School law enforcement unit

1. […] Records of a school law enforcement unit regarding a student at a school are confidential but may be released to:

a. A juvenile court having the student before it in any proceeding;

b. Counsel for a party to the proceeding;

c. Officers of public entities to whom the student is committed;

d. Officers of a state or local law enforcement agency for use in the discharge of their official duties;

e. A superintendent or principal of another school in which the student wishes to enroll; and

f. The student's parent, legal guardian, or legal custodian.

2. Nothing in this section restricts the release of general information that does not identify the student.

15.1-19-15. Record retention

Records regarding a student obtained by a school under section 15.1-19-14, section 27-20-51, or section 27-20-52 must be destroyed when the student reaches the age of eighteen or no longer attends the school, whichever occurs later.

15.1-24-04. Treatment or assistance records - Confidential.

Any record of a student's medical treatment, use of a chemical abuse assistance program, or other individual record generated under this chapter, is confidential. It is not part of the student's educational record and may not be released without the written consent of the student, or if the student is less than age fourteen, without the written consent of the student's parent.

Data collection, review, and reporting of disciplinary policies and actions

STATUTES

15.1-19-18. Bullying - Prohibition by policy

5. Each school district shall review and revise its policy as it determines necessary and shall file a copy of the revised policy with the superintendent of public instruction.

15.1-24-02. Staff

The superintendent of public instruction may employ an individual as a chemical abuse project coordinator. The coordinator shall:

1. Develop rules, in consultation with other private and public entities.

2. Disseminate rules developed under this chapter.

3. Provide communities, through their schools, with technical assistance in the planning and implementation of a chemical abuse and prevention program.

4. Collect data for reporting and program evaluation purposes.

5. Facilitate coordination of this program with prevention and educational programs conducted by other state agencies.

6. Provide the superintendent of public instruction with a written program evaluation.

7. Serve as a resource specialist to schools regarding the development and implementation of chemical abuse prevention programs.

School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers

Authority and power to implement school arrest

STATUTES

15.1-19-14. School law enforcement unit

1. A school may create or designate a school law enforcement unit as defined in the Family Educational Rights and Privacy Act [20 U.S.C. 1232(g)] and rules adopted under the Act.

Certification or training

No relevant statutes found.

MOUs, authorization and/or funding

No relevant statutes found.

State Education Agency Support

State model policies and implementation support

No relevant statutes found.

Funding appropriations

STATUTES

15.1-24-01. Chemical abuse prevention program - Rules.

1. The superintendent of public instruction shall adopt rules regarding the implementation of chemical abuse prevention programs in this state's schools. The rules may include:

a. Community involvement through a citizens' advisory committee.

b. An assessment of services and resources available locally.

c. An assessment of student and staff needs.

d. The coordination of activities with public and private entities.

e. The development of an implementation plan.

f. An evaluation mechanism.

g. The development of a budget to fund the program.

2. If funds are appropriated or otherwise become available, the superintendent shall call for and review school district applications for development of a program. School districts may apply for funds independently or jointly. The superintendent shall award the funds according to the merit of each application.

3. The superintendent shall develop a plan for the coordination of services with other agencies, including the department of human services, the state department of health, the department of transportation, and law enforcement agencies.

Other/Uncategorized

Professional immunity or liability

STATUTES

15.1-19-12. School safety patrols - Immunity from liability.

The superintendent of public instruction, schools, school boards and individual school board members, governing boards and individual governing board members, administrators, principals, teachers, safety patrol members whether students or adults, and parents of safety patrol student members are immune from any liability that might otherwise be incurred as a result of an injury to a safety patrol member or as a result of an injury caused by an act or omission on the part of a safety patrol member while on duty, provided that the persons substantially complied with the rules to guide safety patrol members, as adopted by the superintendent of public instruction.

15.1-19-21. Causes of action - Immunity - School districts.

3. A school district and its employees are immune from any liability that might otherwise be incurred as a result of a student having been the recipient of bullying, if the school district implemented a bullying policy, as required by section 15.1-19-18 and substantially complied with that policy.

15.1-24-06. Report of chemical abuse - Immunity from liability

Any individual, other than the alleged violator, who in good faith reports or furnishes information regarding another's alleged chemical abuse to the chemical abuse preassessment team or the support team referenced in section 15.1-24-03, is immune from any liability, civil or criminal, that might otherwise result from the report. For the purpose of any proceeding, the good faith of a person reporting or furnishing information is presumed.

Community input or involvement

STATUTES

15.1-19-18. Bullying - Prohibition by policy

3. In developing the bullying policy required by this section, a school district shall involve parents, school district employees, volunteers, students, school district administrators, law enforcement personnel, domestic violence sexual assault organizations as defined by subsection 3 of section 14-07.1-01, and community representatives.

15.1-24-01. Chemical abuse prevention program - Rules.

1. The superintendent of public instruction shall adopt rules regarding the implementation of chemical abuse prevention programs in this state's schools. The rules may include:

a. Community involvement through a citizens' advisory committee.

b. An assessment of services and resources available locally.

c. An assessment of student and staff needs.

d. The coordination of activities with public and private entities.

e. The development of an implementation plan.

f. An evaluation mechanism.

g. The development of a budget to fund the program.

2. If funds are appropriated or otherwise become available, the superintendent shall call for and review school district applications for development of a program. School districts may apply for funds independently or jointly. The superintendent shall award the funds according to the merit of each application.

3. The superintendent shall develop a plan for the coordination of services with other agencies, including the department of human services, the state department of health, the department of transportation, and law enforcement agencies.

Other/uncategorized

No relevant statutes found.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by North Dakota provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
Website		
No relevant resources found		
Documents		
No relevant resources found		
Other Resources		
No relevant resources found		

Ohio
Compilation of School Discipline Laws and Regulations

Prepared: August 12, 2013

Introduction

This compilation presents school discipline-related state statutes, school discipline-related regulations, and, where available, links to state-sponsored websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSLE). For example, one major category encompasses all state laws or regulations mandating specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of state legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in each state.

Discipline categories were not mutually exclusive. Statutes and regulations often appeared across multiple categories. For states with more extensive statutes covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. State laws, ordered by chapter and section number, appear first within each category followed by state regulations. All statutes and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists statutes by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to state-sponsored websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of May 2013, with the exception of the state laws related to seclusion and restraint, which are complete and current as of December 2012. Readers should also note that the information in this document was compiled from individual state sources that are created by each state and which are maintained and updated with varying frequencies. Readers should consult the source information provided for each state directly in order to check for updates to this state's laws and regulations or conduct further research.

For further information, including definitions of the different policy categories, please refer to the Discipline Laws and Regulations Compendium posted on the Center's website.

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Safe Supportive Learning
Engagement | Safety | Environment

Table of Contents

Ohio State Codes Cited **1**

General Provisions **2**

Authority to develop and establish rules of conduct 2
Scope 4
Communication of policy 4

In-School Discipline **5**

Use of multi-tiered discipline approaches 5
Teacher authority to remove students from classrooms 5
Alternatives to suspension 5
Use of corporal punishment 5
Use of student and locker searches 5
Other in-school disciplinary approaches 6

Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements **7**

Grounds for possible suspension or expulsion 7
Grounds for mandatory suspension or expulsion 8
Limitations, conditions or exclusions for use of suspension and expulsion 8
Administrative procedures related to suspension and expulsion 9
In-school suspension 12
Return to school following removal 13
Use of restraint and seclusion 13
Alternative placements 13

Disciplinary Approaches Addressing Specific Infractions and Conditions **16**

Firearms (as required by the Guns-Free Schools Act) 16
Other weapons 16
Students with chronic disciplinary issues 17
Attendance and truancy 17
Substance use 23
Bullying, harassment, or hazing 23
Other special infractions or conditions 24

Prevention and Behavioral Interventions (Non-Punitive) **25**

Prevention 25
Behavioral interventions and student support services 25
Professional development 26

Monitoring and Accountability **27**

Formal incident reporting of conduct violations 27
Parental notification 27
Reporting and referrals between schools and law enforcement 29
Disclosure of school records 30
Data collection, review, and reporting of disciplinary policies and actions 33

School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers 34
Authority and power to implement school arrest 34
Certification or training 35
MOUs, authorization, and/or funding 35
State Education Agency Support 36
State model policies and implementation support 36
Funding appropriations 36
Other/Uncategorized 37
Professional immunity or liability 37
Community input or involvement 37
Other/Uncategorized 37
State-Sponsored, Publicly Available Websites or Other Resources on School Discipline 38

Ohio State Codes Cited

Ohio Revised Statutes

Title 21. Courts – Probate - Juvenile

Chapter 2151. Juvenile Court

2151.011. Juvenile court definitions*

Title 33. Education - Libraries

Chapter 3313. Boards of Education

3313.20. Rules - locker search policy - professional meetings
3313.66. Suspension, expulsion or permanent exclusion - removal from curricular or extracurricular activities
3313.205. Notification of student's absence from school
3313.533. Alternative school - plan
3313.534. Policy of zero tolerance for violent, disruptive or inappropriate behavior
3313.609. Grade promotion and retention policy
3313.661. Policy regarding suspension, expulsion, removal, and permanent exclusion
3313.662. Adjudication order permanently excluding pupil from public schools
3313.666. District policy prohibiting harassment, intimidation, or bullying required
3313.667. District bullying prevention initiatives

Chapter 3319. Schools: Superintendent; Teachers; Employees

3319.45. Principal to report certain act or violations by pupil to superintendent and law enforcement officer
3319.321. Confidentiality

Chapter 3321. School Attendance

3321.13. Duties of teacher and superintendent upon withdrawal or habitual absence of child from school - forms
3321.14. Attendance officer - pupil-personnel workers
3321.15. Educational service center attendance officer and assistants
3321.19. Examination into cases of truancy - failure of parent, guardian or responsible person to cause child's attendance at school

Title 45. Motor Vehicles, Aeronautics, Watercraft

Chapter 4510. Driver's License Suspension, Cancellation, Revocation

4510.32. Suspension of license of minor upon withdrawal from school or habitual absence

* This version of code is effective January 1, 2014. For definitions effective until January 1, 2014, see: http://codes.ohio.gov/orc/2151.011v1.

Ohio Administrative Code

No relevant regulations found.

General Provisions

Authority to develop and establish rules of conduct

STATUTES

3313.20. Rules - locker search policy - professional meetings.

(A) The board of education of a school district or the governing board of an educational service center shall make any rules that are necessary for its government and the government of its employees, pupils of its schools, and all other persons entering upon its school grounds or premises. Rules regarding entry of persons other than students, staff, and faculty upon school grounds or premises shall be posted conspicuously at or near the entrance to the school grounds or premises, or near the perimeter of the school grounds or premises, if there are no formal entrances, and at the main entrance to each school building.

3313.66. Suspension, expulsion or permanent exclusion - removal from curricular or extracurricular activities.

(B)(4) The board of education of a city, exempted village, or local school district may adopt a resolution establishing a policy under section 3313.661 of the Revised Code that authorizes the superintendent of schools to expel a pupil from school for a period not to exceed one year for committing an act that is a criminal offense when committed by an adult and that results in serious physical harm to persons as defined in division (A)(5) of section 2901.01 of the Revised Code or serious physical harm to property as defined in division (A)(6) of section 2901.01 of the Revised Code while the pupil is at school, on any other property owned or controlled by the board, or at an interscholastic competition, an extracurricular event, or any other school program or activity. Any expulsion under this division shall extend, as necessary, into the school year following the school year in which the incident that gives rise to the expulsion takes place.

(5) The board of education of any city, exempted village, or local school district may adopt a resolution establishing a policy under section 3313.661 of the Revised Code that authorizes the superintendent of schools to expel a pupil from school for a period not to exceed one year for making a bomb threat to a school building or to any premises at which a school activity is occurring at the time of the threat. Any expulsion under this division shall extend, as necessary, into the school year following the school year in which the incident that gives rise to the expulsion takes place.

3313.661. Policy regarding suspension, expulsion, removal, and permanent exclusion.

(A) The board of education of each city, exempted village, and local school district shall adopt a policy regarding suspension, expulsion, removal, and permanent exclusion that specifies the types of misconduct for which a pupil may be suspended, expelled, or removed. The policy shall specify the reasons for which the superintendent of the district may reduce the expulsion requirement in division (B)(2) of section 3313.66 of the Revised Code. If a board of education adopts a resolution pursuant to division (B)(3) of section 3313.66 of the Revised Code, the policy shall define the term “knife” or “firearm,” as applicable, for purposes of expulsion under that resolution and shall specify any reasons for which the superintendent of the district may reduce any required expulsion period on a case-by-case basis. If a board of education adopts a resolution pursuant to division (B)(4) or (5) of section 3313.66 of the Revised Code, the policy shall specify any reasons for which the superintendent of the district may reduce any required expulsion period on a case-by-case basis. The policy also shall set forth the acts listed in section 3313.662 of the Revised Code for which a pupil may be permanently excluded. The policy adopted under

this division shall specify the date and manner by which a pupil or a pupil's parent, guardian, or custodian may notify the board of the pupil's, parent's, guardian's, or custodian's intent to appeal an expulsion or suspension to the board or its designee pursuant to division (E) of section 3313.66 of the Revised Code. In the case of any expulsion, the policy shall not specify a date that is less than fourteen days after the date of the notice provided to the pupil or the pupil's parent, guardian, or custodian under division (D) of that section. A copy of the policy shall be posted in a central location in the school and made available to pupils upon request. No pupil shall be suspended, expelled, or removed except in accordance with the policy adopted by the board of education of the school district in which the pupil attends school, and no pupil shall be permanently excluded except in accordance with sections 3301.121 and 3313.662 of the Revised Code.

3313.666 District policy prohibiting harassment, intimidation, or bullying required.

(B) The board of education of each city, local, exempted village, and joint vocational school district shall establish a policy prohibiting harassment, intimidation, or bullying. The policy shall be developed in consultation with parents, school employees, school volunteers, students, and community members. The policy shall include the following:

(1) A statement prohibiting harassment, intimidation, or bullying of any student on school property, on a school bus, or at school-sponsored events and expressly providing for the possibility of suspension of a student found responsible for harassment, intimidation, or bullying by an electronic act;

(2) A definition of harassment, intimidation, or bullying that includes the definition in division (A) of this section;

(3) A procedure for reporting prohibited incidents;

(4) A requirement that school personnel report prohibited incidents of which they are aware to the school principal or other administrator designated by the principal;

(5) A requirement that the custodial parent or guardian of any student involved in a prohibited incident be notified and, to the extent permitted by section 3319.321 of the Revised Code and the "Family Educational Rights and Privacy Act of 1974," 88 Stat. 571, 20 U.S.C. 1232g, as amended, have access to any written reports pertaining to the prohibited incident;

(6) A procedure for documenting any prohibited incident that is reported;

(7) A procedure for responding to and investigating any reported incident;

(8) A strategy for protecting a victim or other person from new or additional harassment, intimidation, or bullying, and from retaliation following a report, including a means by which a person may report an incident anonymously;

(9) A disciplinary procedure for any student guilty of harassment, intimidation, or bullying, which shall not infringe on any student's rights under the first amendment to the Constitution of the United States;

(10) A statement prohibiting students from deliberately making false reports of harassment, intimidation, or bullying and a disciplinary procedure for any student responsible for deliberately making a false report of that nature;

(11) A requirement that the district administration semiannually provide the president of the district board a written summary of all reported incidents and post the summary on its web site, if the district has a web site, to the extent permitted by section 3319.321 of the Revised Code and the "Family Educational Rights and Privacy Act of 1974," 88 Stat. 571, 20 U.S.C. 1232g, as amended.

Scope

STATUTES

3313.661 Policy regarding suspension, expulsion, removal, and permanent exclusion.

(A) The board of education of each city, exempted village, and local school district shall adopt a policy regarding suspension, expulsion, removal, and permanent exclusion that specifies the types of misconduct for which a pupil may be suspended, expelled, or removed. The types of misconduct may include misconduct by a pupil that occurs off of property owned or controlled by the district but that is connected to activities or incidents that have occurred on property owned or controlled by that district and misconduct by a pupil that, regardless of where it occurs, is directed at a district official or employee, or the property of such official or employee.

Communication of policy

STATUTES

3313.661. Policy regarding suspension, expulsion, removal, and permanent exclusion.

(C) The written policy of each board of education that is adopted pursuant to section 3313.20 of the Revised Code shall be posted in a central location in each school that is subject to the policy and shall be made available to pupils upon request.

3313.666. District policy prohibiting harassment, intimidation, or bullying required.

(C) Each board's policy shall appear in any student handbooks, and in any of the publications that set forth the comprehensive rules, procedures, and standards of conduct for schools and students in the district. The policy and an explanation of the seriousness of bullying by electronic means shall be made available to students in the district and to their custodial parents or guardians. Information regarding the policy shall be incorporated into employee training materials.

(D)(1) To the extent that state or federal funds are appropriated for this purpose, each board shall require that all students enrolled in the district annually be provided with age-appropriate instruction, as determined by the board, on the board's policy, including a written or verbal discussion of the consequences for violations of the policy.

(2) Each board shall require that once each school year a written statement describing the policy and the consequences for violations of the policy be sent to each student's custodial parent or guardian. The statement may be sent with regular student report cards or may be delivered electronically.

In-School Discipline

Use of multi-tiered discipline approaches

No relevant statutes found.

Teacher authority to remove students from classrooms

STATUTES

3313.66. Suspension, expulsion or permanent exclusion - removal from curricular or extracurricular activities.

(C) If a pupil's presence poses a continuing danger to persons or property or an ongoing threat of disrupting the academic process taking place either within a classroom or elsewhere on the school premises, the superintendent or a principal or assistant principal may remove a pupil from curricular activities or from the school premises, and a teacher may remove a pupil from curricular activities under the teacher's supervision, without the notice and hearing requirements of division (A) or (B) of this section.

Alternatives to suspension

STATUTES

3313.661. Policy regarding suspension, expulsion, removal, and permanent exclusion.

(B) A board of education may establish a program and adopt guidelines under which a superintendent may require a pupil to perform community service in conjunction with a suspension or expulsion imposed under section 3313.66 of the Revised Code or in place of a suspension or expulsion imposed under section 3313.66 of the Revised Code except for an expulsion imposed pursuant to division (B)(2) of that section. If a board adopts guidelines under this division, they shall permit, except with regard to an expulsion pursuant to division (B)(2) of section 3313.66 of the Revised Code, a superintendent to impose a community service requirement beyond the end of the school year in lieu of applying the suspension or expulsion into the following school year. Any guidelines adopted shall be included in the policy adopted under this section.

Use of corporal punishment

No relevant statutes found.

Use of student and locker searches

STATUTES

3313.20. Rules - locker search policy - professional meetings.

(B) (1) The board of education of each city, local, exempted village, or joint vocational school district may adopt a written policy that authorizes principals of public schools within the district or their designees to do one or both of the following:

(a) Search any pupil's locker and the contents of the locker that is searched if the principal reasonably suspects that the locker or its contents contains evidence of a pupil's violation of a criminal statute or of a school rule;

(b) Search any pupil's locker and the contents of any pupil's locker at any time if the board of education posts in a conspicuous place in each school building that has lockers available for use by pupils a notice that the lockers are the property of the board of education and that the lockers and the contents of all the lockers are subject to random search at any time without regard to whether there is a reasonable suspicion that any locker or its contents contains evidence of a violation of a criminal statute or a school rule.

(2) A board of education's adoption of or failure to adopt a written policy pursuant to division (B)(1) of this section does not prevent the principal of any school from searching at any time the locker of any pupil and the contents of any locker of any pupil in the school if an emergency situation exists or appears to exist that immediately threatens the health or safety of any person, or threatens to damage or destroy any property, under the control of the board of education and if a search of lockers and the contents of the lockers is reasonably necessary to avert that threat or apparent threat.

Other in-school disciplinary approaches

No relevant statutes found.

Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements

Grounds for possible suspension or expulsion

STATUTES

3313.66. Suspension, expulsion or permanent exclusion - removal from curricular or extracurricular activities.

(B)(2)(b) The superintendent of schools of a city, exempted village, or local school district may expel a pupil from school for a period of one year for bringing a firearm to an interscholastic competition, an extracurricular event, or any other school program or activity that is not located in a school or on property that is owned or controlled by the district. The superintendent may reduce this disciplinary action on a case-by-case basis in accordance with the policy adopted by the board under section 3313.661 of the Revised Code.

(4) The board of education of a city, exempted village, or local school district may adopt a resolution establishing a policy under section 3313.661 of the Revised Code that authorizes the superintendent of schools to expel a pupil from school for a period not to exceed one year for committing an act that is a criminal offense when committed by an adult and that results in serious physical harm to persons as defined in division (A)(5) of section 2901.01 of the Revised Code or serious physical harm to property as defined in division (A)(6) of section 2901.01 of the Revised Code while the pupil is at school, on any other property owned or controlled by the board, or at an interscholastic competition, an extracurricular event, or any other school program or activity. Any expulsion under this division shall extend, as necessary, into the school year following the school year in which the incident that gives rise to the expulsion takes place.

(5) The board of education of any city, exempted village, or local school district may adopt a resolution establishing a policy under section 3313.661 of the Revised Code that authorizes the superintendent of schools to expel a pupil from school for a period not to exceed one year for making a bomb threat to a school building or to any premises at which a school activity is occurring at the time of the threat. Any expulsion under this division shall extend, as necessary, into the school year following the school year in which the incident that gives rise to the expulsion takes place.

(C) If a pupil's presence poses a continuing danger to persons or property or an ongoing threat of disrupting the academic process taking place either within a classroom or elsewhere on the school premises, the superintendent or a principal or assistant principal may remove a pupil from curricular activities or from the school premises.

(K) As used in this section:

(1) "Permanently exclude" and "permanent exclusion" have the same meanings as in section 3313.662 of the Revised Code.

(2) "In-school suspension" means the pupil will serve all of the suspension in a school setting.

3313.662. Adjudication order permanently excluding pupil from public schools.

(A) The superintendent of public instruction, pursuant to this section and the adjudication procedures of section 3301.121 of the Revised Code, may issue an adjudication order that permanently excludes a pupil from attending any of the public schools of this state if the pupil is convicted of, or adjudicated a

delinquent child for, committing, when the pupil was sixteen years of age or older, an act that would be a criminal offense if committed by an adult and if the act is any of the following:

(1) A violation of section 2923.122 of the Revised Code;

(2) A violation of section 2923.12 of the Revised Code, of a substantially similar municipal ordinance, or of section 2925.03 of the Revised Code that was committed on property owned or controlled by, or at an activity held under the auspices of, a board of education of a city, local, exempted village, or joint vocational school district;

(3) A violation of section 2925.11 of the Revised Code, other than a violation of that section that would be a minor drug possession offense, that was committed on property owned or controlled by, or at an activity held under the auspices of, the board of education of a city, local, exempted village, or joint vocational school district;

(4) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2907.02, or 2907.05 or of former section 2907.12 of the Revised Code that was committed on property owned or controlled by, or at an activity held under the auspices of, a board of education of a city, local, exempted village, or joint vocational school district, if the victim at the time of the commission of the act was an employee of that board of education;

(5) Complicity in any violation described in division (A)(1), (2), (3), or (4) of this section that was alleged to have been committed in the manner described in division (A)(1), (2), (3), or (4) of this section, regardless of whether the act of complicity was committed on property owned or controlled by, or at an activity held under the auspices of, a board of education of a city, local, exempted village, or joint vocational school district.

Grounds for mandatory suspension or expulsion

STATUTES

3313.66. Suspension, expulsion or permanent exclusion - removal from curricular or extracurricular activities.

(B)(2)(a) Unless a pupil is permanently excluded pursuant to section 3313.662 of the Revised Code, the superintendent of schools of a city, exempted village, or local school district shall expel a pupil from school for a period of one year for bringing a firearm to a school operated by the board of education of the district or onto any other property owned or controlled by the board, except that the superintendent may reduce this requirement on a case-by-case basis in accordance with the policy adopted by the board under section 3313.661 of the Revised Code.

Limitations, conditions or exclusions for use of suspension and expulsion

STATUTES

3313.66. Suspension, expulsion or permanent exclusion - removal from curricular or extracurricular activities.

(A) Except in the case of a pupil given an in-school suspension, no pupil shall be suspended unless prior to the suspension such superintendent or principal does both of the following:

(1) Gives the pupil written notice of the intention to suspend the pupil and the reasons for the intended suspension and, if the proposed suspension is based on a violation listed in division (A) of section 3313.662 of the Revised Code and if the pupil is sixteen years of age or older, includes in the notice a

statement that the superintendent may seek to permanently exclude the pupil if the pupil is convicted of or adjudicated a delinquent child for that violation;

(2) Provides the pupil an opportunity to appear at an informal hearing before the principal, assistant principal, superintendent, or superintendent's designee and challenge the reason for the intended suspension or otherwise to explain the pupil's actions.

(B)(1) Except as provided under division (B)(2), (3), or (4) of this section, the superintendent of schools of a city, exempted village, or local school district may expel a pupil from school for a period not to exceed the greater of eighty school days or the number of school days remaining in the semester or term in which the incident that gives rise to the expulsion takes place, unless the expulsion is extended pursuant to division (F) of this section. If at the time an expulsion is imposed there are fewer than eighty school days remaining in the school year in which the incident that gives rise to the expulsion takes place, the superintendent may apply any remaining part or all of the period of the expulsion to the following school year.

Administrative procedures related to suspension and expulsion

STATUTES

3313.66. Suspension, expulsion, or permanent exclusion – removal from curricular or extracurricular activities.

(B)(1) Except as provided under division (B)(2), (3), or (4) of this section, the superintendent of schools of a city, exempted village, or local school district may expel a pupil from school for a period not to exceed the greater of eighty school days or the number of school days remaining in the semester or term in which the incident that gives rise to the expulsion takes place, unless the expulsion is extended pursuant to division (F) of this section. If at the time an expulsion is imposed there are fewer than eighty school days remaining in the school year in which the incident that gives rise to the expulsion takes place, the superintendent may apply any remaining part or all of the period of the expulsion to the following school year.

(6) No pupil shall be expelled under division (B)(1), (2), (3), (4), or (5) of this section unless, prior to the pupil's expulsion, the superintendent does both of the following:

(a) Gives the pupil and the pupil's parent, guardian, or custodian written notice of the intention to expel the pupil;

(b) Provides the pupil and the pupil's parent, guardian, custodian, or representative an opportunity to appear in person before the superintendent or the superintendent's designee to challenge the reasons for the intended expulsion or otherwise to explain the pupil's actions. The notice required in this division shall include the reasons for the intended expulsion, notification of the opportunity of the pupil and the pupil's parent, guardian, custodian, or representative to appear before the superintendent or the superintendent's designee to challenge the reasons for the intended expulsion or otherwise to explain the pupil's action, and notification of the time and place to appear. The time to appear shall not be earlier than three nor later than five school days after the notice is given, unless the superintendent grants an extension of time at the request of the pupil or the pupil's parent, guardian, custodian, or representative. If an extension is granted after giving the original notice, the superintendent shall notify the pupil and the pupil's parent, guardian, custodian, or representative of the new time and place to appear. If the proposed expulsion is based on a violation listed in division (A) of section 3313.662 of the Revised Code and if the pupil is sixteen years of age or older, the notice shall include a statement that the superintendent may seek to permanently exclude the pupil if the pupil is convicted of or adjudicated a delinquent child for that violation.

(7) A superintendent of schools of a city, exempted village, or local school district shall initiate expulsion proceedings pursuant to this section with respect to any pupil who has committed an act warranting expulsion under the district's policy regarding expulsion even if the pupil has withdrawn from school for any reason after the incident that gives rise to the hearing but prior to the hearing or decision to impose the expulsion. If, following the hearing, the pupil would have been expelled for a period of time had the pupil still been enrolled in the school, the expulsion shall be imposed for the same length of time as on a pupil who has not withdrawn from the school.

(C) If a pupil's presence poses a continuing danger to persons or property or an ongoing threat of disrupting the academic process taking place either within a classroom or elsewhere on the school premises, the superintendent or a principal or assistant principal may remove a pupil from curricular activities or from the school premises, and a teacher may remove a pupil from curricular activities under the teacher's supervision, without the notice and hearing requirements of division (A) or (B) of this section. As soon as practicable after making such a removal, the teacher shall submit in writing to the principal the reasons for such removal. If a pupil is removed under this division from a curricular activity or from the school premises, written notice of the hearing and of the reason for the removal shall be given to the pupil as soon as practicable prior to the hearing, which shall be held within three school days from the time the initial removal is ordered. The hearing shall be held in accordance with division (A) of this section unless it is probable that the pupil may be subject to expulsion, in which case a hearing in accordance with division (B) of this section shall be held, except that the hearing shall be held within three school days of the initial removal. The individual who ordered, caused, or requested the removal to be made shall be present at the hearing. If the superintendent or the principal reinstates a pupil in a curricular activity under the teacher's supervision prior to the hearing following a removal under this division, the teacher, upon request, shall be given in writing the reasons for such reinstatement.

(E) A pupil or the pupil's parent, guardian, or custodian may appeal the pupil's expulsion by a superintendent or suspension by a superintendent, principal, assistant principal, or other administrator to the board of education or to its designee. If the pupil or the pupil's parent, guardian, or custodian intends to appeal the expulsion or suspension to the board or its designee, the pupil or the pupil's parent, guardian, or custodian shall notify the board in the manner and by the date specified in the notice provided under division (D) of this section. The pupil or the pupil's parent, guardian, or custodian may be represented in all appeal proceedings and shall be granted a hearing before the board or its designee in order to be heard against the suspension or expulsion. At the request of the pupil or of the pupil's parent, guardian, custodian, or attorney, the board or its designee may hold the hearing in executive session but shall act upon the suspension or expulsion only at a public meeting. The board, by a majority vote of its full membership or by the action of its designee, may affirm the order of suspension or expulsion, reinstate the pupil, or otherwise reverse, vacate, or modify the order of suspension or expulsion. The board or its designee shall make a verbatim record of hearings held under this division. The decisions of the board or its designee may be appealed under Chapter 2506 of the Revised Code. This section shall not be construed to require notice and hearing in accordance with division (A), (B), or (C) of this section in the case of normal disciplinary procedures in which a pupil is removed from a curricular activity for a period of less than one school day and is not subject to suspension or expulsion.

(F)(1) If a pupil is expelled pursuant to division (B) of this section for committing any violation listed in division (A) of section 3313.662 of the Revised Code and the pupil was sixteen years of age or older at the time of committing the violation, if a complaint, indictment, or information is filed alleging that the pupil is a delinquent child based upon the commission of the violation or the pupil is prosecuted as an adult for the commission of the violation, and if the resultant juvenile court or criminal proceeding is pending at the time that the expulsion terminates, the superintendent of schools that expelled the pupil may file a motion with the court in which the proceeding is pending requesting an order extending the expulsion for the lesser of an additional eighty days or the number of school days remaining in the

school year. Upon the filing of the motion, the court immediately shall schedule a hearing and give written notice of the time, date, and location of the hearing to the superintendent and to the pupil and the pupil's parent, guardian, or custodian. At the hearing, the court shall determine whether there is reasonable cause to believe that the pupil committed the alleged violation that is the basis of the expulsion and, upon determining that reasonable cause to believe the pupil committed the violation does exist, shall grant the requested extension.

(2) If a pupil has been convicted of or adjudicated a delinquent child for a violation listed in division (A) of section 3313.662 of the Revised Code for an act that was committed when the child was sixteen years of age or older, if the pupil has been expelled pursuant to division (B) of this section for that violation, and if the board of education of the school district of the school from which the pupil was expelled has adopted a resolution seeking the pupil's permanent exclusion, the superintendent may file a motion with the court that convicted the pupil or adjudicated the pupil a delinquent child requesting an order to extend the expulsion until an adjudication order or other determination regarding permanent exclusion is issued by the superintendent of public instruction pursuant to section 3301.121 and division (D) of section 3313.662 of the Revised Code. Upon the filing of the motion, the court immediately shall schedule a hearing and give written notice of the time, date, and location of the hearing to the superintendent of the school district, the pupil, and the pupil's parent, guardian, or custodian. At the hearing, the court shall determine whether there is reasonable cause to believe the pupil's continued attendance in the public school system may endanger the health and safety of other pupils or school employees and, upon making that determination, shall grant the requested extension.

(G) The failure of the superintendent or the board of education to provide the information regarding the possibility of permanent exclusion in the notice required by divisions (A), (B), and (D) of this section is not jurisdictional, and the failure shall not affect the validity of any suspension or expulsion procedure that is conducted in accordance with this section or the validity of a permanent exclusion procedure that is conducted in accordance with sections 3301.121 and 3313.662 of the Revised Code.

(H) With regard to suspensions and expulsions pursuant to divisions (A) and (B) of this section by the board of education of any city, exempted village, or local school district, this section shall apply to any student, whether or not the student is enrolled in the district, attending or otherwise participating in any curricular program provided in a school operated by the board or provided on any other property owned or controlled by the board.

(I) Whenever a student is expelled under this section, the expulsion shall result in removal of the student from the student's regular school setting. However, during the period of the expulsion, the board of education of the school district that expelled the student or any board of education admitting the student during that expulsion period may provide educational services to the student in an alternative setting.

(J)(1) Notwithstanding sections 3109.51 to 3109.80, 3313.64, and 3313.65 of the Revised Code, any school district, after offering an opportunity for a hearing, may temporarily deny admittance to any pupil if one of the following applies:

(a) The pupil has been suspended from the schools of another district under division (A) of this section and the period of suspension, as established under that division, has not expired;

(b) The pupil has been expelled from the schools of another district under division (B) of this section and the period of the expulsion, as established under that division or as extended under division (F) of this section, has not expired. If a pupil is temporarily denied admission under this division, the pupil shall be admitted to school in accordance with sections 3109.51 to 3109.80, 3313.64, or 3313.65 of the Revised Code no later than upon expiration of the suspension or expulsion period, as applicable.

(2) Notwithstanding sections 3109.51 to 3109.80, 3313.64, and 3313.65 of the Revised Code, any school district, after offering an opportunity for a hearing, may temporarily deny admittance to any pupil if the pupil has been expelled or otherwise removed for disciplinary purposes from a public school in

another state and the period of expulsion or removal has not expired. If a pupil is temporarily denied admission under this division, the pupil shall be admitted to school in accordance with sections 3109.51 to 3109.80, 3313.64, or 3313.65 of the Revised Code no later than the earlier of the following:

(a) Upon expiration of the expulsion or removal period imposed by the out-of-state school;

(b) Upon expiration of a period established by the district, beginning with the date of expulsion or removal from the out-of-state school, that is no greater than the period of expulsion that the pupil would have received under the policy adopted by the district under section 3313.661 of the Revised Code had the offense that gave rise to the expulsion or removal by the out-of-state school been committed while the pupil was enrolled in the district.

3313.661. Policy regarding suspension, expulsion, removal, and permanent exclusion

(A) […] If a board of education adopts a resolution pursuant to division (B)(4) or (5) of section 3313.66 of the Revised Code, the policy shall specify any reasons for which the superintendent of the district may reduce any required expulsion period on a case-by-case basis. The policy also shall set forth the acts listed in section 3313.662 of the Revised Code for which a pupil may be permanently excluded. The policy adopted under this division shall specify the date and manner by which a pupil or a pupil's parent, guardian, or custodian may notify the board of the pupil's, parent's, guardian's, or custodian's intent to appeal an expulsion or suspension to the board or its designee pursuant to division (E) of section 3313.66 of the Revised Code. In the case of any expulsion, the policy shall not specify a date that is less than fourteen days after the date of the notice provided to the pupil or the pupil's parent, guardian, or custodian under division (D) of that section. A copy of the policy shall be posted in a central location in the school and made available to pupils upon request. No pupil shall be suspended, expelled, or removed except in accordance with the policy adopted by the board of education of the school district in which the pupil attends school, and no pupil shall be permanently excluded except in accordance with sections 3301.121 and 3313.662 of the Revised Code.

3313.662. Adjudication order permanently excluding pupil from public schools.

(c) Upon receipt of a resolution of a board of education requesting the revocation of a permanent exclusion of a pupil, the superintendent of public instruction, in accordance with the adjudication procedures of Chapter 119. of the Revised Code, shall issue an adjudication order that revokes the permanent exclusion of the pupil from public school attendance or that rejects the resolution of the board of education.

In-school suspension

STATUTES

3313.66. Suspension, expulsion or permanent exclusion - removal from curricular or extracurricular activities.

(A) Except as provided under division (B)(2) of this section, the superintendent of schools of a city, exempted village, or local school district, or the principal of a public school may suspend a pupil from school for not more than ten school days. The board of education of a city, exempted village, or local school district may adopt a policy granting assistant principals and other administrators the authority to suspend a pupil from school for a period of time as specified in the policy of the board of education, not to exceed ten school days. If at the time a suspension is imposed there are fewer than ten school days remaining in the school year in which the incident that gives rise to the suspension takes place, the superintendent may apply any remaining part or all of the period of the suspension to the following school

year. Except in the case of a pupil given an in-school suspension, no pupil shall be suspended unless prior to the suspension such superintendent or principal does both of the following:

(1) Gives the pupil written notice of the intention to suspend the pupil and the reasons for the intended suspension and, if the proposed suspension is based on a violation listed in division (A) of section 3313.662 of the Revised Code and if the pupil is sixteen years of age or older, includes in the notice a statement that the superintendent may seek to permanently exclude the pupil if the pupil is convicted of or adjudicated a delinquent child for that violation;

(2) Provides the pupil an opportunity to appear at an informal hearing before the principal, assistant principal, superintendent, or superintendent's designee and challenge the reason for the intended suspension or otherwise to explain the pupil's actions.

(K) As used in this section:

(1) "Permanently exclude" and "permanent exclusion" have the same meanings as in section 3313.662 of the Revised Code.

(2) "In-school suspension" means the pupil will serve all of the suspension in a school setting.

Return to school following removal

STATUTES

3313.662. Adjudication order permanently excluding pupil from public schools.

(F)(1)(a) Upon determining that the school attendance of a pupil who has been permanently excluded from public school attendance no longer will endanger the health and safety of other students or school employees, the superintendent of any city, local, exempted village, or joint vocational school district in which the pupil desires to attend school may issue to the board of education of the school district a recommendation, including the reasons for the recommendation, that the permanent exclusion of a pupil be revoked and the pupil be allowed to return to the public schools of the state. If any violation which in whole or in part gave rise to the permanent exclusion of any pupil involved the pupil’s bringing a firearm to a school operated by the board of education of a school district or onto any other property owned or operated by such a board, no superintendent shall recommend under this division an effective date for the revocation of the pupil’s permanent exclusion that is less than one year after the date on which the last such firearm incident occurred. However, on a case-by-case basis, a superintendent may recommend an earlier effective date for such a revocation for any of the reasons for which the superintendent may reduce the one-year expulsion requirement in division (B)(2) of section 3313.66 of the Revised Code.

Use of restraint and seclusion

No relevant statutes found.

Alternative placements

STATUTES

3313.533. Alternative school - plan.

(A) The board of education of a city, exempted village, or local school district may adopt a resolution to establish and maintain an alternative school in accordance with this section. The resolution shall specify, but not necessarily be limited to, all of the following:

(1) The purpose of the school, which purpose shall be to serve students who are on suspension, who are having truancy problems, who are experiencing academic failure, who have a history of class disruption, who are exhibiting other academic or behavioral problems specified in the resolution, or who have been discharged or released from the custody of the department of youth services under section 5139.51 of the Revised Code;

(2) The grades served by the school, which may include any of grades kindergarten through twelve;

(3) A requirement that the school be operated in accordance with this section. The board of education adopting the resolution under division (A) of this section shall be the governing board of the alternative school. The board shall develop and implement a plan for the school in accordance with the resolution establishing the school and in accordance with this section. Each plan shall include, but not necessarily be limited to, all of the following:

(a) Specification of the reasons for which students will be accepted for assignment to the school and any criteria for admission that are to be used by the board to approve or disapprove the assignment of students to the school;

(b) Specification of the criteria and procedures that will be used for returning students who have been assigned to the school back to the regular education program of the district;

(c) An evaluation plan for assessing the effectiveness of the school and its educational program and reporting the results of the evaluation to the public.

(B) Notwithstanding any provision of Title XXXIII of the Revised Code to the contrary, the alternative school plan may include any of the following:

(1) A requirement that on each school day students must attend school or participate in other programs specified in the plan or by the chief administrative officer of the school for a period equal to the minimum school day set by the state board of education under section 3313.48 of the Revised Code plus any additional time required in the plan or by the chief administrative officer;

(2) Restrictions on student participation in extracurricular or interscholastic activities;

(3) A requirement that students wear uniforms prescribed by the district board of education.

(C) In accordance with the alternative school plan, the district board of education may employ teachers and nonteaching employees necessary to carry out its duties and fulfill its responsibilities or may contract with a nonprofit or for profit entity to operate the alternative school, including the provision of personnel, supplies, equipment, or facilities.

(D) An alternative school may be established in all or part of a school building.

(E) If a district board of education elects under this section, or is required by section 3313.534 of the Revised Code, to establish an alternative school, the district board may join with the board of education of one or more other districts to form a joint alternative school by forming a cooperative education school district under section 3311.52 or 3311.521 of the Revised Code, or a joint educational program under section 3313.842 of the Revised Code. The authority to employ personnel or to contract with a nonprofit or for profit entity under division (C) of this section applies to any alternative school program established under this division.

(F) Any individual employed as a teacher at an alternative school operated by a nonprofit or for profit entity under this section shall be licensed and shall be subject to background checks, as described in section 3319.39 of the Revised Code, in the same manner as an individual employed by a school district.

3313.66. Suspension, expulsion, or permanent exclusion – removal from curricular or extracurricular activities.

(I) Whenever a student is expelled under this section, the expulsion shall result in removal of the student from the student's regular school setting. However, during the period of the expulsion, the board of

education of the school district that expelled the student or any board of education admitting the student during that expulsion period may provide educational services to the student in an alternative setting.

Disciplinary Approaches Addressing Specific Infractions and Conditions

Firearms (as required by the Guns-Free Schools Act)

STATUTES

3313.66. Suspension, expulsion or permanent exclusion - removal from curricular or extracurricular activities.

(B)(2)(a) Unless a pupil is permanently excluded pursuant to section 3313.662 of the Revised Code, the superintendent of schools of a city, exempted village, or local school district shall expel a pupil from school for a period of one year for bringing a firearm to a school operated by the board of education of the district or onto any other property owned or controlled by the board, except that the superintendent may reduce this requirement on a case-by-case basis in accordance with the policy adopted by the board under section 3313.661 of the Revised Code.

(b) The superintendent of schools of a city, exempted village, or local school district may expel a pupil from school for a period of one year for bringing a firearm to an interscholastic competition, an extracurricular event, or any other school program or activity that is not located in a school or on property that is owned or controlled by the district. The superintendent may reduce this disciplinary action on a case-by-case basis in accordance with the policy adopted by the board under section 3313.661 of the Revised Code.

(c) Any expulsion pursuant to division (B)(2) of this section shall extend, as necessary, into the school year following the school year in which the incident that gives rise to the expulsion takes place. As used in this division, “firearm” has the same meaning as provided pursuant to the “Gun-Free Schools Act,” 115 Stat. 1762, 20 U.S.C. 7151.

3313.661. Policy regarding suspension, expulsion, removal, and permanent exclusion.

(A) The board of education of each city, exempted village, and local school district shall adopt a policy regarding suspension, expulsion, removal, and permanent exclusion that specifies the types of misconduct for which a pupil may be suspended, expelled, or removed. The policy shall specify the reasons for which the superintendent of the district may reduce the expulsion requirement in division (B)(2) of section 3313.66 of the Revised Code. If a board of education adopts a resolution pursuant to division (B)(3) of section 3313.66 of the Revised Code, the policy shall define the term “knife” or “firearm,” as applicable, for purposes of expulsion under that resolution and shall specify any reasons for which the superintendent of the district may reduce any required expulsion period on a case-by-case basis. […]

Other weapons

STATUTES

3313.66. Suspension, expulsion or permanent exclusion - removal from curricular or extracurricular activities.

(B)(3) The board of education of a city, exempted village, or local school district may adopt a resolution authorizing the superintendent of schools to expel a pupil from school for a period not to exceed one year for bringing a knife to a school operated by the board, onto any other property owned or controlled by the board, or to an interscholastic competition, an extracurricular event, or any other program or

activity sponsored by the school district or in which the district is a participant, or for possessing a firearm or knife at a school, on any other property owned or controlled by the board, or at an interscholastic competition, an extracurricular event, or any other school program or activity, which firearm or knife was initially brought onto school board property by another person. The resolution may authorize the superintendent to extend such an expulsion, as necessary, into the school year following the school year in which the incident that gives rise to the expulsion takes place.

3313.661. Policy regarding suspension, expulsion, removal, and permanent exclusion.

(A) The board of education of each city, exempted village, and local school district shall adopt a policy regarding suspension, expulsion, removal, and permanent exclusion that specifies the types of misconduct for which a pupil may be suspended, expelled, or removed. The policy shall specify the reasons for which the superintendent of the district may reduce the expulsion requirement in division (B)(2) of section 3313.66 of the Revised Code. If a board of education adopts a resolution pursuant to division (B)(3) of section 3313.66 of the Revised Code, the policy shall define the term "knife" or "firearm," as applicable, for purposes of expulsion under that resolution and shall specify any reasons for which the superintendent of the district may reduce any required expulsion period on a case-by-case basis. […]

Students with chronic disciplinary issues

STATUTES

3313.534. Policy of zero tolerance for violent, disruptive or inappropriate behavior.

No later than July 1, 1998, the board of education of each city, exempted village, and local school district shall adopt a policy of zero tolerance for violent, disruptive, or inappropriate behavior, including excessive truancy, and establish strategies to address such behavior that range from prevention to intervention. No later than July 1, 1999, each of the big eight school districts, as defined in section 3314.02 of the Revised Code, shall establish under section 3313.533 of the Revised Code at least one alternative school to meet the educational needs of students with severe discipline problems, including, but not limited to, excessive truancy, excessive disruption in the classroom, and multiple suspensions or expulsions. Any other school district that attains after that date a significantly substandard graduation rate, as defined by the department of education shall also establish such an alternative school under that section.

Attendance and truancy

STATUTES

3313.609. Grade promotion and retention policy.

(A) As used in this section:

(1) "Truant" means absent without excuse.

(B) The board of education of each city, exempted village, local, and joint vocational school district shall adopt a grade promotion and retention policy for students that complies with this section and section 3313.608 of the Revised Code. The policy shall prohibit the promotion of a student to the next grade level if the student has been truant for more than ten per cent of the required attendance days of the current school year and has failed two or more of the required curriculum subject areas in the current grade unless the student's principal and the teachers of any failed subject areas agree that the student is academically prepared to be promoted to the next grade level.

3321.13. Duties of teacher and superintendent upon withdrawal or habitual absence of child from school - forms.

(A) Whenever any child of compulsory school age withdraws from school the teacher of that child shall ascertain the reason for withdrawal. The fact of the withdrawal and the reason for it shall be immediately transmitted by the teacher to the superintendent of schools of the city or exempted village school district or the educational service center as the case may be. If the child who has withdrawn from school has done so because of change of residence, the next residence shall be ascertained and shall be included in the notice thus transmitted. The superintendent shall thereupon forward a card showing the essential facts regarding the child and stating the place of the child's new residence to the superintendent of schools of the district to which the child has moved. The superintendent of public instruction may prescribe the forms to be used in the operation of this division.

(B)(1) Upon receipt of information that a child of compulsory school age has withdrawn from school for a reason other than because of change of residence and is not enrolled in and attending in accordance with school policy an approved program to obtain a diploma or its equivalent, the superintendent shall notify the registrar of motor vehicles and the juvenile judge of the county in which the district is located of the withdrawal and failure to enroll in and attend an approved program to obtain a diploma or its equivalent. A notification to the registrar required by this division shall be given in the manner the registrar by rule requires and a notification to the juvenile judge required by this division shall be given in writing. Each notification shall be given within two weeks after the withdrawal and failure to enroll in and attend an approved program or its equivalent.

(2) The board of education of a school district may adopt a resolution providing that the provisions of division (B)(2) of this section apply within the district. The provisions of division (B)(2) of this section do not apply within any school district, and no superintendent of a school district shall send a notification of the type described in division (B)(2) of this section to the registrar of motor vehicles or the juvenile judge of the county in which the district is located, unless the board of education of the district has adopted such a resolution. If the board of education of a school district adopts a resolution providing that the provisions of division (B)(2) of this section apply within the district, and if the superintendent of schools of that district receives information that, during any semester or term, a child of compulsory school age has been absent without legitimate excuse from the school the child is supposed to attend for more than ten consecutive school days or for at least fifteen total school days, the superintendent shall notify the child and the child's parent, guardian, or custodian, in writing, that the information has been provided to the superintendent, that as a result of that information the child's temporary instruction permit or driver's license will be suspended or the opportunity to obtain such a permit or license will be denied, and that the child and the child's parent, guardian, or custodian may appear in person at a scheduled date, time, and place before the superintendent or a designee to challenge the information provided to the superintendent. The notification to the child and the child's parent, guardian, or custodian required by division (B)(2) of this section shall set forth the information received by the superintendent and shall inform the child and the child's parent, guardian, or custodian of the scheduled date, time, and place of the appearance that they may have before the superintendent or a designee. The date scheduled for the appearance shall be no earlier than three and no later than five days after the notification is given, provided that an extension may be granted upon request of the child or the child's parent, guardian, or custodian. If an extension is granted, the superintendent shall schedule a new date, time, and place for the appearance and shall inform the child and the child's parent, guardian, or custodian of the new date, time, and place. If the child and the child's parent, guardian, or custodian do not appear before the superintendent or a designee on the scheduled date and at the scheduled time and place, or if the child and the child's parent, guardian, or custodian appear before the superintendent or a designee on the scheduled date and at the scheduled time and place but the superintendent or a designee determines that the information the superintendent received indicating

that, during the semester or term, the child had been absent without legitimate excuse from the school the child was supposed to attend for more than ten consecutive school days or for at least fifteen total school days, the superintendent shall notify the registrar of motor vehicles and the juvenile judge of the county in which the district is located that the child has been absent for that period of time and that the child does not have any legitimate excuse for the habitual absence. A notification to the registrar required by this division shall be given in the manner the registrar by rule requires and a notification to the juvenile judge required by this division shall be given in writing. Each notification shall be given within two weeks after the receipt of the information of the habitual absence from school without legitimate excuse, or, if the child and the child's parent, guardian, or custodian appear before the superintendent or a designee to challenge the information, within two weeks after the appearance. For purposes of division (B)(2) of this section, a legitimate excuse for absence from school includes, but is not limited to, the fact that the child in question has enrolled in another school or school district in this or another state, the fact that the child in question was excused from attendance for any of the reasons specified in section 3321.04 of the Revised Code, or the fact that the child in question has received an age and schooling certificate in accordance with section 3331.01 of the Revised Code.

(3) Whenever a pupil is suspended or expelled from school pursuant to section 3313.66 of the Revised Code and the reason for the suspension or expulsion is the use or possession of alcohol, a drug of abuse, or alcohol and a drug of abuse, the superintendent of schools of that district may notify the registrar and the juvenile judge of the county in which the district is located of such suspension or expulsion. Any such notification of suspension or expulsion shall be given to the registrar, in the manner the registrar by rule requires and shall be given to the juvenile judge in writing. The notifications shall be given within two weeks after the suspension or expulsion.

(4) Whenever a pupil is suspended, expelled, removed, or permanently excluded from a school for misconduct included in a policy that the board of education of a city, exempted village, or local school district has adopted under division (A) of section 3313.661 of the Revised Code, and the misconduct involves a firearm or a knife or other weapon as defined in that policy, the superintendent of schools of that district shall notify the registrar and the juvenile judge of the county in which the district is located of the suspension, expulsion, removal, or permanent exclusion. The notification shall be given to the registrar in the manner the registrar, by rule, requires and shall be given to the juvenile judge in writing. The notifications shall be given within two weeks after the suspension, expulsion, removal, or permanent exclusion.

(C) A notification of withdrawal, habitual absence without legitimate excuse, suspension, or expulsion given to the registrar or a juvenile judge under division (B)(1), (2), (3), or (4) of this section shall contain the name, address, date of birth, school, and school district of the child. If the superintendent finds, after giving a notification of withdrawal, habitual absence without legitimate excuse, suspension, or expulsion to the registrar and the juvenile judge under division (B)(1), (2), (3), or (4) of this section, that the notification was given in error, the superintendent immediately shall notify the registrar and the juvenile judge of that fact.

3321.19. Examination into cases of truancy - failure of parent, guardian or responsible person to cause child's attendance at school.

(A) As used in this section and section 3321.191 of the Revised Code:

(1) "Habitual truant" has the same meaning as in section 2151.011 of the Revised Code.

(2) "Chronic truant" has the same meaning as in section 2152.02 of the Revised Code.

(B) When a board of education of any city, exempted village, local, joint vocational, or cooperative education school district or the governing board of any educational service center determines that a student in its district has been truant and the parent, guardian, or other person having care of the child

has failed to cause the student's attendance at school, the board may require the parent, guardian, or other person having care of the child pursuant to division (B) of this section to attend an educational program established pursuant to rules adopted by the state board of education for the purpose of encouraging parental involvement in compelling the attendance of the child at school. No parent, guardian, or other person having care of a child shall fail without good cause to attend an educational program described in this division if the parent, guardian, or other person has been served notice pursuant to division (C) of this section.

(C) On the request of the superintendent of schools, the superintendent of any educational service center, the board of education of any city, exempted village, local, joint vocational, or cooperative education school district, or the governing board of any educational service center or when it otherwise comes to the notice of the attendance officer or other appropriate officer of the school district, the attendance officer or other appropriate officer shall examine into any case of supposed truancy within the district and shall warn the child, if found truant, and the child's parent, guardian, or other person having care of the child, in writing, of the legal consequences of being an habitual or chronic truant. When any child of compulsory school age, in violation of law, is not attending school, the attendance or other appropriate officer shall notify the parent, guardian, or other person having care of that child of the fact, and require the parent, guardian, or other person to cause the child to attend school immediately. The parent, guardian, or other person having care of the child shall cause the child's attendance at school. Upon the failure of the parent, guardian, or other person having care of the child to do so, the attendance officer or other appropriate officer, if so directed by the superintendent, the district board, or the educational service center governing board, shall send notice requiring the attendance of that parent, guardian, or other person at a parental education program established pursuant to division (B) of this section and, subject to divisions (D) and (E) of this section, may file a complaint against the parent, guardian, or other person having care of the child in any court of competent jurisdiction.

(D) Upon the failure of the parent, guardian, or other person having care of the child to cause the child's attendance at school, if the child is considered an habitual truant, the board of education of the school district or the governing board of the educational service center shall do either or both of the following:

(1) Take any appropriate action as an intervention strategy contained in the policy developed by the board pursuant to section 3321.191 of the Revised Code;

(2) File a complaint in the juvenile court of the county in which the child has a residence or legal settlement or in which the child is supposed to attend school jointly against the child and the parent, guardian, or other person having care of the child. A complaint filed in the juvenile court under this division shall allege that the child is an unruly child for being an habitual truant or is a delinquent child for being an habitual truant who previously has been adjudicated an unruly child for being an habitual truant and that the parent, guardian, or other person having care of the child has violated section 3321.38 of the Revised Code.

(E) Upon the failure of the parent, guardian, or other person having care of the child to cause the child's attendance at school, if the child is considered a chronic truant, the board of education of the school district or the governing board of the educational service center shall file a complaint in the juvenile court of the county in which the child has a residence or legal settlement or in which the child is supposed to attend school jointly against the child and the parent, guardian, or other person having care of the child. A complaint filed in the juvenile court under this division shall allege that the child is a delinquent child for being a chronic truant and that the parent, guardian, or other person having care of the child has violated section 3321.38 of the Revised Code.

4510.32. Suspension of license of minor upon withdrawal from school or habitual absence.

(A) The registrar of motor vehicles shall record within ten days of receipt and keep at the main office of the bureau of motor vehicles all information provided to the registrar by the superintendent of a school district in accordance with division (B) of section 3321.13 of the Revised Code.

(B) Whenever the registrar receives a notice under division (B) of section 3321.13 of the Revised Code, the registrar shall impose a class F suspension of the temporary instruction permit or driver's license of the person who is the subject of the notice for the period of time specified in division (B)(6) of section 4510.02 of the Revised Code, or, if the person has not been issued a temporary instruction permit or driver's license, the registrar shall deny to the person the issuance of a permit or license. The requirements of the second paragraph of section 119.06 of the Revised Code do not apply to a suspension of a person's temporary instruction permit or driver's license or a denial of a person's opportunity to obtain a temporary instruction permit or driver's license by the registrar under this division.

(C) Upon suspending the temporary instruction permit or driver's license of any person or denying any person the opportunity to be issued such a license or permit as provided in division (B) of this section, the registrar immediately shall notify the person in writing of the suspension or denial and inform the person that the person may petition for a hearing as provided in division (E) of this section.

(D) Any person whose permit or license is suspended under this section shall mail or deliver the person's permit or license to the registrar of motor vehicles within twenty days of notification of the suspension; however, the person's permit or license and the person's driving privileges shall be suspended immediately upon receipt of the notification. The registrar may retain the permit or license during the period of the suspension or the registrar may destroy it under section 4510.52 of the Revised Code.

(E) Any person whose temporary instruction permit or driver's license has been suspended, or whose opportunity to obtain such a permit or license has been denied pursuant to this section, may file a petition in the juvenile court in whose jurisdiction the person resides alleging error in the action taken by the registrar under division (B) of this section or alleging one or more of the matters within the scope of the hearing, as described in this division, or both. The petitioner shall notify the registrar and the superintendent of the school district who gave the notice to the registrar and juvenile judge under division (B) of section 3321.13 of the Revised Code of the filing of the petition and send them copies of the petition. The scope of the hearing is limited to the issues of whether the notice given by the superintendent to the registrar was in error and whether the suspension or denial of driving privileges will result in substantial hardship to the petitioner.

The registrar shall furnish the court a copy of the record created in accordance with division (A) of this section. The registrar and the superintendent shall furnish the court with any other relevant information required by the court.

In hearing the matter and determining whether the petitioner has shown that the petitioner's temporary instruction permit or driver's license should not be suspended or that the petitioner's opportunity to obtain such a permit or license should not be denied, the court shall decide the issue upon the information furnished by the registrar and the superintendent and any such additional evidence that the registrar, the superintendent, or the petitioner submits.

If the court finds from the evidence submitted that the petitioner has failed to show error in the action taken by the registrar under division (B) of this section and has failed to prove any of the matters within the scope of the hearing, then the court may assess the cost of the proceeding against the petitioner and shall uphold the suspension of the petitioner's permit or license or the denial of the petitioner's opportunity to obtain a permit or license. If the court finds that the petitioner has shown error in the action taken by the registrar under division (B) of this section or has proved one or more of the matters within the scope of the hearing, or both, the cost of the proceeding shall be paid out of the county treasury of the county in

which the proceedings were held, and the suspension of the petitioner's permit or license or the denial of the person's opportunity to obtain a permit or license shall be terminated.

(F) The registrar shall cancel the record created under this section of any person who is the subject of a notice given under division (B) of section3321.13 of the Revised Code and shall terminate the suspension of the person's permit or license or the denial of the person's opportunity to obtain a permit or license, if any of the following applies:

(1) The person is at least eighteen years of age.

(2) The person provides evidence, as the registrar shall require by rule, of receipt of a high school diploma or a general educational development certificate of high school equivalence.

(3) The superintendent of a school district informs the registrar that the notification of withdrawal, habitual absence without legitimate excuse, suspension, or expulsion concerning the person was in error.

(4) The suspension or denial was imposed subsequent to a notification given under division (B)(3) or (4) of section 3321.13 of the Revised Code, and the superintendent of a school district informs the registrar that the person in question has satisfied any terms or conditions established by the school as necessary to terminate the suspension or denial of driving privileges.

(5) The suspension or denial was imposed subsequent to a notification given under division (B)(1) of section 3321.13 of the Revised Code, and the superintendent of a school district informs the registrar that the person in question is now attending school or enrolled in and attending an approved program to obtain a diploma or its equivalent to the satisfaction of the school superintendent.

(6) The suspension or denial was imposed subsequent to a notification given under division (B)(2) of section 3321.13 of the Revised Code, the person has completed at least one semester or term of school after the one in which the notification was given, the person requests the superintendent of the school district to notify the registrar that the person no longer is habitually absent without legitimate excuse, the superintendent determines that the person has not been absent from school without legitimate excuse in the current semester or term, as determined under that division, for more than ten consecutive school days or for more than fifteen total school days, and the superintendent informs the registrar of that fact. If a person described in division (F)(6) of this section requests the superintendent of the school district to notify the registrar that the person no longer is habitually absent without legitimate excuse and the superintendent makes the determination described in this division, the superintendent shall provide the information described in division (F)(6) of this section to the registrar within five days after receiving the request.

(7) The suspension or denial was imposed subsequent to a notification given under division (B)(2) of section 3321.13 of the Revised Code, and the superintendent of a school district informs the registrar that the person in question has received an age and schooling certificate in accordance with section 3331.01 of the Revised Code.

(8) The person filed a petition in court under division (E) of this section and the court found that the person showed error in the action taken by the registrar under division (B) of this section or proved one or more of the matters within the scope of the hearing on the petition, as set forth in division (E) of this section, or both.

At the end of the suspension period under this section and upon the request of the person whose temporary instruction permit or driver's license was suspended, the registrar shall return the driver's license or permit to the person or reissue the person's license or permit under section 4510.52of the Revised Code, if the registrar destroyed the suspended license or permit under that section.

For definitions, see 2151.011 Juvenile court definitions.

Substance use

STATUTES

3321.13. Duties of teacher and superintendent upon withdrawal or habitual absence of child from school - forms.

(B)(3) Whenever a pupil is suspended or expelled from school pursuant to section 3313.66 of the Revised Code and the reason for the suspension or expulsion is the use or possession of alcohol, a drug of abuse, or alcohol and a drug of abuse, the superintendent of schools of that district may notify the registrar and the juvenile judge of the county in which the district is located of such suspension or expulsion. Any such notification of suspension or expulsion shall be given to the registrar, in the manner the registrar by rule requires and shall be given to the juvenile judge in writing. The notifications shall be given within two weeks after the suspension or expulsion.

Bullying, harassment, or hazing

STATUTES

3313.666. District policy prohibiting harassment, intimidation, or bullying required.

(B) The board of education of each city, local, exempted village, and joint vocational school district shall establish a policy prohibiting harassment, intimidation, or bullying. The policy shall be developed in consultation with parents, school employees, school volunteers, students, and community members. The policy shall include the following:

(1) A statement prohibiting harassment, intimidation, or bullying of any student on school property, on a school bus, or at school-sponsored events and expressly providing for the possibility of suspension of a student found responsible for harassment, intimidation, or bullying by an electronic act;

(2) A definition of harassment, intimidation, or bullying that includes the definition in division (A) of this section;

(3) A procedure for reporting prohibited incidents;

(4) A requirement that school personnel report prohibited incidents of which they are aware to the school principal or other administrator designated by the principal;

(5) A requirement that the custodial parent or guardian of any student involved in a prohibited incident be notified and, to the extent permitted by section 3319.321 of the Revised Code and the “Family Educational Rights and Privacy Act of 1974,” 88 Stat. 571, 20 U.S.C. 1232g, as amended, have access to any written reports pertaining to the prohibited incident;

(6) A procedure for documenting any prohibited incident that is reported;

(7) A procedure for responding to and investigating any reported incident;

(8) A strategy for protecting a victim or other person from new or additional harassment, intimidation, or bullying, and from retaliation following a report, including a means by which a person may report an incident anonymously;

(9) A disciplinary procedure for any student guilty of harassment, intimidation, or bullying, which shall not infringe on any student’s rights under the first amendment to the Constitution of the United States;

(10) A statement prohibiting students from deliberately making false reports of harassment, intimidation, or bullying and a disciplinary procedure for any student responsible for deliberately making a false report of that nature;

(11) A requirement that the district administration semiannually provide the president of the district board a written summary of all reported incidents and post the summary on its web site, if the district has a web site, to the extent permitted by section 3319.321 of the Revised Code and the "Family Educational Rights and Privacy Act of 1974," 88 Stat. 571, 20 U.S.C. 1232g, as amended.

3313.667. District bullying prevention initiatives.

(A) Any school district may form bullying prevention task forces, programs, and other initiatives involving volunteers, parents, law enforcement, and community members.

(B) To the extent that state or federal funds are appropriated for these purposes, each school district shall provide training, workshops, or courses on the district's harassment, intimidation, or bullying policy adopted pursuant to section 3313.666 of the Revised Code to school employees and volunteers who have direct contact with students and are not subject to section 3319.073 of the Revised Code. Time spent by school employees in the training, workshops, or courses shall apply towards any state- or district-mandated continuing education requirements.

Other special infractions or conditions

No relevant statutes found.

Prevention and Behavioral Interventions (Non-Punitive)

Prevention

STATUTES

3313.534. Policy of zero tolerance for violent, disruptive or inappropriate behavior.

No later than July 1, 1998, the board of education of each city, exempted village, and local school district shall adopt a policy of zero tolerance for violent, disruptive, or inappropriate behavior, including excessive truancy, and establish strategies to address such behavior that range from prevention to intervention. No later than July 1, 1999, each of the big eight school districts, as defined in section 3314.02 of the Revised Code, shall establish under section 3313.533 of the Revised Code at least one alternative school to meet the educational needs of students with severe discipline problems, including, but not limited to, excessive truancy, excessive disruption in the classroom, and multiple suspensions or expulsions. Any other school district that attains after that date a significantly substandard graduation rate, as defined by the department of education shall also establish such an alternative school under that section.

3313.667. District bullying prevention initiatives.

(A) Any school district may form bullying prevention task forces, programs, and other initiatives involving volunteers, parents, law enforcement, and community members.

(B) To the extent that state or federal funds are appropriated for these purposes, each school district shall provide training, workshops, or courses on the district's harassment, intimidation, or bullying policy adopted pursuant to section 3313.666 of the Revised Code to school employees and volunteers who have direct contact with students and are not subject to section 3319.073 of the Revised Code. Time spent by school employees in the training, workshops, or courses shall apply towards any state- or district-mandated continuing education requirements.

Behavioral interventions and student support services

STATUTES

3313.66. Suspension, expulsion or permanent exclusion - removal from curricular or extracurricular activities.

(B)(7)(D)… Any superintendent expelling a pupil under this section for more than twenty school days or for any period of time if the expulsion will extend into the following semester or school year shall, in the notice required under this division, provide the pupil and the pupil's parent, guardian, or custodian with information about services or programs offered by public and private agencies that work toward improving those aspects of the pupil's attitudes and behavior that contributed to the incident that gave rise to the pupil's expulsion. The information shall include the names, addresses, and phone numbers of the appropriate public and private agencies.

Professional development

STATUTES

3313.667. District bullying prevention initiatives.

(B) To the extent that state or federal funds are appropriated for these purposes, each school district shall provide training, workshops, or courses on the district's harassment, intimidation, or bullying policy adopted pursuant to section 3313.666 of the Revised Code to school employees and volunteers who have direct contact with students and are not subject to section 3319.073 of the Revised Code. Time spent by school employees in the training, workshops, or courses shall apply towards any state- or district-mandated continuing education requirements.

Monitoring and Accountability

Formal incident reporting of conduct violations

STATUTES

3319.45. Principal to report certain serious violations by pupil to superintendent and law enforcement officer.

If a principal of a public school in a city, local, exempted village, or joint vocational school district, acting in his official or professional capacity, has knowledge of or has observed a pupil committing a violation listed in division (A) of section 3313.662 of the Revised Code, regardless of whether or not the pupil was sixteen years of age or older at the time of the commission of the act or violation, and the violation was committed on property owned and controlled by, or at any activity held under the auspices of, the board of education of the school district, both of the following apply:

(A) The principal, within one school day after obtaining his knowledge of or observing the act or violation, shall report the violation to the superintendent of the school district in which the school is located or to the designee of the superintendent.

Parental notification

STATUTES

3313.66. Suspension, expulsion, or permanent exclusion – removal from curricular or extracurricular activities.

(B) (6) No pupil shall be expelled under division (B)(1), (2), (3), (4), or (5) of this section unless, prior to the pupil's expulsion, the superintendent does both of the following:

(a) Gives the pupil and the pupil's parent, guardian, or custodian written notice of the intention to expel the pupil;

(b) Provides the pupil and the pupil's parent, guardian, custodian, or representative an opportunity to appear in person before the superintendent or the superintendent's designee to challenge the reasons for the intended expulsion or otherwise to explain the pupil's actions. The notice required in this division shall include the reasons for the intended expulsion, notification of the opportunity of the pupil and the pupil's parent, guardian, custodian, or representative to appear before the superintendent or the superintendent's designee to challenge the reasons for the intended expulsion or otherwise to explain the pupil's action, and notification of the time and place to appear. The time to appear shall not be earlier than three nor later than five school days after the notice is given, unless the superintendent grants an extension of time at the request of the pupil or the pupil's parent, guardian, custodian, or representative. If an extension is granted after giving the original notice, the superintendent shall notify the pupil and the pupil's parent, guardian, custodian, or representative of the new time and place to appear. If the proposed expulsion is based on a violation listed in division (A) of section 3313.662 of the Revised Code and if the pupil is sixteen years of age or older, the notice shall include a statement that the superintendent may seek to permanently exclude the pupil if the pupil is convicted of or adjudicated a delinquent child for that violation.

(D) The superintendent or principal, within one school day after the time of a pupil's expulsion or suspension, shall notify in writing the parent, guardian, or custodian of the pupil and the treasurer of the board of education of the expulsion or suspension. The notice shall include the reasons for the expulsion or suspension, notification of the right of the pupil or the pupil's parent, guardian, or custodian to appeal

the expulsion or suspension to the board of education or to its designee, to be represented in all appeal proceedings, to be granted a hearing before the board or its designee in order to be heard against the suspension or expulsion, and to request that the hearing be held in executive session, notification that the expulsion may be subject to extension pursuant to division (F) of this section if the pupil is sixteen years of age or older, and notification that the superintendent may seek the pupil's permanent exclusion if the suspension or expulsion was based on a violation listed in division (A) of section 3313.662 of the Revised Code that was committed when the child was sixteen years of age or older and if the pupil is convicted of or adjudicated a delinquent child for that violation. In accordance with the policy adopted by the board of education under section 3313.661 of the Revised Code, the notice provided under this division shall specify the manner and date by which the pupil or the pupil's parent, guardian, or custodian shall notify the board of the pupil's, parent's, guardian's, or custodian's intent to appeal the expulsion or suspension to the board or its designee. Any superintendent expelling a pupil under this section for more than twenty school days or for any period of time if the expulsion will extend into the following semester or school year shall, in the notice required under this division, provide the pupil and the pupil's parent, guardian, or custodian with information about services or programs offered by public and private agencies that work toward improving those aspects of the pupil's attitudes and behavior that contributed to the incident that gave rise to the pupil's expulsion. The information shall include the names, addresses, and phone numbers of the appropriate public and private agencies.

3313.205. Notification of student's absence from school.

The board of education of each school district shall adopt a written policy with respect to the notification of a student's parents, parent who is the residential parent and legal custodian, guardian, or legal custodian or any other person responsible for the student within a reasonable time after the determination that the student is absent from school. The student's parents, parent who is the residential parent and legal custodian, guardian, or legal custodian or any other person responsible for the student shall provide the school that the student attends a current address and a telephone number at which the student's parents, parent who is the residential parent and legal custodian, guardian, or legal custodian or any other person that is responsible for the student can receive notice that the student is absent from school.

3321.13. Duties of teacher and superintendent upon withdrawal or habitual absence of child from school - forms.

(B)(2) The board of education of a school district may adopt a resolution providing that the provisions of division (B)(2) of this section apply within the district. The provisions of division (B)(2) of this section do not apply within any school district, and no superintendent of a school district shall send a notification of the type described in division (B)(2) of this section to the registrar of motor vehicles or the juvenile judge of the county in which the district is located, unless the board of education of the district has adopted such a resolution. If the board of education of a school district adopts a resolution providing that the provisions of division (B)(2) of this section apply within the district, and if the superintendent of schools of that district receives information that, during any semester or term, a child of compulsory school age has been absent without legitimate excuse from the school the child is supposed to attend for more than ten consecutive school days or for at least fifteen total school days, the superintendent shall notify the child and the child's parent, guardian, or custodian, in writing, that the information has been provided to the superintendent, that as a result of that information the child's temporary instruction permit or driver's license will be suspended or the opportunity to obtain such a permit or license will be denied, and that the child and the child's parent, guardian, or custodian may appear in person at a scheduled date, time, and place before the superintendent or a designee to challenge the information provided to the superintendent. The notification to the child and the child's parent, guardian, or custodian required by division (B)(2) of this section shall set forth the information received by the superintendent and shall inform the child and the

child's parent, guardian, or custodian of the scheduled date, time, and place of the appearance that they may have before the superintendent or a designee. […]

3321.19. Examination into cases of truancy - failure of parent, guardian or responsible person to cause child's attendance at school.

(C) On the request of the superintendent of schools, the superintendent of any educational service center, the board of education of any city, exempted village, local, joint vocational, or cooperative education school district, or the governing board of any educational service center or when it otherwise comes to the notice of the attendance officer or other appropriate officer of the school district, the attendance officer or other appropriate officer shall examine into any case of supposed truancy within the district and shall warn the child, if found truant, and the child's parent, guardian, or other person having care of the child, in writing, of the legal consequences of being an habitual or chronic truant. When any child of compulsory school age, in violation of law, is not attending school, the attendance or other appropriate officer shall notify the parent, guardian, or other person having care of that child of the fact, and require the parent, guardian, or other person to cause the child to attend school immediately. […]

Reporting and referrals between schools and law enforcement

STATUTES

3319.45. Principal to report certain serious violations by pupil to superintendent and law enforcement officer.

If a principal of a public school in a city, local, exempted village, or joint vocational school district, acting in his official or professional capacity, has knowledge of or has observed a pupil committing a violation listed in division (A) of section 3313.662 of the Revised Code, regardless of whether or not the pupil was sixteen years of age or older at the time of the commission of the act or violation, and the violation was committed on property owned and controlled by, or at any activity held under the auspices of, the board of education of the school district, both of the following apply:

(A) The principal, within one school day after obtaining his knowledge of or observing the act or violation, shall report the violation to the superintendent of the school district in which the school is located or to the designee of the superintendent.

(B) The principal, within a reasonable period of time after obtaining his knowledge of or observing the act or violation, may report the act or violation to a law enforcement officer of the jurisdiction in which the violation occurred or, if the pupil is a juvenile, report the violation to either a law enforcement officer of the jurisdiction in which the act occurred or in the jurisdiction in which the pupil resides.

3319.321. Confidentiality.

(E) A principal or chief administrative officer of a public school, or any employee of a public school who is authorized to handle school records, shall provide access to a student's records to a law enforcement officer who indicates that the officer is conducting an investigation and that the student is or may be a missing child, as defined in section 2901.30 of the Revised Code. Free copies of information in the student's record shall be provided, upon request, to the law enforcement officer, if prior approval is given by the student's parent, guardian, or legal custodian. Information obtained by the officer shall be used solely in the investigation of the case. The information may be used by law enforcement agency personnel in any manner that is appropriate in solving the case, including, but not limited to, providing the information to other law enforcement officers and agencies and to the bureau of criminal identification and investigation for purposes of computer integration pursuant to section 2901.30 of the Revised Code.

3321.13. Duties of teacher and superintendent upon withdrawal or habitual absence of child from school - forms.

(B)(1) Upon receipt of information that a child of compulsory school age has withdrawn from school for a reason other than because of change of residence and is not enrolled in and attending in accordance with school policy an approved program to obtain a diploma or its equivalent, the superintendent shall notify the registrar of motor vehicles and the juvenile judge of the county in which the district is located of the withdrawal and failure to enroll in and attend an approved program to obtain a diploma or its equivalent. A notification to the registrar required by this division shall be given in the manner the registrar by rule requires and a notification to the juvenile judge required by this division shall be given in writing. Each notification shall be given within two weeks after the withdrawal and failure to enroll in and attend an approved program or its equivalent.

(4) Whenever a pupil is suspended, expelled, removed, or permanently excluded from a school for misconduct included in a policy that the board of education of a city, exempted village, or local school district has adopted under division (A) of section 3313.661 of the Revised Code, and the misconduct involves a firearm or a knife or other weapon as defined in that policy, the superintendent of schools of that district shall notify the registrar and the juvenile judge of the county in which the district is located of the suspension, expulsion, removal, or permanent exclusion. The notification shall be given to the registrar in the manner the registrar, by rule, requires and shall be given to the juvenile judge in writing. The notifications shall be given within two weeks after the suspension, expulsion, removal, or permanent exclusion.

3321.19. Examination into cases of truancy - failure of parent, guardian or responsible person to cause child's attendance at school.

(E) Upon the failure of the parent, guardian, or other person having care of the child to cause the child's attendance at school, if the child is considered a chronic truant, the board of education of the school district or the governing board of the educational service center shall file a complaint in the juvenile court of the county in which the child has a residence or legal settlement or in which the child is supposed to attend school jointly against the child and the parent, guardian, or other person having care of the child. A complaint filed in the juvenile court under this division shall allege that the child is a delinquent child for being a chronic truant and that the parent, guardian, or other person having care of the child has violated section 3321.38 of the Revised Code.

Disclosure of school records

STATUTES

3319.321. Confidentiality.

(A) No person shall release, or permit access to, the directory information concerning any students attending a public school to any person or group for use in a profit-making plan or activity. Notwithstanding division (B)(4) of section 149.43 of the Revised Code, a person may require disclosure of the requestor's identity or the intended use of the directory information concerning any students attending a public school to ascertain whether the directory information is for use in a profit-making plan or activity.

(B) No person shall release, or permit access to, personally identifiable information other than directory information concerning any student attending a public school, for purposes other than those identified in division (C), (E), (G), or (H) of this section, without the written consent of the parent, guardian, or custodian of each such student who is less than eighteen years of age, or without the written consent of each such student who is eighteen years of age or older.

(1) For purposes of this section, "directory information" includes a student's name, address, telephone listing, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, date of graduation, and awards received.

(2)(a) Except as provided in division (B)(2)(b) of this section, no school district board of education shall impose any restriction on the presentation of directory information that it has designated as subject to release in accordance with the "Family Educational Rights and Privacy Act of 1974," 88 Stat. 571, 20 U.S.C. 1232q, as amended, to representatives of the armed forces, business, industry, charitable institutions, other employers, and institutions of higher education unless such restriction is uniformly imposed on each of these types of representatives, except that if a student eighteen years of age or older or a student's parent, guardian, or custodian has informed the board that any or all such information should not be released without such person's prior written consent, the board shall not release that information without such person's prior written consent.

(b) The names and addresses of students in grades ten through twelve shall be released to a recruiting officer for any branch of the United States armed forces who requests such information, except that such data shall not be released if the student or student's parent, guardian, or custodian submits to the board a written request not to release such data. Any data received by a recruiting officer shall be used solely for the purpose of providing information to students regarding military service and shall not be released to any person other than individuals within the recruiting services of the armed forces.

(3) Except for directory information and except as provided in division (E), (G), or (H) of this section, information covered by this section that is released shall only be transferred to a third or subsequent party on the condition that such party will not permit any other party to have access to such information without written consent of the parent, guardian, or custodian, or of the student who is eighteen years of age or older.

(4) Except as otherwise provided in this section, any parent of a student may give the written parental consent required under this section. Where parents are separated or divorced, the written parental consent required under this section may be obtained from either parent, subject to any agreement between such parents or court order governing the rights of such parents. In the case of a student whose legal guardian is in an institution, a person independent of the institution who has no other conflicting interests in the case shall be appointed by the board of education of the school district in which the institution is located to give the written parental consent required under this section.

(5)(a) A parent of a student who is not the student's residential parent, upon request, shall be permitted access to any records or information concerning the student under the same terms and conditions under which access to the records or information is available to the residential parent of that student, provided that the access of the parent who is not the residential parent is subject to any agreement between the parents, to division (F) of this section, and, to the extent described in division (B)(5)(b) of this section, is subject to any court order issued pursuant to section 3109.051 of the Revised Code and any other court order governing the rights of the parents.

(b) If the residential parent of a student has presented the keeper of a record or information that is related to the student with a copy of an order issued under division (H)(1) of section 3109.051 of the Revised Code that limits the terms and conditions under which the parent who is not the residential parent of the student is to have access to records and information pertaining to the student or with a copy of any other court order governing the rights of the parents that so limits those terms and conditions, and if the order pertains to the record or information in question, the keeper of the record or information shall provide access to the parent who is not the residential parent only to the extent authorized in the order. If the residential parent has presented the keeper of the record or information

with such an order, the keeper of the record shall permit the parent who is not the residential parent to have access to the record or information only in accordance with the most recent such order that has been presented to the keeper by the residential parent or the parent who is not the residential parent.

(C) Nothing in this section shall limit the administrative use of public school records by a person acting exclusively in the person's capacity as an employee of a board of education or of the state or any of its political subdivisions, any court, or the federal government, and nothing in this section shall prevent the transfer of a student's record to an educational institution for a legitimate educational purpose. However, except as provided in this section, public school records shall not be released or made available for any other purpose. Fingerprints, photographs, or records obtained pursuant to section 3313.96 or 3319.322 of the Revised Code, or pursuant to division (E) of this section, or any medical, psychological, guidance, counseling, or other information that is derived from the use of the fingerprints, photographs, or records, shall not be admissible as evidence against the minor who is the subject of the fingerprints, photographs, or records in any proceeding in any court. The provisions of this division regarding the administrative use of records by an employee of the state or any of its political subdivisions or of a court or the federal government shall be applicable only when the use of the information is required by a state statute adopted before November 19, 1974, or by federal law.

(D) A board of education may require, subject to division (E) of this section, a person seeking to obtain copies of public school records to pay the cost of reproduction and, in the case of data released under division (B)(2)(b) of this section, to pay for any mailing costs, which payment shall not exceed the actual cost to the school.

(E) A principal or chief administrative officer of a public school, or any employee of a public school who is authorized to handle school records, shall provide access to a student's records to a law enforcement officer who indicates that the officer is conducting an investigation and that the student is or may be a missing child, as defined in section 2901.30 of the Revised Code. Free copies of information in the student's record shall be provided, upon request, to the law enforcement officer, if prior approval is given by the student's parent, guardian, or legal custodian. Information obtained by the officer shall be used solely in the investigation of the case. The information may be used by law enforcement agency personnel in any manner that is appropriate in solving the case, including, but not limited to, providing the information to other law enforcement officers and agencies and to the bureau of criminal identification and investigation for purposes of computer integration pursuant to section 2901.30 of the Revised Code.

(F) No person shall release to a parent of a student who is not the student's residential parent or to any other person, or permit a parent of a student who is not the student's residential parent or permit any other person to have access to, any information about the location of any elementary or secondary school to which a student has transferred or information that would enable the parent who is not the student's residential parent or the other person to determine the location of that elementary or secondary school, if the elementary or secondary school to which the student has transferred and that requested the records of the student under section 3313.672 of the Revised Code informs the elementary or secondary school from which the student's records are obtained that the student is under the care of a shelter for victims of domestic violence, as defined in section 3113.33 of the Revised Code.

(G) A principal or chief administrative officer of a public school, or any employee of a public school who is authorized to handle school records, shall comply with any order issued pursuant to division (D)(1) of section 2151.14 of the Revised Code, any request for records that is properly made pursuant to division (D)(3)(a) of section 2151.14 or division (A) of section 2151.141 of the Revised Code, and any determination that is made by a court pursuant to division (D)(3)(b) of section 2151.14 or division (B)(1) of section 2151.141 of the Revised Code.

(H) Notwithstanding any provision of this section, a principal of a public school, to the extent permitted by the "Family Educational Rights and Privacy Act of 1974," shall make the report required in section 3319.45 of the Revised Code that a pupil committed any violation listed in division (A) of section 3313.662 of the Revised Code on property owned or controlled by, or at an activity held under the auspices of, the board of education, regardless of whether the pupil was sixteen years of age or older. The principal is not required to obtain the consent of the pupil who is the subject of the report or the consent of the pupil's parent, guardian, or custodian before making a report pursuant to section 3319.45 of the Revised Code.

Data collection, review, and reporting of disciplinary policies and actions

STATUTES

3313.666. District policy prohibiting harassment, intimidation, or bullying required.

(B) The board of education of each city, local, exempted village, and joint vocational school district shall establish a policy prohibiting harassment, intimidation, or bullying. The policy shall be developed in consultation with parents, school employees, school volunteers, students, and community members. The policy shall include the following:

(11) A requirement that the district administration semiannually provide the president of the district board a written summary of all reported incidents and post the summary on its web site, if the district has a web site, to the extent permitted by section 3319.321 of the Revised Code and the “Family Educational Rights and Privacy Act of 1974,” 88 Stat. 571, 20 U.S.C. 1232g, as amended.

School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers

Authority and power to implement school arrest

STATUTES

3321.14 Attendance officer - pupil-personnel workers.

Notwithstanding division (D) of section 3311.19 and division (D) of section 3311.52 of the Revised Code, the provisions of this section and sections3321.15 to 3321.21 of the Revised Code that apply to a city school district or its superintendent do not apply to any joint vocational or cooperative education school district or its superintendent unless otherwise specified. The board of education of every city school district and of every exempted village school district shall employ an attendance officer, and may employ or appoint any assistants that the board deems advisable. In cities of one hundred thousand population or over, the board may appoint, subject to the nomination of the superintendent of schools, one or more pupil-personnel workers and make provision for the traveling expenses within the school district of those employees.

3321.15 Educational service center attendance officer and assistants.

Every governing board of an educational service center shall employ an educational service center attendance officer, and may employ or appoint such assistants as the board deems advisable. The compensation and necessary traveling expenses of such attendance officer and assistants shall be paid out of the educational service center governing board fund. With the consent and approval of the judge of the juvenile court, a probation officer of the court may be designated as the service center attendance officer or as an assistant. The compensation of the probation officers of the juvenile court so designated shall be fixed and paid in the same manner as salaries of other probation officers of the juvenile court; their traveling expenses as attendance officers which would not be incurred as probation officers shall be paid out of the educational service center governing board fund. In addition to the compensation provided in this section the board may pay such additional compensation as it deems advisable, to any probation officer designated as attendance officer and such additional amount shall be paid from the educational service center governing board fund. The attendance officer and assistants shall work under the direction of the educational service center superintendent. The authority of such attendance officer and assistants shall extend to all the local school districts served by the service center. This section does not confine their authority to investigate employment to that within the territory of the service center.

3321.19. Examination into cases of truancy - failure of parent, guardian or responsible person to cause child's attendance at school.

(C) On the request of the superintendent of schools, the superintendent of any educational service center, the board of education of any city, exempted village, local, joint vocational, or cooperative education school district, or the governing board of any educational service center or when it otherwise comes to the notice of the attendance officer or other appropriate officer of the school district, the attendance officer or other appropriate officer shall examine into any case of supposed truancy within the district and shall warn the child, if found truant, and the child's parent, guardian, or other person having care of the child, in writing, of the legal consequences of being an habitual or chronic truant. When any child of compulsory school age, in violation of law, is not attending school, the attendance or other appropriate officer shall notify the parent, guardian, or other person having care of that child of the fact, and require the parent, guardian, or other person to cause the child to attend school immediately. The parent, guardian, or other

person having care of the child shall cause the child's attendance at school. Upon the failure of the parent, guardian, or other person having care of the child to do so, the attendance officer or other appropriate officer, if so directed by the superintendent, the district board, or the educational service center governing board, shall send notice requiring the attendance of that parent, guardian, or other person at a parental education program established pursuant to division (B) of this section and, subject to divisions (D) and (E) of this section, may file a complaint against the parent, guardian, or other person having care of the child in any court of competent jurisdiction.

Certification or training

No relevant statutes found.

MOUs, authorization, and/or funding

No relevant statutes found.

State Education Agency Support

State model policies and implementation support

No relevant statutes found.

Funding appropriations

No relevant statutes found.

Other/Uncategorized

Professional immunity or liability

No relevant statutes found.

Community input or involvement

No relevant statutes found.

Other/Uncategorized

STATUTES

3313.661. Policy regarding suspension, expulsion, removal, and permanent exclusion.

(B) A board of education may establish a program and adopt guidelines under which a superintendent may require a pupil to perform community service in conjunction with a suspension or expulsion imposed under section 3313.66 of the Revised Code or in place of a suspension or expulsion imposed under section 3313.66 of the Revised Code except for an expulsion imposed pursuant to division (B)(2) of that section. If a board adopts guidelines under this division, they shall permit, except with regard to an expulsion pursuant to division (B)(2) of section 3313.66 of the Revised Code, a superintendent to impose a community service requirement beyond the end of the school year in lieu of applying the suspension or expulsion into the following school year. Any guidelines adopted shall be included in the policy adopted under this section.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by Ohio provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
Website		
Anti-Harassment, Anti-Intimidation or Anti-Bullying Model Policy	State Board of Education anti-harassment, anti-intimidation, or anti-bullying model policy	http://education.ohio.gov/Topics/Other-Resources/School-Safety/Safe-and-Supportive-Learning/Anti-Harassment-Intimidation-and-Bullying-Model-Po
Documents		
No relevant resources found		
Other Resources		
No relevant resources found		

Oklahoma Compilation of School Discipline Laws and Regulations

Prepared: August 12, 2013

Introduction

This compilation presents school discipline-related state statutes, school discipline-related regulations, and, where available, links to state-sponsored websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSLE). For example, one major category encompasses all state laws or regulations mandating specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of state legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in each state.

Discipline categories were not mutually exclusive. Statutes and regulations often appeared across multiple categories. For states with more extensive statutes covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. State laws, ordered by chapter and section number, appear first within each category followed by state regulations. All statutes and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists statutes by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to state-sponsored websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of May 2013, with the exception of the state laws related to seclusion and restraint, which are complete and current as of December 2012. Readers should also note that the information in this document was compiled from individual state sources that are created by each state and which are maintained and updated with varying frequencies. Readers should consult the source information provided for each state directly in order to check for updates to this state's laws and regulations or conduct further research.

For further information, including definitions of the different policy categories, please refer to the Discipline Laws and Regulations Compendium posted on the Center's website.

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Safe Supportive Learning
Engagement | Safety | Environment

Table of Contents

Oklahoma State Codes Cited **1**

General Provisions **3**

Authority to develop and establish rules of conduct 3
Scope 4
Communication of Policy 4

In-School Discipline **6**

Use of multi-tiered discipline approaches 6
Teacher authority to remove students from classrooms 6
Alternatives to suspension 6
Use of corporal punishment 6
Use of student and locker searches 6
Other in-school disciplinary approaches 7

Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements **8**

Grounds for possible suspension or expulsion 8
Grounds for mandatory suspension or expulsion 8
Limitations, conditions, or exclusions for use of suspension and expulsion 9
Administrative procedures related to suspensions and expulsion 9
In-school suspension 11
Return to school following removal 11
Use of restraint and seclusion 11
Alternative Placements 11

Disciplinary Approaches Addressing Specific Infractions and Conditions **13**

Other weapons 14
Students with chronic disciplinary issues 15
Attendance and truancy 15
Substance use 17
Bullying, harassment, or hazing 19
Other special infractions or conditions 22

Prevention and Behavioral Interventions (Non-Punitive) **24**

Prevention 24
Behavioral interventions and student support services 28
Professional development 28

Monitoring and Accountability **30**

Formal incident reporting of conduct violations 30
Parental notification 31
Reporting and referrals between schools and law enforcement 31
Disclosure of school records 32
Data collection, review, and reporting of disciplinary policies and actions 33

School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers 35
Authority and power to implement school arrest 35
Certification or training 36
MOUs, authorization and/or funding 36
State Education Agency Support 38
State model policies and implementation support 38
Funding appropriations 38
Other/Uncategorized 39
Professional immunity or liability 39
Community input or involvement 39
Other/uncategorized 40
State-Sponsored, Publicly Available Websites or Other Resources on School Discipline 41

Oklahoma State Codes Cited

Oklahoma Revised Statutes

School Laws of Oklahoma

Title 70. Schools

Chapter 1. Oklahoma School Code

Article IV. School Districts and Boards of Education

70 O.S. § 5-146.1.	Reporting suspected gang activity

Article V. Teachers

70 O.S. § 6-113.1.	Alternatives to corporal punishment
70 O.S. § 6-115.	Information concerning pupil
70 O.S. § 6-146.	Student assault on education employee - Suspension
70 O.S. § 6-185.	Competencies and methods

Article IX. School Population and Attendance

70 O.S. § 10-101.	Attendance officer—Assistants
70 O.S. § 10-102.1.	Police as attendance officers
70 O.S. § 10-105.	Neglect or refusal to compel child to attend school - Exceptions
70 O.S. § 10-106.	Records of attendance of pupil
70 O.S. § 10-107.	Rules and regulations
70 O.S. § 10-108.	Necessary travel expenses
70 O.S. § 10-109.	Temporary detention and custody of children subject to compulsory attendance law

Article XXII. Miscellaneous

70 O.S. § 24-100.1.	Prevention of violence services
70 O.S. §24-100.3.	School bullying prevention act – Purpose and definitions
70 O.S. § 24-100.4.	Control and discipline of child
70 O.S. § 24-100.5.	Safe school committee
70 O.S. § 24-100.6.	Right of student victims to be separated from offender – Notice to school district of juvenile sex offender identity – School attendance of juvenile sex offender
70 O.S. § 24-101.1.	Wireless telecommunication devices – Prohibited
70 O.S. § 24-101.3.	Student suspensions
70 O.S. § 24-101.4.	Disciplinary and educational records
70 O.S. § 24-102.	Pupils – Searches
70 O.S. § 24-120.	Truancy - Reports to Department of Public Welfare - Withholding of assistance payments
70 O.S. § 24-132.	School officials immune from liability for making certain reports
70 O.S. § 24-138.	Students under Influence of nonintoxicating beverage, alcoholic beverage or controlled dangerous substance written policy

Chapter 7. Students

Article I. Students

21 O.S. § 1242.	Refusal of minor to furnish information concerning acquisition of cigarettes, cigarette papers, cigars, snuff, chewing tobacco or other tobacco products
21 O.S. § 844.	Ordinary force for discipline of children permitted

Chapter 8. Instruction

Article IV. Drug Abuse Education Act

70 O.S.§ 1210.222.	"Drug" defined
70 O.S.§ 1210.223.	Purpose of act
70 O.S.§ 1210.224.	Administration of act
70 O.S.§ 1210.225.	Implementation
70 O.S.§ 1210.227.	Funds
70 O.S.§ 1210.229-2.	Legislative findings and intent
70 O.S.§ 1210.229-3.	Definitions
70 O.S.§ 1210.229-5.	State Superintendent of Public Instruction and State Department of Education--Coordination with Oklahoma Drug and Alcohol Abuse Policy Board--Joint duties

Chapter 12. Safety and Security

Article I. Weapons

21 O.S § 1280.1.	Possession of firearm on school property

Article VIII. Certified Healthy Schools

70 O.S. § 1210.241.	Evidence-based counseling curriculum for certain family and societal issues

Oklahoma Administrative Code

Title 210. State Department of Education

Chapter 10. School Administration and Instructional Services

Subchapter 1. General Provisions

210:10-1-20.	Implementation of policies prohibiting harassment, intimidation, and bullying

General Provisions

Authority to develop and establish rules of conduct

STATUTES

70 O.S. § 24-100.4 Control and Discipline of Child

A. Each district board of education shall adopt a policy for the control and discipline of all children attending public school in that district, and for the investigation of reported incidents of harassment, intimidation, bullying, or threatening behavior. Such policy shall provide options for the methods of control and discipline of the students and shall define standards of conduct to which students are expected to conform.

70 O.S § 24-101.1. Wireless telecommunication devices—Prohibited

The board of education of each school district shall establish and implement rules regarding student possession of a wireless telecommunication device while said student is on school premises, or while in transit under the authority of the school, or while attending any function sponsored or authorized by the school. The rules shall provide that a student may possess a wireless telecommunication device upon the prior consent of both a parent or guardian and school principal or superintendent and shall also specify the disciplinary action a student shall face if found to be in possession of a wireless telecommunication device in violation of the rules.

70 O.S § 24-101.3 Student suspension

A. […] Each school district board of education shall adopt a policy with procedures which provides for out-of-school suspension of students. The policy shall address the term of the out-of-school suspension, provide an appeals process as described in subsection B of this section […] The policy shall address education for students subject to the provisions of subsection D of this section and whether participation in extracurricular activities shall be permitted.

ADMINISTRATIVE CODE

210:10-1-20. Implementation of policies prohibiting harassment, intimidation, and bullying

(c) Implementation. Each district board of education shall adopt a policy for the control and discipline of all children attending public school in that district. Such policy shall set forth investigative procedures of reported incidents of harassment, intimidation, bullying or threatening behavior. Such policy shall provide options for the methods of control and discipline of the students and shall define standards of conduct to which students are expected to conform, which may include a detailed description of a graduated range of consequences and sanctions for bullying. The policy adopted by each district board of education shall include and/or establish the following:

(1) Specifically prohibit threatening behavior, harassment, intimidation, and bullying by students at school and by electronic communication. Electronic communication shall be prohibited whether or not such communication originated at school or with school equipment, if the communication is specifically directed at students or school personnel and concerns harassment, intimidation, or bullying at school.

(2) Address prevention of and education about threatening behavior, harassment, intimidation, and bullying.

(3) A procedure for the investigation of harassment, intimidation, bullying or threatening behavior reported to school officials for the purpose of determining the severity of the incidents and their potential to result in future violence.

(4) A procedure which provides, upon the completion of an investigation, that a school may recommend that available community mental health care options be provide to the student, if appropriate. This may include information about the types of support services available to the student bully, victim, and any other students affected by the prohibited behavior.

(5) A procedure whereby a school may request the disclosure of any information concerning students who have received mental health care pursuant to sub-section (4) of this rule that indicates an explicit threat to the safety of students or school personnel provided, the disclosure of information does not violate the provisions or requirements of the Family Educational Rights and Privacy Act of 1974, the Health Insurance Portability and Accountability Act of 1996, Section 2503 of Title 12 of the Oklahoma Statutes, Section 1376 of Title 59 of Oklahoma Statutes, or any other state or federal laws relating to the disclosure of confidential information.

Scope

STATUTES

70 O.S § 24-100.3. School Bullying Prevention Act – Purpose and Definitions

C. As used in the School Bullying Prevention Act:

1. "Harassment, intimidation, and bullying" means any gesture, written or verbal expression, electronic communication, or physical act that a reasonable person should know will harm another student, damage another student's property, place another student in reasonable fear of harm to the student's person or damage to the student's property, or insult or demean any student or group of students in such a way as to disrupt or interfere with the school's educational mission or the education of any student. "Harassment, intimidation, and bullying" include, but are not limited to, gestures or written, verbal, or physical acts, or electronic communications;
2. "At school" means on school grounds, in school vehicles, at designated school bus stops, at school-sponsored activities, or at school-sanctioned events;

ADMINISTRATIVE CODE

210:10-1-20. Implementation of policies prohibiting harassment, intimidation, and bullying

(5) Scope. Threatening behavior, harassment, intimidation, and bullying is prohibited on school grounds, in school vehicles, at designated bus stops, at school-sponsored activities, or at school-sanctioned events. Threatening behavior, harassment, intimidation, and bullying by electronic communication is prohibited whether or not such communication originated at school, or with school equipment, if the communication is specifically directed at students or school personnel and concerns harassment, intimidation, or bullying at school.

Communication of Policy

STATUTES

70 O.S § 24-100.4 Control and Discipline of Child

[…] In developing the policy, the district board of education shall make an effort to involve the teachers, parents, and students affected. The students, teachers, and parents or guardian of every child residing

within a school district shall be notified by the district board of education of its adoption of the policy and shall receive a copy upon request. Provided, the teacher of a child attending a public school shall have the same right as a parent or guardian to control and discipline such child according to district policies during the time the child is in attendance or in transit to or from the school or any other school function authorized by the school district or classroom presided over by the teacher.

70 O.S § 24-102 Pupils – Searches.

[…] Schools shall inform pupils in the student discipline code that they have no reasonable expectation of privacy rights towards school officials in school lockers, desks, or other school property.

70 O.S § 1210.229-5. State Superintendent of Public Instruction and State Department of Education--Coordination with Oklahoma Drug and Alcohol Abuse Policy Board--Joint duties

B. The State Department of Education shall distribute information or reports provided by the Oklahoma Drug and Alcohol Abuse Policy Board, to each school district and, upon request, to members of the public. Upon request of the chief administrator of a school or school district, the Department shall provide technical assistance to schools and school districts to implement policies and programs pursuant to guidelines provided by the Oklahoma Drug and Alcohol Abuse Policy Board and shall provide a clearinghouse program accessible by school districts to provide information about life skills and drug and alcohol abuse prevention curricula and programs.

ADMINISTRATIVE CODE

210:10-1-20. Implementation of policies prohibiting harassment, intimidation, and bullying

(e) Policy Development. In developing a district policy, each district board of education shall make an effort to involve teachers, parents, and students. The students, teachers, and parents or guardian of every child residing within a school district shall be notified by the district board of education of the adoption of the policy and shall receive a copy upon request.

In-School Discipline

Use of multi-tiered discipline approaches

No relevant statutes found.

Teacher authority to remove students from classrooms

No relevant statutes found.

Alternatives to suspension

No relevant statutes found.

Use of corporal punishment

STATUTES

70 O.S § 6-113.1. Alternatives to Corporal Punishment

The State Department of Education shall provide each local board of education materials dealing with effective classroom discipline techniques as an alternative to the use of corporal punishment.

70 O.S § 24-100.4. Control and discipline of child

B. Except concerning students on individualized education plans (IEP) pursuant to the Individuals with Disabilities Education Act (IDEA), P.L. No. 101-476, the State Board of Education shall not have authority to prescribe student disciplinary policies for school districts or to proscribe corporal punishment in the public schools. The State Board of Education shall not have authority to require school districts to file student disciplinary action reports more often than once each year and shall not use disciplinary action reports in determining a school district's or school site's eligibility for program assistance including competitive grants.

21 O.S. § 844. Ordinary Force for Discipline of Children Permitted

Provided, however, that nothing contained in this act shall prohibit any parent, teacher or other person from using ordinary force as a means of discipline, including but not limited to spanking, switching or paddling.

Use of student and locker searches

STATUTES

70 O.S § 24-102. Pupils—Searches

The superintendent, principal, teacher, or security personnel of any public school in the State of Oklahoma, upon reasonable suspicion, shall have the authority to detain and search or authorize the search, of any pupil or property in the possession of the pupil when said pupil is on any school premises, or while in transit under the authority of the school, or while attending any function sponsored or authorized by the school, for dangerous weapons, controlled dangerous substances, as defined in the Uniform Controlled Dangerous Substances Act, intoxicating beverages, low-point beer, as defined by Section 163.2 of Title 37 of the Oklahoma Statutes, or for missing or stolen property if said property be

reasonably suspected to have been taken from a pupil, a school employee or the school during school activities. The search shall be conducted by a person of the same sex as the person being searched and shall be witnessed by at least one other authorized person, said person to be of the same sex if practicable.

The extent of any search conducted pursuant to this section shall be reasonably related to the objective of the search and not excessively intrusive in light of the age and sex of the student and the nature of the infraction. In no event shall a strip search of a student be allowed. No student's clothing, except cold weather outerwear, shall be removed prior to or during the conduct of any warrantless search.

The superintendent, principal, teacher, or security personnel searching or authorizing the search shall have authority to detain the pupil to be searched and to preserve any dangerous weapons, controlled dangerous substances, intoxicating beverages, low-point beer, or missing or stolen property that might be in the pupil's possession including the authority to authorize any other persons they deem necessary to restrain such pupil or to preserve any dangerous weapons, controlled dangerous substances, intoxicating beverages, low-point beer, or missing or stolen property. Students found to be in possession of such an item shall be subject to the provisions of Section 24-101.3 of this title.

Pupils shall not have any reasonable expectation of privacy towards school administrators or teachers in the contents of a school locker, desk, or other school property. School personnel shall have access to school lockers, desks, and other school property in order to properly supervise the welfare of pupils. School lockers, desks, and other areas of school facilities may be opened and examined by school officials at any time and no reason shall be necessary for such search. Schools shall inform pupils in the student discipline code that they have no reasonable expectation of privacy rights towards school officials in school lockers, desks, or other school property.

Other in-school disciplinary approaches

No relevant statutes found.

Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements

Grounds for possible suspension or expulsion

STATUTES

70 O.S § 24-101.3. Student suspension

A. Any student who is guilty of an act described in paragraph 1 of subsection C of this section may be suspended out-of-school in accordance with the provisions of this section. Each school district board of education shall adopt a policy with procedures which provides for out-of school suspension of students. The policy shall address the term of the out-of-school suspension, provide an appeals process as described in subsection B of this section, and provide that before a student is suspended out-of-school, the school or district administration shall consider and apply, if appropriate, alternative in-school placement options that are not to be considered suspension, such as placement in an alternative school setting, reassignment to another classroom, or in-school detention. The policy shall address education for students subject to the provisions of subsection D of this section and whether participation in extracurricular activities shall be permitted.

C.1. Students who are guilty of any of the following acts may be suspended out-of-school by the administration of the school or district:

a. violation of a school regulation,

b. immorality,

c. adjudication as a delinquent for an offense that is not a violent offense. For the purposes of this section, "violent offense" shall include those offenses listed as the exceptions to the term "nonviolent offense" as specified in Section 571 of Title 57 of the Oklahoma Statutes. "Violent offense" shall include the offense of assault with a dangerous weapon but shall not include the offense of assault,

d. possession of an intoxicating beverage, low-point beer, as defined by Section 163.2 of Title 37 of the Oklahoma Statutes, or missing or stolen property if the property is reasonably suspected to have been taken from a student, a school employee, or the school during school activities, and

e. possession of a dangerous weapon or a controlled dangerous substance, as defined in the Uniform Controlled Dangerous Substances Act. Possession of a firearm shall result in out-of-school suspension as provided in paragraph 2 of this subsection.

Grounds for mandatory suspension or expulsion

STATUTES

70 O.S § 6-146. Student Assault on Education Employee – Suspension

No student enrolled in a school shall assault, attempt to cause physical bodily injury, or act in a manner that could reasonably cause bodily injury to an education employee or a person who is volunteering for the school. Any student in grades six through twelve who violates the provisions of this section shall be subject to out-of-school suspension as provided for in Section 24-101.3 of Title 70 of the Oklahoma Statutes. This section shall be in addition to and does not limit the criminal liability of a person who causes or commits an assault, battery, or assault and battery upon a school employee as provided for in Section 650.7 of Title 21 of the Oklahoma Statutes.

70 O.S § 24-101.3. Student suspension

C. 2. Any student found in possession of a firearm while on any public school property or while in any school bus or other vehicle used by a public school for transportation of students or teachers shall be suspended out-of-school for a period of not less than one (1) year, to be determined by the district board of education pursuant to the provisions of this section. The term of the suspension may be modified by the district superintendent on a case-by-case basis. For purposes of this paragraph the term "firearm" shall mean and include all weapons as defined by 18 U.S.C., Section 921.

3. Any student in grades six through twelve found to have assaulted, attempted to cause physical bodily injury, or acted in a manner that could reasonably cause bodily injury to a school employee or a person volunteering for a school as prohibited pursuant to Section 81 of this act shall be suspended for the remainder of the current semester and the next consecutive semester, to be determined by the board of education pursuant to the provisions of this section. The term of the suspension may be modified by the district superintendent on a case-by-case basis.

Limitations, conditions, or exclusions for use of suspension and expulsion

STATUTES

70 O.S § 24-101.3. Student suspension

B. 2. Students suspended out-of-school for more than ten (10) days and students suspended pursuant to the provisions of paragraph 2 of subsection C of this section may request a review of the suspension with the administration of the district. If the administration does not withdraw the suspension, the student shall have the right to appeal the decision of the administration to the district board of education. Except as otherwise provided for in paragraph 2 of subsection C of this section, no out-of-school suspension shall extend beyond the current semester and the succeeding semester. Upon full investigation of the matter, the board shall determine the guilt or innocence of the student and the reasonableness of the term of the out-of-school suspension. A board of education may conduct the hearing and render the final decision or may appoint a hearing officer to conduct the hearing and render the final decision. The decision of the district board of education or the hearing officer, if applicable, shall be final.

Administrative procedures related to suspensions and expulsion

STATUTES

70 O.S § 24-101.3. Student suspension

B. 1. Students suspended out-of-school for ten (10) or fewer days shall have the right to appeal the decision of the administration as provided in the policy required in subsection A of this section. The policy shall specify whether appeals for short-term suspensions as provided in this subsection shall be to a local committee composed of district administrators or teachers or both, or to the district board of education. Upon full investigation of the matter, the committee or board shall determine the guilt or innocence of the student and the reasonableness of the term of the out-of-school suspension. If the policy requires appeals for short-term suspensions to a committee, the policy adopted by the board may, but is not required to, provide for appeal of the committee's decision to the board.

2. Students suspended out-of-school for more than ten (10) days and students suspended pursuant to the provisions of paragraph 2 of subsection C of this section may request a review of the suspension with the administration of the district. If the administration does not withdraw the suspension, the student shall have the right to appeal the decision of the administration to the district board of education. Except as otherwise provided for in paragraph 2 of subsection C of this section, no out-of-

school suspension shall extend beyond the current semester and the succeeding semester. Upon full investigation of the matter, the board shall determine the guilt or innocence of the student and the reasonableness of the term of the out-of-school suspension. A board of education may conduct the hearing and render the final decision or may appoint a hearing officer to conduct the hearing and render the final decision. The decision of the district board of education or the hearing officer, if applicable, shall be final.

D. At its discretion a school district may provide an education plan for students suspended out-of-school for five (5) or fewer days pursuant to the provisions of this subsection. The following provisions shall apply to students who are suspended out-of-school for more than five (5) days and who are guilty of acts listed in subparagraphs a, b, c and d of paragraph 1 of subsection C of this section. Upon the out-of-school suspension, the parent or guardian of a student suspended out-of-school pursuant to the provisions of this subsection shall be responsible for the provision of a supervised, structured environment in which the parent or guardian shall place the student and bear responsibility for monitoring the student's educational progress until the student is readmitted into school. The school administration shall provide the student with an education plan designed for the eventual reintegration of the student into school which provides only for the core units in which the student is enrolled. A copy of the education plan shall also be provided to the student's parent or guardian. For the purposes of this section, the core units shall consist of the minimum English, mathematics, science, social studies and art units required by the State Board of Education for grade completion in grades kindergarten through eight and for high school graduation in grades nine through twelve. The plan shall set out the procedure for education and shall address academic credit for work satisfactorily completed.

E. A student who has been suspended out-of-school from a public or private school in the State of Oklahoma or another state for a violent act or an act showing deliberate or reckless disregard for the health or safety of faculty or other students shall not be entitled to enroll in a public school of this state, and no public school shall be required to enroll the student, until the terms of the suspension have been met or the time of suspension has expired.

F. No public school of this state shall be required to provide education services in the regular school setting to any student who has been adjudicated as a delinquent for an offense defined in Section 571 of Title 57 of the Oklahoma Statutes as an exception to a nonviolent offense or convicted as an adult of an offense defined in Section 571 of Title 57 of the Oklahoma Statutes as an exception to a nonviolent offense, who has been removed from a public or private school in the State of Oklahoma or another state by administrative or judicial process for a violent act or an act showing deliberate or reckless disregard for the health or safety of faculty or other students, or who has been suspended as provided for in paragraph 3 of subsection C of this section until the school in which the student is subsequently enrolled determines that the student no longer poses a threat to self, other students or school district faculty or employees. Until the school in which such student subsequently enrolls or re-enrolls determines that the student no longer poses a threat to self, other students or school district faculty or employees, the school may provide education services through an alternative school setting, home-based instruction, or other appropriate setting. If the school provides education services to such student at a district school facility, the school shall notify any student or school district faculty or employee victims of such student, when known, and shall ensure that the student will not be allowed in the general vicinity of or contact with a victim of the student, provided such victim notifies the school of the victim’s desire to refrain from contact with the offending student.

H. A student who has been suspended for a violent offense which is directed towards a classroom teacher shall not be allowed to return to that teacher's classroom without the approval of that teacher.

In-school suspension

No relevant statutes found.

Return to school following removal

STATUTES

70 O.S § 24-101.3. Student suspension

E. A student who has been suspended out-of-school from a public or private school in the State of Oklahoma or another state for a violent act or an act showing deliberate or reckless disregard for the health or safety of faculty or other students shall not be entitled to enroll in a public school of this state, and no public school shall be required to enroll the student, until the terms of the suspension have been met or the time of suspension has expired.

F. No public school of this state shall be required to provide education services in the regular school setting to any student who has been adjudicated as a delinquent for an offense defined in Section 571 of Title 57 of the Oklahoma Statutes as an exception to a nonviolent offense or convicted as an adult of an offense defined in Section 571 of Title 57 of the Oklahoma Statutes as an exception to a nonviolent offense, who has been removed from a public or private school in the State of Oklahoma or another state by administrative or judicial process for a violent act or an act showing deliberate or reckless disregard for the health or safety of faculty or other students, or who has been suspended as provided for in paragraph 3 of subsection C of this section until the school in which the student is subsequently enrolled determines that the student no longer poses a threat to self, other students or school district faculty or employees.
[…]

H. A student who has been suspended for a violent offense which is directed towards a classroom teacher shall not be allowed to return to that teacher's classroom without the approval of that teacher.

Use of restraint and seclusion

No relevant statutes found.

Alternative Placements

STATUTES

70 O.S § 24-101.3. Student suspension

A. Any student who is guilty of an act described in paragraph 1 of subsection C of this section may be suspended out-of-school in accordance with the provisions of this section. Each school district board of education shall adopt a policy with procedures which provides for out-of school suspension of students. The policy shall address the term of the out-of-school suspension, provide an appeals process as described in subsection B of this section, and provide that before a student is suspended out-of-school, the school or district administration shall consider and apply, if appropriate, alternative in-school placement options that are not to be considered suspension, such as placement in an alternative school setting, reassignment to another classroom, or in-school detention. The policy shall address education for students subject to the provisions of subsection D of this section and whether participation in extracurricular activities shall be permitted.

D. At its discretion a school district may provide an education plan for students suspended out-of-school for five (5) or fewer days pursuant to the provisions of this subsection. The following provisions shall apply to students who are suspended out-of-school for more than five (5) days and who are guilty of acts listed

in subparagraphs a, b, c and d of paragraph 1 of subsection C of this section. Upon the out-of-school suspension, the parent or guardian of a student suspended out-of-school pursuant to the provisions of this subsection shall be responsible for the provision of a supervised, structured environment in which the parent or guardian shall place the student and bear responsibility for monitoring the student's educational progress until the student is readmitted into school. The school administration shall provide the student with an education plan designed for the eventual reintegration of the student into school which provides only for the core units in which the student is enrolled. A copy of the education plan shall also be provided to the student's parent or guardian. For the purposes of this section, the core units shall consist of the minimum English, mathematics, science, social studies and art units required by the State Board of Education for grade completion in grades kindergarten through eight and for high school graduation in grades nine through twelve. The plan shall set out the procedure for education and shall address academic credit for work satisfactorily completed.

F. No public school of this state shall be required to provide education services in the regular school setting to any student who has been adjudicated as a delinquent for an offense defined in Section 571 of Title 57 of the Oklahoma Statutes as an exception to a nonviolent offense or convicted as an adult of an offense defined in Section 571 of Title 57 of the Oklahoma Statutes as an exception to a nonviolent offense, who has been removed from a public or private school in the State of Oklahoma or another state by administrative or judicial process for a violent act or an act showing deliberate or reckless disregard for the health or safety of faculty or other students, or who has been suspended as provided for in paragraph 3 of subsection C of this section until the school in which the student is subsequently enrolled determines that the student no longer poses a threat to self, other students or school district faculty or employees. Until the school in which such student subsequently enrolls or re-enrolls determines that the student no longer poses a threat to self, other students or school district faculty or employees, the school may provide education services through an alternative school setting, home-based instruction, or other appropriate setting. If the school provides education services to such student at a district school facility, the school shall notify any student or school district faculty or employee victims of such student, when known, and shall ensure that the student will not be allowed in the general vicinity of or contact with a victim of the student, provided such victim notifies the school of the victim’s desire to refrain from contact with the offending student.

Disciplinary Approaches Addressing Specific Infractions and Conditions

Firearms (as required by the Guns-Free Schools Act)

STATUTES

21 O.S. § 1280.1. Possession of firearm on school property

A. It shall be unlawful for any person to have in his or her possession on any public or private school property or while in any school bus or vehicle used by any school for transportation of students or teachers any firearm or weapon designated in Section 1272 of this title, except as provided in subsection C of this section or as otherwise authorized by law.

B. “School property” means any publicly or privately owned property held for purposes of elementary, secondary or vocational-technical education, and shall not include property owned by public school districts or private educational entities where such property is leased or rented to an individual or corporation and used for purposes other than educational.

C. Firearms and weapons are allowed on school property and deemed not in violation of subsection A of this section as follows:

1. A gun or knife designed for hunting or fishing purposes kept in a privately owned vehicle and properly displayed or stored as required by law, or a handgun carried in a vehicle pursuant to a valid handgun license authorized by the Oklahoma Self-Defense Act, provided such vehicle containing said gun or knife is driven onto school property only to transport a student to and from school and such vehicle does not remain unattended on school property;
2. A gun or knife used for the purposes of participating in the Oklahoma Department of Wildlife Conservation certified hunter training education course or any other hunting, fishing, safety or firearms training courses, or a recognized firearms sports event, team shooting program or competition, or living history reenactment, provided the course or event is approved by the principal or chief administrator of the school where the course or event is offered, and provided the weapon is properly displayed or stored as required by law pending participation in the course, event, program or competition; and
3. Weapons in the possession of any peace officer or other person authorized by law to possess a weapon in the performance of their duties and responsibilities.

70 O.S § 24-101.3. Student suspension

C. 2. Any student found in possession of a firearm while on any public school property or while in any school bus or other vehicle used by a public school for transportation of students or teachers shall be suspended out-of-school for a period of not less than one (1) year, to be determined by the district board of education pursuant to the provisions of this section. The term of the suspension may be modified by the district superintendent on a case-by-case basis. For purposes of this paragraph the term "firearm" shall mean and include all weapons as defined by 18 U.S.C., Section 921.

Other weapons

STATUTES

21 O.S. § 1280.1. Possession of firearm on school property

A. It shall be unlawful for any person to have in his or her possession on any public or private school property or while in any school bus or vehicle used by any school for transportation of students or teachers any firearm or weapon designated in Section 1272 of this title, except as provided in subsection C of this section or as otherwise authorized by law.

B. “School property” means any publicly or privately owned property held for purposes of elementary, secondary or vocational-technical education, and shall not include property owned by public school districts or private educational entities where such property is leased or rented to an individual or corporation and used for purposes other than educational.

C. Firearms and weapons are allowed on school property and deemed not in violation of subsection A of this section as follows:

1. A gun or knife designed for hunting or fishing purposes kept in a privately owned vehicle and properly displayed or stored as required by law, or a handgun carried in a vehicle pursuant to a valid handgun license authorized by the Oklahoma Self-Defense Act, provided such vehicle containing said gun or knife is driven onto school property only to transport a student to and from school and such vehicle does not remain unattended on school property;
2. A gun or knife used for the purposes of participating in the Oklahoma Department of Wildlife Conservation certified hunter training education course or any other hunting, fishing, safety or firearms training courses, or a recognized firearms sports event, team shooting program or competition, or living history reenactment, provided the course or event is approved by the principal or chief administrator of the school where the course or event is offered, and provided the weapon is properly displayed or stored as required by law pending participation in the course, event, program or competition; and
3. Weapons in the possession of any peace officer or other person authorized by law to possess a weapon in the performance of their duties and responsibilities.

70 O.S § 24-101.3. Student suspension

C.1. Students who are guilty of any of the following acts may be suspended out-of-school by the administration of the school or district:

a. violation of a school regulation,

b. immorality,

c. adjudication as a delinquent for an offense that is not a violent offense. For the purposes of this section, “violent offense” shall include those offenses listed as the exceptions to the term “nonviolent offense” as specified in Section 571 of Title 57 of the Oklahoma Statutes. “Violent offense” shall include the offense of assault with a dangerous weapon but shall not include the offense of assault,

d. possession of an intoxicating beverage, low-point beer, as defined by Section 163.2 of Title 37 of the Oklahoma Statutes, or missing or stolen property if the property is reasonably suspected to have been taken from a student, a school employee, or the school during school activities, and

e. possession of a dangerous weapon or a controlled dangerous substance, as defined in the Uniform Controlled Dangerous Substances Act. Possession of a firearm shall result in out-of-school suspension as provided in paragraph 2 of this subsection.

70 O.S § 24-102. Pupils—Searches

The superintendent, principal, teacher, or security personnel of any public school in the State of Oklahoma, upon reasonable suspicion, shall have the authority to detain and search or authorize the search, of any pupil or property in the possession of the pupil when said pupil is on any school premises, or while in transit under the authority of the school, or while attending any function sponsored or authorized by the school, for dangerous weapons, controlled dangerous substances, as defined in the Uniform Controlled Dangerous Substances Act, intoxicating beverages, low-point beer, as defined by Section 163.2 of Title 37 of the Oklahoma Statutes, or for missing or stolen property if said property be reasonably suspected to have been taken from a pupil, a school employee or the school during school activities. The search shall be conducted by a person of the same sex as the person being searched and shall be witnessed by at least one other authorized person, said person to be of the same sex if practicable.

Students with chronic disciplinary issues

No relevant statutes found.

Attendance and truancy

STATUTES

70 O.S. § 10-105 Neglect or Refusal to Compel Child to Attend School – Exceptions

A. It shall be unlawful for a parent, guardian, or other person having custody of a child who is over the age of five (5) years, and under the age of eighteen (18) years, to neglect or refuse to cause or compel such child to attend and comply with the rules of some public, private or other school, unless other means of education are provided for the full term the schools of the district are in session or the child is excused as provided in this section. One-half (1/2) day of kindergarten shall be required of all children five (5) years of age or older unless the child is excused from kindergarten attendance as provided in this section. A child who is five (5) years of age shall be excused from kindergarten attendance until the next school year after the child is six (6) years of age if a parent, guardian, or other person having custody of the child notifies the superintendent of the district where the child is a resident by certified mail prior to enrollment in kindergarten, or at any time during the first school year that the child is required to attend kindergarten pursuant to this section, of election to withhold the child from kindergarten until the next school year after the child is six (6) years of age […]

B. It shall be unlawful for any child who is over the age of twelve (12) years and under the age of eighteen (18) years, and who has not finished four (4) years of high school work, to neglect or refuse to attend and comply with the rules of some public, private or other school, or receive an education by other means for the full term the schools of the district are in session.

Provided, that this section shall not apply:

1. If any child is prevented from attending school by reason of mental or physical disability, to be determined by the board of education of the district upon a certificate of the school physician or public health physician, or, if no such physician is available, a duly licensed and practicing physician;
2. If any child is excused from attendance at school, due to an emergency, by the principal teacher of the school in which such child is enrolled, at the request of the parent, guardian, custodian or other person having control of such child;
3. If any child who has attained his or her sixteenth birthday is excused from attending school by written, joint agreement between:

a. the school administrator of the school district where the child attends school, and

b. the parent, guardian or custodian of the child. Provided, further, that no child shall be excused from attending school by such joint agreement between a school administrator and the parent, guardian or custodian of the child unless and until it has been determined that such action is for the best interest of the child and/or the community, and that said child shall thereafter be under the supervision of the parent, guardian or custodian until the child has reached the age of eighteen (18) years;

4. If any child is excused from attending school for the purpose of observing religious holy days if before the absence, the parent, guardian, or person having custody or control of the student submits a written request for the excused absence. The school district shall excuse a student pursuant to this subsection for the days on which the religious holy days are observed and for the days on which the student must travel to and from the site where the student will observe the holy days; or

5. If any child is excused from attending school for the purpose of participating in a military funeral honors ceremony upon approval of the school principal.

C. It shall be the duty of the attendance officer to enforce the provisions of this section. In the prosecution of a parent, guardian, or other person having custody of a child for violation of any provision of this section, it shall be an affirmative defense that the parent, guardian, or other person having custody of the child has made substantial and reasonable efforts to comply with the compulsory attendance requirements of this section but is unable to cause the child to attend school. If the court determines the affirmative defense is valid, it shall dismiss the complaint against the parent, guardian, or other person having custody of the child and shall notify the school attendance officer who shall refer the child to the district attorney for the county in which the child resides for the filing of a Child in Need of Supervision petition against the child pursuant to the Oklahoma Juvenile Code.

D. Any parent, guardian, custodian, child or other person violating any of the provisions of this section, upon conviction, shall be guilty of a misdemeanor, and shall be punished as follows:

1. For the first offense, a fine of not less than Twenty-five Dollars ($25.00) nor more than Fifty Dollars ($50.00), or imprisonment for not more than five (5) days, or both such fine and imprisonment;

2. For the second offense, a fine of not less than Fifty Dollars ($50.00) nor more than One Hundred Dollars ($100.00), or imprisonment for not more than ten (10) days, or both such fine and imprisonment; and

3. For the third or subsequent offense, a fine of not less than One Hundred Dollars ($100.00) nor more than Two Hundred Fifty Dollars ($250.00), or imprisonment for not more than fifteen (15) days, or both such fine and imprisonment.

Each day the child remains out of school after the oral and documented or written warning has been given to the parent, guardian, custodian, child or other person or the child has been ordered to school by the juvenile court shall constitute a separate offense.

E. At the trial of any person charged with violating the provisions of this section, the attendance records of the child or ward may be presented in court by any authorized employee of the school district.

F. The court may order the parent, guardian, or other person having custody of the child to perform community service in lieu of the fine set forth in this section. The court may require that all or part of the community service be performed for a public school district.

G. The court may order as a condition of a deferred sentence or as a condition of sentence upon conviction of the parent, guardian, or other person having custody of the child any conditions as the court considers necessary to obtain compliance with school attendance requirements. The conditions may include, but are not limited to, the following:

1. Verifying attendance of the child with the school;

2. Attending meetings with school officials;
3. Taking the child to school;
4. Taking the child to the bus stop;
5. Attending school with the child;
6. Undergoing an evaluation for drug, alcohol, or other substance abuse and following the recommendations of the evaluator; and
7. Taking the child for drug, alcohol, or other substance abuse evaluation and following the recommendations of the evaluator, unless excused by the court.

70 O.S. § 10-106 Records of Attendance of Pupil

It shall be the duty of the principal or head teacher of each public, private or other school in the State of Oklahoma to keep a full and complete record of the attendance of all children at such school and to notify the attendance officer of the district in which such school is located of the absence of such children from the school together with the causes thereof, if known; and it shall be the duty of any parent, guardian or other person having charge of any child of compulsory attendance age to notify the child's teacher concerning the cause of any absences of such child. It shall be the duty of the principal or head teacher to notify the parent, guardian or responsible person of the absence of the child for any part of the school day, unless the parent, guardian or other responsible person notifies the principal or head teacher of such absence. Such attendance officer and teacher shall be required to report to the school health officer all absences on account of illness with such information respecting the same as may be available by report or investigation; and the attendance officer shall, if justified by the circumstances, promptly give to the parent, guardian or custodian of any child who has not complied with the provisions of this article oral and documented or written warning to the last known address of such person that the attendance of such child is required at some public, private or other school as herein provided. If within five (5) days after the warning has been received, the parent, guardian or custodian of such child does not comply with the provisions of this article, then such attendance officer shall make complaint against the parent, guardian or custodian of such child in a court of competent jurisdiction for such violation, which violation shall be a misdemeanor. If a child is absent without valid excuse four (4) or more days or parts of days within a four-week period or is absent without valid excuse for ten (10) or more days or parts of days within a semester, the attendance officer shall notify the parent, guardian or custodian of the child and immediately report such absences to the district attorney in the county wherein the school is located for juvenile proceedings pursuant to Title 10A of the Oklahoma Statutes.

Substance use

STATUTES

21 O.S. § 1242. Refusal of Minor to Furnish Information Concerning Acquisition of Cigarettes, Cigarette Papers, Cigars, Snuff, Chewing Tobacco or Other Tobacco Products

Any minor being in possession of cigarettes, cigarette papers, cigars, snuff, chewing tobacco, or any other form of tobacco product and being by any police officer, constable, juvenile court officer, truant officer, or teacher in any school, asked where and from whom such cigarettes, cigarette papers, cigars, snuff, chewing tobacco, or any other form of tobacco product were obtained, who shall refuse to furnish such information, shall be guilty of a misdemeanor and upon conviction thereof before the district court, or any judge of the district court, such minor being of the age of sixteen (16) years or upwards shall be sentenced to pay a fine not exceeding Five Dollars ($5.00) or to undergo an imprisonment in the jail of the proper county not exceeding five (5) days, or both; if such minor shall be under the age of sixteen (16)

years, he or she shall be certified by such magistrate or justice to the juvenile court of the county for such action as said court shall deem proper.

70 O.S § 24-101.3. Student suspension

C.1. Students who are guilty of any of the following acts may be suspended out-of-school by the administration of the school or district:

a. violation of a school regulation,

b. immorality,

c. adjudication as a delinquent for an offense that is not a violent offense. For the purposes of this section, “violent offense” shall include those offenses listed as the exceptions to the term “nonviolent offense” as specified in Section 571 of Title 57 of the Oklahoma Statutes. “Violent offense” shall include the offense of assault with a dangerous weapon but shall not include the offense of assault,

d. possession of an intoxicating beverage, low-point beer, as defined by Section 163.2 of Title 37 of the Oklahoma Statutes, or missing or stolen property if the property is reasonably suspected to have been taken from a student, a school employee, or the school during school activities, and

e. possession of a dangerous weapon or a controlled dangerous substance, as defined in the Uniform Controlled Dangerous Substances Act. Possession of a firearm shall result in out-of-school suspension as provided in paragraph 2 of this subsection.

70 O.S § 24-138. Students Under Influence of Nonintoxicating Beverage, Alcoholic Beverage or Controlled Dangerous Substance Written Policy

A. Whenever it appears to any public school teacher that a student may be under the influence of low-point beer as defined in Section 163.2 of Title 37 of the Oklahoma Statutes, alcoholic beverages as defined in Section 506 of Title 37 of the Oklahoma Statutes or a controlled dangerous substance, as defined in Section 2-101 of Title 63 of the Oklahoma Statutes, that teacher shall report the matter, upon recognition, to the school principal or his or her designee. The principal or designee shall immediately notify the superintendent of schools or designee and a parent or legal guardian of the student of the matter.

70 O.S § 1210.229-3. Definitions

For purposes of the Oklahoma Alcohol and Drug Abuse Prevention and Life Skills Education Act, Section 1210.229-1 et seq. of this title:

1. "Alcohol" means any low-point beer as defined in Section 163.2 of Title 37 of the Oklahoma Statutes or alcoholic beverage as defined in Section 506 of Title 37 of the Oklahoma Statutes;
2. "Board" means the State Board of Education;
3. "Department" means the State Department of Education;
4. "Drug" means a controlled dangerous substance as defined in the Uniform Controlled Dangerous Substances Act, Section 2-101 et seq. of Title 63 of the Oklahoma Statutes; and
5. "Life skills" includes but is not limited to fostering skills in responsibility, decision making, communication, self-confidence and goal setting. Life skills shall not include values clarification or sex education.

70 O.S § 1210.229-5. State Superintendent of Public Instruction and State Department of Education--Coordination with Oklahoma Drug and Alcohol Abuse Policy Board--Joint duties

B. The State Department of Education shall distribute information or reports provided by the Oklahoma Drug and Alcohol Abuse Policy Board, to each school district and, upon request, to members of the

public. Upon request of the chief administrator of a school or school district, the Department shall provide technical assistance to schools and school districts to implement policies and programs pursuant to guidelines provided by the Oklahoma Drug and Alcohol Abuse Policy Board and shall provide a clearinghouse program accessible by school districts to provide information about life skills and drug and alcohol abuse prevention curricula and programs.

Bullying, harassment, or hazing

STATUTES

70 O.S § 24-100.3. School Bullying Prevention Act – Purpose and Definitions

A. The Legislature finds that bullying has a negative effect on the social environment of schools, creates a climate of fear among students, inhibits their ability to learn, and leads to other antisocial behavior. Bullying behavior has been linked to other forms of antisocial behavior, such as vandalism, shoplifting, skipping and dropping out of school, fighting, and the use of drugs and alcohol. Research has shown that sixty percent (60%) of males who were bullies in grades six through nine were convicted of at least one crime as adults, and thirty-five percent (35%) to forty percent (40%) of these former bullies had three or more convictions by twenty-four (24) years of age. Successful programs to recognize, prevent, and effectively intervene in bullying behavior have been developed and replicated in schools across the country. These schools send the message that bullying behavior is not tolerated and, as a result, have improved safety and created a more inclusive learning environment.

B. The purpose of the School Bullying Prevention Act is to provide a comprehensive approach for the public schools of this state to create an environment free of unnecessary disruption which is conducive to the learning process by implementing policies for the prevention of harassment, intimidation, and bullying.

C. As used in the School Bullying Prevention Act:

1. "Harassment, intimidation, and bullying" means any gesture, written or verbal expression, electronic communication, or physical act that a reasonable person should know will harm another student, damage another student's property, place another student in reasonable fear of harm to the student's person or damage to the student's property, or insult or demean any student or group of students in such a way as to disrupt or interfere with the school's educational mission or the education of any student. "Harassment, intimidation, and bullying" include, but are not limited to, gestures or written, verbal, or physical acts, or electronic communications;
2. "At school" means on school grounds, in school vehicles, at designated school bus stops, at school-sponsored activities, or at school-sanctioned events;
3. "Electronic communication" means the communication of any written, verbal, or pictorial information by means of an electronic device, including, but not limited to, a telephone, a cellular telephone or other wireless telecommunication device, or a computer; and
4. "Threatening behavior" means any pattern of behavior or isolated action, whether or not it is directed at another person, that a reasonable person would believe indicates potential for future harm to students, school personnel, or school property.

D. Nothing in this act shall be construed to impose a specific liability on any school district.

70 O.S § 24-100.4. Control and discipline of child

A. Each district board of education shall adopt a policy for the control and discipline of all children attending public school in that district, and for the investigation of reported incidents of harassment, intimidation, bullying, or threatening behavior. Such policy shall provide options for the methods of control

and discipline of the students and shall define standards of conduct to which students are expected to conform. The policy shall:

1. Specifically prohibit threatening behavior, harassment, intimidation, and bullying by students at school and by electronic communication, whether or not such communication originated at school or with school equipment, if the communication is specifically directed at students or school personnel and concerns harassment, intimidation, or bullying at school;
2. Address prevention of and education about such behavior;
3. Establish a procedure for the investigation of all incidents of harassment, intimidation, bullying, or threatening behavior reported to school officials for the purpose of determining the severity of the incidents and their potential to result in future violence;
4. Establish a procedure whereby, upon completing an investigation pursuant to paragraph 3 of this subsection, a school may recommend that available community mental health care options be provided to the student, if appropriate; and
5. Establish a procedure whereby a school may request the disclosure of any information concerning students who have received mental health care pursuant to paragraph 4 of this subsection that indicates an explicit threat to the safety of students or school personnel, provided the disclosure of the information does not violate the requirements and provisions of the Family Educational Rights and Privacy Act of 1974, the Health Insurance Portability and Accountability Act of 1996, Section 2503 of Title 12 of the Oklahoma Statutes, Section 1376 of Title 59 of the Oklahoma Statutes, or any other state or federal laws regarding the disclosure of confidential information.

In developing the policy, the district board of education shall make an effort to involve the teachers, parents, and students affected. The students, teachers, and parents or guardian of every child residing within a school district shall be notified by the district board of education of its adoption of the policy and shall receive a copy upon request. Provided, the teacher of a child attending a public school shall have the same right as a parent or guardian to control and discipline such child according to district policies during the time the child is in attendance or in transit to or from the school or any other school function authorized by the school district or classroom presided over by the teacher.

ADMINISTRATIVE CODE

210:10-1-20. Implementation of policies prohibiting harassment, intimidation, and bullying

(a) Purpose. Bullying has a negative effect on the social environment of schools, creates a climate of fear among students, inhibits the ability to learn, and leads to other antisocial behavior. Other detrimental effects of bullying include impact on school safety, student engagement, and the overall school environment. Successful school programs recognize, prevent, effectively identify, and intervene in incidents involving harassment, intimidation and bullying behavior. Schools that implement these programs have improved safety and create a more inclusive learning environment. The purpose of the Oklahoma School Bullying Prevention Act, 70 O.S. § 24-100.2, et seq., is to provide a comprehensive approach for public schools to create an environment free of unnecessary disruption which is conducive to the learning process by implementing policies for the prevention of harassment, intimidation and bullying.

(b) Definitions. The following words and terms, when used in this subchapter, shall have the following meaning:

(1) "Harassment, Intimidation, and Bullying"means any gesture, written or verbal expression, electronic communication, or physical act that a reasonable person should know will:

(A) Harm another student;

(B) Damage another student's property;

(C) Place another student in reasonable fear of harm to the student's person or damage to the student's property; or

(D) Insult or demean any student or group of students,

(2) "Applicability" means the aforementioned conduct constitutes harassment, intimidation, and bullying if conducted in such a way as to disrupt or interfere with the school's educational mission or the education of any student. This includes, but is not limited to gestures, written, verbal, or physical acts, or electronic communications.

(3) "Electronic Communication" means the communication of any written, verbal, or pictorial information by means of an electronic device, including, but not limited to, a telephone, a cellular telephone or other wireless telecommunication device, or computer.

(4) "Threatening Behavior" means any pattern of behavior or isolated action, whether or not it is directed at another person, that a reasonable person would believe indicates potential for future harm to students, school personnel, or school property.

(5) Scope. Threatening behavior, harassment, intimidation, and bullying is prohibited on school grounds, in school vehicles, at designated bus stops, at school-sponsored activities, or at school-sanctioned events. Threatening behavior, harassment, intimidation, and bullying by electronic communication is prohibited whether or not such communication originated at school, or with school equipment, if the communication is specifically directed at students or school personnel and concerns harassment, intimidation, or bullying at school.

(c) Implementation. Each district board of education shall adopt a policy for the control and discipline of all children attending public school in that district. Such policy shall set forth investigative procedures of reported incidents of harassment, intimidation, bullying or threatening behavior. Such policy shall provide options for the methods of control and discipline of the students and shall define standards of conduct to which students are expected to conform, which may include a detailed description of a graduated range of consequences and sanctions for bullying. The policy adopted by each district board of education shall include and/or establish the following:

(1) Specifically prohibit threatening behavior, harassment, intimidation, and bullying by students at school and by electronic communication. Electronic communication shall be prohibited whether or not such communication originated at school or with school equipment, if the communication is specifically directed at students or school personnel and concerns harassment, intimidation, or bullying at school.

(2) Address prevention of and education about threatening behavior, harassment, intimidation, and bullying.

(3) A procedure for the investigation of harassment, intimidation, bullying or threatening behavior reported to school officials for the purpose of determining the severity of the incidents and their potential to result in future violence.

(4) A procedure which provides, upon the completion of an investigation, that a school may recommend that available community mental health care options be provide to the student, if appropriate. This may include information about the types of support services available to the student bully, victim, and any other students affected by the prohibited behavior.

(5) A procedure whereby a school may request the disclosure of any information concerning students who have received mental health care pursuant to sub-section (4) of this rule that indicates an explicit threat to the safety of students or school personnel provided, the disclosure of information does not violate the provisions or requirements of the Family Educational Rights and Privacy Act of 1974, the Health Insurance Portability and Accountability Act of 1996, Section 2503 of Title 12 of the Oklahoma

Statutes, Section 1376 of Title 59 of Oklahoma Statutes, or any other state or federal laws relating to the disclosure of confidential information.

(d) Policy Adoption. The policy adopted by the local school board pursuant to 70 O.S. § 24-100.4 shall include the statutorily required sections outlined in section (c) of this rule. Failure to include such items shall result in action pursuant to section (f) of this rule.

(e) Policy Development. In developing a district policy, each district board of education shall make an effort to involve teachers, parents, and students. The students, teachers, and parents or guardian of every child residing within a school district shall be notified by the district board of education of the adoption of the policy and shall receive a copy upon request.

(f) Monitoring and Compliance. The State Board of Education shall monitor school districts for compliance with 70 O.S. § 24-100.4 and section (c) of this rule.

(1) To assist the State Department of Education with compliance efforts pursuant to this section, each school district shall identify a Bullying Coordinator who will serve as the district contact responsible for providing information to the State Board of Education. The Bullying Coordinator shall maintain on file with the Department of Education updated contact information. Each school district shall notify the State Department of Education within fifteen (15) business days of the appointment of a new Bullying Coordinator.

(2) Beginning with the 2012-2013 school year, and for each school year following, each school district shall submit to the State Board of Education a copy of the district's bullying policy. The bullying policy shall be submitted to the State Department of Education by December 10th of each school year, and shall be submitted as a part of the school's Annual Performance Report.

(3) Beginning with the 2012-2013 school year, and for each school year following, the State Department of Education shall conduct a comprehensive review of each school district's bullying policy to ensure compliance with 70 O.S. § 24-100.4. School districts that do not comply with the statutory requirements of the statute shall be notified in writing, and be required to make necessary changes to comply with state law.

(4) State Department of Education staff shall monitor school districts for compliance with 70 O.S. § 24-100.4 and section (c) of this rule. The State Department of Education may initiate a compliance review upon receipt of evidence which indicates noncompliance with 70 O.S. § 24-100.4. Evidence of potential noncompliance shall be based on the nature or frequency of confirmed complaints of non-compliance received by the State Department of Education. The scope of a compliance review initiated pursuant to sub-section (f) of this rule shall be limited to determining whether a school district has implemented policies required by 70 O.S. § 24-100.4.

(5) Records indicating substantial noncompliance with sub-sections (3) or (4) of this rule shall be submitted to the school district's Regional Accreditation Officer (RAO) for review and consideration during the district's accreditation process. Record of a school district's failure to comply with 70 O.S. § 24-100.4, including the number of confirmed complaints of non-compliance involving the district shall be documented in the district's compliance report and be considered for purposes of accreditation.

Other special infractions or conditions

STATUTES

70 O.S § 24-101.1. Wireless telecommunication devices—Prohibited

The board of education of each school district shall establish and implement rules regarding student possession of a wireless telecommunication device while said student is on school premises, or while in transit under the authority of the school, or while attending any function sponsored or authorized by the

school. The rules shall provide that a student may possess a wireless telecommunication device upon the prior consent of both a parent or guardian and school principal or superintendent and shall also specify the disciplinary action a student shall face if found to be in possession of a wireless telecommunication device in violation of the rules.

Prevention and Behavioral Interventions (Non-Punitive)

Prevention

STATUTES

70 O.S § 24-100.1. Prevention of Violence Services

A. It is the intent of the Legislature to encourage and assist the public schools of this state to address school violence through an emphasis on prevention. Preventative services shall be encouraged through greater access to mental health counseling and social services for students. In order to make licensed professional counselors and licensed social workers more available and accessible on site, school districts may:

1. Contract with and allocate space for nonprofit agencies or other community-based service providers for the appropriate personnel and services;
2. Seek any available funding, including the use of Medicaid funds for students who are Medicaid eligible through targeted case management, and any other funding which may be available for related services; and
3. Encourage the State Board of Education to allow for the use of licensed professional counselors and licensed social workers in addition to academic counselors

70 O.S § 24-100.3. School Bullying Prevention Act – Purpose and Definitions

A. The Legislature finds that bullying has a negative effect on the social environment of schools, creates a climate of fear among students, inhibits their ability to learn, and leads to other antisocial behavior. Bullying behavior has been linked to other forms of antisocial behavior, such as vandalism, shoplifting, skipping and dropping out of school, fighting, and the use of drugs and alcohol. Research has shown that sixty percent (60%) of males who were bullies in grades six through nine were convicted of at least one crime as adults, and thirty-five percent (35%) to forty percent (40%) of these former bullies had three or more convictions by twenty-four (24) years of age. Successful programs to recognize, prevent, and effectively intervene in bullying behavior have been developed and replicated in schools across the country. These schools send the message that bullying behavior is not tolerated and, as a result, have improved safety and created a more inclusive learning environment.

B. The purpose of the School Bullying Prevention Act is to provide a comprehensive approach for the public schools of this state to create an environment free of unnecessary disruption which is conducive to the learning process by implementing policies for the prevention of harassment, intimidation, and bullying.

C. As used in the School Bullying Prevention Act:

1. "Harassment, intimidation, and bullying" means any gesture, written or verbal expression, electronic communication, or physical act that a reasonable person should know will harm another student, damage another student's property, place another student in reasonable fear of harm to the student's person or damage to the student's property, or insult or demean any student or group of students in such a way as to disrupt or interfere with the school's educational mission or the education of any student. "Harassment, intimidation, and bullying" include, but are not limited to, gestures or written, verbal, or physical acts, or electronic communications;
2. "At school" means on school grounds, in school vehicles, at designated school bus stops, at school-sponsored activities, or at school-sanctioned events;

3. “Electronic communication” means the communication of any written, verbal, or pictorial information by means of an electronic device, including, but not limited to, a telephone, a cellular telephone or other wireless telecommunication device, or a computer; and

4. “Threatening behavior” means any pattern of behavior or isolated action, whether or not it is directed at another person, that a reasonable person would believe indicates potential for future harm to students, school personnel, or school property.

D. Nothing in this act shall be construed to impose a specific liability on any school district.

70 O.S § 24-100.4. Control and discipline of child

A. Each district board of education shall adopt a policy for the control and discipline of all children attending public school in that district, and for the investigation of reported incidents of harassment, intimidation, bullying, or threatening behavior. Such policy shall provide options for the methods of control and discipline of the students and shall define standards of conduct to which students are expected to conform. The policy shall:

2. Address prevention of and education about such behavior;

70 O.S § 24-100.5. Safe School Committee

C. The State Department of Education shall compile and distribute to each public school site a list of research based programs appropriate for the prevention of harassment, intimidation, and bullying of students at school. If a school district implements a commercial bullying prevention program, it shall use a program listed by the State Department of Education.

70 O.S § 1210.223. Purpose of act

The purpose of this act is to authorize the development of a comprehensive drug abuse education program for children and youth in kindergarten and grades one through twelve in the public school districts of this state which choose to participate. It is the legislative intent that this program may teach the adverse and dangerous effects of drugs on the human mind and body and may include proper usage of prescription and nonprescription medicines.

70 O.S § 1210.225. Implementation

In administering this act, the State Board of Education and the State Department of Education shall be governed by the following:

1. Implement in-service education programs for teachers, administrators and other personnel. Special emphasis shall be placed on methods and materials necessary for the effective teaching of drug abuse education. In-service teacher education materials which are based on individual performance and designed for use with a minimum of supervision shall be developed and made available to all school districts which are participating in this program;

2. Implement provisions of this act in the most expeditious manner possible, commensurate with the availability of textbooks and materials, as well as the availability of teaching personnel; and

3. Recommend degree programs and short course seminars for the preparation of drug education teaching personnel.

70 O.S § 1210.229-2. Legislative findings and intent

The Legislature finds that for the purpose of preventing drug and alcohol abuse among our young people, and for preventing or alleviating problems which lead to and are closely associated with drug and alcohol abuse, it is desirable that all Oklahoma school districts develop and implement a curriculum for drug and alcohol abuse prevention for all grade levels. Such curriculum may include training in life skills, such as

problem-solving, responsibility, communication and decision-making skills, which enable young people to successfully resist social and other pressures to engage in activities which are destructive to their health and future. The Legislature encourages all school districts to adopt as a goal for the year 1990 the full implementation of drug and alcohol abuse prevention programs in their schools. In order to expand and enhance the ability of school districts to implement drug and alcohol prevention programs, it is the intent of the Legislature that local school districts participate in the federal Drug-Free Schools and Communities Act of 1986, 20 U.S.C., Section 4601 et seq. and the provisions of Public Law No. 101-647, Drug-Free School Zones.

In order to derive maximum benefit from their drug and alcohol prevention programs, it is further the intent of the Legislature that the school districts coordinate their efforts and activities with the Oklahoma Drug and Alcohol Abuse Policy Board, and with appropriate state and local drug and alcohol abuse, health and law enforcement agencies and programs within the community which provide drug education, prevention, treatment and rehabilitation.

It is further the intent of the Legislature to encourage school districts to establish programs concerning the danger and criminal consequences of the possession and/or use of firearms or other dangerous or deadly weapons in school zones.

70 O.S § 1210.229-5. State Superintendent of Public Instruction and State Department of Education--Coordination with Oklahoma Drug and Alcohol Abuse Policy Board--Joint duties

A. The State Superintendent of Public Instruction and State Department of Education in conjunction with the Oklahoma Drug and Alcohol Abuse Policy Board shall:

1. establish objective criteria, guidelines and a comprehensive integrated curriculum for substance abuse programs and the teaching of life skills in local schools and school districts;
2. establish and review annually model policies for alcohol and drug abuse issues, including but not limited to policies regarding disciplinary actions and referral for services;
3. develop and implement strategies which encourage all schools to employ guidance counselors trained in substance abuse prevention and life skills and to develop and begin implementing quality substance abuse and life skills education programs; and
4. develop guidelines and criteria to encourage teachers and administrators to receive in-service training on alcohol and drug abuse. The training or workshops should be included in the staff development point system.

B. The State Department of Education shall distribute information or reports provided by the Oklahoma Drug and Alcohol Abuse Policy Board, to each school district and, upon request, to members of the public. Upon request of the chief administrator of a school or school district, the Department shall provide technical assistance to schools and school districts to implement policies and programs pursuant to guidelines provided by the Oklahoma Drug and Alcohol Abuse Policy Board and shall provide a clearinghouse program accessible by school districts to provide information about life skills and drug and alcohol abuse prevention curricula and programs.

C. Final determination of materials to be used, means of implementation of the curriculum, and ages and times at which students receive instruction about said life skills and drug and alcohol abuse prevention shall be made by the local school board. The local school district, at least one (1) month prior to giving such instruction to students, shall conduct for parents and guardians of students involved, during weekend or evening hours, at least one presentation concerning the plans for instruction and the materials to be used. No student shall be required to receive instruction about said life skills and drug and alcohol abuse prevention if a parent or guardian of the student objects in writing.

ADMINISTRATIVE CODE

210:10-1-20. Implementation of policies prohibiting harassment, intimidation, and bullying

(a) Purpose. Bullying has a negative effect on the social environment of schools, creates a climate of fear among students, inhibits the ability to learn, and leads to other antisocial behavior. Other detrimental effects of bullying include impact on school safety, student engagement, and the overall school environment. Successful school programs recognize, prevent, effectively identify, and intervene in incidents involving harassment, intimidation and bullying behavior. Schools that implement these programs have improved safety and create a more inclusive learning environment. The purpose of the Oklahoma School Bullying Prevention Act, 70 O.S. § 24-100.2, et seq., is to provide a comprehensive approach for public schools to create an environment free of unnecessary disruption which is conducive to the learning process by implementing policies for the prevention of harassment, intimidation and bullying.

(c) Implementation. Each district board of education shall adopt a policy for the control and discipline of all children attending public school in that district. Such policy shall set forth investigative procedures of reported incidents of harassment, intimidation, bullying or threatening behavior. Such policy shall provide options for the methods of control and discipline of the students and shall define standards of conduct to which students are expected to conform, which may include a detailed description of a graduated range of consequences and sanctions for bullying. The policy adopted by each district board of education shall include and/or establish the following:

(1) Specifically prohibit threatening behavior, harassment, intimidation, and bullying by students at school and by electronic communication. Electronic communication shall be prohibited whether or not such communication originated at school or with school equipment, if the communication is specifically directed at students or school personnel and concerns harassment, intimidation, or bullying at school.

(2) Address prevention of and education about threatening behavior, harassment, intimidation, and bullying.

(3) A procedure for the investigation of harassment, intimidation, bullying or threatening behavior reported to school officials for the purpose of determining the severity of the incidents and their potential to result in future violence.

(4) A procedure which provides, upon the completion of an investigation, that a school may recommend that available community mental health care options be provide to the student, if appropriate. This may include information about the types of support services available to the student bully, victim, and any other students affected by the prohibited behavior.

(5) A procedure whereby a school may request the disclosure of any information concerning students who have received mental health care pursuant to sub-section (4) of this rule that indicates an explicit threat to the safety of students or school personnel provided, the disclosure of information does not violate the provisions or requirements of the Family Educational Rights and Privacy Act of 1974, the Health Insurance Portability and Accountability Act of 1996, Section 2503 of Title 12 of the Oklahoma Statutes, Section 1376 of Title 59 of Oklahoma Statutes, or any other state or federal laws relating to the disclosure of confidential information.

Behavioral interventions and student support services

STATUTES

70 O.S § 24-100.4. Control and discipline of child

A. Each district board of education shall adopt a policy for the control and discipline of all children attending public school in that district, and for the investigation of reported incidents of harassment, intimidation, bullying, or threatening behavior. Such policy shall provide options for the methods of control and discipline of the students and shall define standards of conduct to which students are expected to conform. The policy shall:

4. Establish a procedure whereby, upon completing an investigation pursuant to paragraph 3 of this subsection, a school may recommend that available community mental health care options be provided to the student, if appropriate; and

§ 1210.241. Evidence-based counseling

A. The Legislature recognizes that many students are dealing with family and societal issues that make it difficult or impossible for them to be successful students. Among other school-based counseling programs, designated youth services agencies provide counseling for those students. To assure the quality and availability of the counseling services, the Legislature finds that it is desirable that school districts have access to individual and group counseling using an evidence-based counseling curriculum to prevent self-defeating, destructive or disruptive behavior. The curriculum may include training in problem solving, anger management, grief counseling, responsibility, communication and decision-making skills.

B. In order to assure the ability of school districts to give their students the best opportunity for academic and personal success, subject to the availability of funds, the Office of Juvenile Affairs, together with the Oklahoma Association of Youth Services, shall identify an evidence-based counseling curriculum. Subject to the availability of funds, the Office of Juvenile Affairs, through designated youth services agencies, shall make the identified evidence-based counseling available to students in school districts.

C. For purposes of this section, "evidence-based" means a program or practice that has had multiple-site randomized controlled trials across heterogeneous populations demonstrating that the program or practice is effective for the population.

Professional development

STATUTES

70 O.S. § 6-185 Competencies and Methods

A. The following competencies and methods shall be incorporated into the programs approved by the Oklahoma Commission for Teacher Preparation for the competency-based teacher preparation system provided for the Oklahoma Teacher Preparation Act:

1. The teacher preparation system shall include, but not be limited to, the following competencies:

   k. skills in effective classroom management and student discipline; […]

70 O.S § 1210.225. Implementation

In administering this act, the State Board of Education and the State Department of Education shall be governed by the following:

1. Implement in-service education programs for teachers, administrators and other personnel. Special emphasis shall be placed on methods and materials necessary for the effective teaching of drug abuse education. In-service teacher education materials which are based on individual performance and designed for use with a minimum of supervision shall be developed and made available to all school districts which are participating in this program;

2. Implement provisions of this act in the most expeditious manner possible, commensurate with the availability of textbooks and materials, as well as the availability of teaching personnel; and

3. Recommend degree programs and short course seminars for the preparation of drug education teaching personnel.

Monitoring and Accountability

Formal incident reporting of conduct violations

STATUTES

70 O.S § 5-146.1. Reporting Suspected Gang Activity

A. Any school employee, as defined by subsection A of Section 650.7 of Title 21 of the Oklahoma Statutes, who has reason to believe that a child under the age of eighteen (18) years is involved in gang activity shall notify the person designated by the school district. Upon receiving such report, the person designated by the school district may report the matter to the nearest local law enforcement agency. The report may be made by telephone, in writing, personally or by any other method prescribed by the school district.

70 O.S. § 10-106 Records of Attendance of Pupil

It shall be the duty of the principal or head teacher of each public, private or other school in the State of Oklahoma to keep a full and complete record of the attendance of all children at such school and to notify the attendance officer of the district in which such school is located of the absence of such children from the school together with the causes thereof, if known; and it shall be the duty of any parent, guardian or other person having charge of any child of compulsory attendance age to notify the child's teacher concerning the cause of any absences of such child. It shall be the duty of the principal or head teacher to notify the parent, guardian or responsible person of the absence of the child for any part of the school day, unless the parent, guardian or other responsible person notifies the principal or head teacher of such absence. Such attendance officer and teacher shall be required to report to the school health officer all absences on account of illness with such information respecting the same as may be available by report or investigation; and the attendance officer shall, if justified by the circumstances, promptly give to the parent, guardian or custodian of any child who has not complied with the provisions of this article oral and documented or written warning to the last known address of such person that the attendance of such child is required at some public, private or other school as herein provided. If within five (5) days after the warning has been received, the parent, guardian or custodian of such child does not comply with the provisions of this article, then such attendance officer shall make complaint against the parent, guardian or custodian of such child in a court of competent jurisdiction for such violation, which violation shall be a misdemeanor. If a child is absent without valid excuse four (4) or more days or parts of days within a four-week period or is absent without valid excuse for ten (10) or more days or parts of days within a semester, the attendance officer shall notify the parent, guardian or custodian of the child and immediately report such absences to the district attorney in the county wherein the school is located for juvenile proceedings pursuant to Title 10A of the Oklahoma Statutes.

70 O.S § 24-100.4. Control and discipline of child

A. Each district board of education shall adopt a policy for the control and discipline of all children attending public school in that district, and for the investigation of reported incidents of harassment, intimidation, bullying, or threatening behavior. Such policy shall provide options for the methods of control and discipline of the students and shall define standards of conduct to which students are expected to conform. The policy shall:

3. Establish a procedure for the investigation of all incidents of harassment, intimidation, bullying, or threatening behavior reported to school officials for the purpose of determining the severity of the incidents and their potential to result in future violence;

70 O.S § 24-138. Students Under Influence of Nonintoxicating Beverage, Alcoholic Beverage or Controlled Dangerous Substance Written Policy

A. Whenever it appears to any public school teacher that a student may be under the influence of low-point beer as defined in Section 163.2 of Title 37 of the Oklahoma Statutes, alcoholic beverages as defined in Section 506 of Title 37 of the Oklahoma Statutes or a controlled dangerous substance, as defined in Section 2-101 of Title 63 of the Oklahoma Statutes, that teacher shall report the matter, upon recognition, to the school principal or his or her designee. The principal or designee shall immediately notify the superintendent of schools or designee and a parent or legal guardian of the student of the matter.

ADMINISTRATIVE PROCEDURES

210:10-1-20. Implementation of policies prohibiting harassment, intimidation, and bullying

(c) Implementation. Each district board of education shall adopt a policy for the control and discipline of all children attending public school in that district. [ ] The policy adopted by each district board of education shall include and/or establish the following:

(3) A procedure for the investigation of harassment, intimidation, bullying or threatening behavior reported to school officials for the purpose of determining the severity of the incidents and their potential to result in future violence.

(f) Monitoring and Compliance. The State Board of Education shall monitor school districts for compliance with 70 O.S. § 24-100.4 and section (c) of this rule.

(1) To assist the State Department of Education with compliance efforts pursuant to this section, each school district shall identify a Bullying Coordinator who will serve as the district contact responsible for providing information to the State Board of Education. The Bullying Coordinator shall maintain on file with the Department of Education updated contact information. Each school district shall notify the State Department of Education within fifteen (15) business days of the appointment of a new Bullying Coordinator.

Parental notification

STATUTES

70 O.S. § 10-106 Records of Attendance of Pupil

[…] It shall be the duty of the principal or head teacher to notify the parent, guardian or responsible person of the absence of the child for any part of the school day, unless the parent, guardian or other responsible person notifies the principal or head teacher of such absence […]

Reporting and referrals between schools and law enforcement

STATUTES

70 O.S § 5-146.1. Reporting Suspected Gang Activity

A. Any school employee, as defined by subsection A of Section 650.7 of Title 21 of the Oklahoma Statutes, who has reason to believe that a child under the age of eighteen (18) years is involved in gang activity shall notify the person designated by the school district. Upon receiving such report, the person designated by the school district may report the matter to the nearest local law enforcement agency. The report may be made by telephone, in writing, personally or by any other method prescribed by the school district.

B. A school district employee or contractor who, in good faith and exercising due care in the making of a report pursuant to subsection A of this section, shall be granted immunity from all civil or criminal liability which might be incurred or imposed by making such report.

70 O.S. § 24-120 Truancy - Reports to Department of Public Welfare - Withholding of Assistance Payments

A. At the close of each attendance period of the school term, the board of education of each school district shall notify in writing the Department of Human Services of the name of any child who has not been present for instruction at least eighty percent (80%) of the time without valid excuse as defined in Section 10-105 of this title.

B. Upon the receipt of such information from the school district, the Director of the Department of Human Services is authorized to withhold assistance payments to the payee of such child and to instigate an investigation for the purpose of improving the school attendance of such child. After such investigation, if the attendance record of the child investigated is satisfactory, such withheld payments may be released. In the event the investigation results in change in custody and care of such child, payments to the payee shall be canceled or shall be made to the person qualified to receive benefits on behalf of the child.

C. For purposes of the pilot project, the Department of Human Services and the State Board of Education shall establish a procedure to provide for the exchange of information required by this section concerning students subject to the provisions of this section. Any procedure thus established shall, if applicable, comply with the requirements of the Family Educational Rights and Privacy Act, 20 U.S.C. Section 1232g et seq., and any other applicable federal law.

D. The district attorney shall file with the Department of Human Services a report identifying any child who has been convicted of truancy within thirty (30) days of such conviction.

Disclosure of school records

STATUTES

70 O.S § 6-115. Information concerning pupil

It shall be unlawful for any teacher to reveal any information concerning a student obtained by the teacher in their capacity as a teacher except as may be required in the performance of the contractual duties of the teacher or as otherwise required by law. The information may be provided to the parent or guardian of the student upon request or as otherwise required by law. Any violation of this section shall upon conviction be considered a misdemeanor.

70 O.S § 24-101.4. Disclosure of disciplinary and nondirectory educational records

A. A school district in which a student is enrolled or is in the process of enrolling in may request the student's education records from any school district in which the student was formerly enrolled to ascertain safety issues with incoming students and ensure full disclosure. A district that receives a request for the education records of a student who formerly was enrolled in the district shall forward the records within three (3) business days of receipt of the request. The records shall include the student's disciplinary records. Disciplinary records shall include but not be limited to all information that relates to a student assaulting, carrying weapons, possessing illegal drugs, including alcohol, and any incident that poses a potential dangerous threat to students or school personnel. The forwarding and disclosure of disciplinary records or other education records to a school district in which a student seeks or intends to enroll shall be in accordance with the annual notification requirements and provisions of the Family Educational Rights and Privacy Act of 1974 (FERPA).

B. Each school district shall be required to release nondirectory educational records to the agencies listed in Section 620.3 of Title 10 of the Oklahoma Statutes. The release of any records shall be in accordance with the provisions of FERPA. The term "nondirectory educational records" shall be those records maintained by the school regarding a child who is or has been a student at the school which are categorized as private or confidential records pursuant to FERPA.

C. The State Board of Education shall promulgate rules for monitoring school districts for compliance with this section and providing sanctions for noncompliance with this section. The Board shall inform school districts of their statutory responsibilities for compliance with FERPA. Enforcement and sanctions shall be as provided by the federal requirements under FERPA.

Data collection, review, and reporting of disciplinary policies and actions

STATUTE

70 O.S § 1210.229-5. State Superintendent of Public Instruction and State Department of Education--Coordination with Oklahoma Drug and Alcohol Abuse Policy Board--Joint duties

A. The State Superintendent of Public Instruction and State Department of Education in conjunction with the Oklahoma Drug and Alcohol Abuse Policy Board shall:

2. establish and review annually model policies for alcohol and drug abuse issues, including but not limited to policies regarding disciplinary actions and referral for services;

ADMINISTRATIVE CODE

210:10-1-20. Implementation of policies prohibiting harassment, intimidation, and bullying

(f) Monitoring and Compliance. The State Board of Education shall monitor school districts for compliance with 70 O.S. § 24-100.4 and section (c) of this rule.

(1) To assist the State Department of Education with compliance efforts pursuant to this section, each school district shall identify a Bullying Coordinator who will serve as the district contact responsible for providing information to the State Board of Education. The Bullying Coordinator shall maintain on file with the Department of Education updated contact information. Each school district shall notify the State Department of Education within fifteen (15) business days of the appointment of a new Bullying Coordinator.

(2) Beginning with the 2012-2013 school year, and for each school year following, each school district shall submit to the State Board of Education a copy of the district's bullying policy. The bullying policy shall be submitted to the State Department of Education by December 10th of each school year, and shall be submitted as a part of the school's Annual Performance Report.

(3) Beginning with the 2012-2013 school year, and for each school year following, the State Department of Education shall conduct a comprehensive review of each school district's bullying policy to ensure compliance with 70 O.S. § 24-100.4. School districts that do not comply with the statutory requirements of the statute shall be notified in writing, and be required to make necessary changes to comply with state law.

(4) State Department of Education staff shall monitor school districts for compliance with 70 O.S. § 24-100.4 and section (c) of this rule. The State Department of Education may initiate a compliance review upon receipt of evidence which indicates noncompliance with 70 O.S. § 24-100.4. Evidence of potential noncompliance shall be based on the nature or frequency of confirmed complaints of non-compliance received by the State Department of Education. The scope of a compliance review initiated pursuant to sub-section (f) of this rule shall be limited to determining whether a school district has implemented policies required by 70 O.S. § 24-100.4.

(5) Records indicating substantial noncompliance with sub-sections (3) or (4) of this rule shall be submitted to the school district's Regional Accreditation Officer (RAO) for review and consideration during the district's accreditation process. Record of a school district's failure to comply with 70 O.S. § 24-100.4, including the number of confirmed complaints of non-compliance involving the district shall be documented in the district's compliance report and be considered for purposes of accreditation.

School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers

Authority and power to implement school arrest

STATUTES

§ 10-101. Attendance officer—Assistants

Except as provided in Section 10-102.1 of this title, the board of education of each school district shall appoint, or may employ, and fix the compensation of an attendance officer and such assistants as may be necessary, who shall serve under the authority and supervision of the board of education and the district superintendent of schools. Provided, that the same person may be appointed or employed as an attendance officer or assistant for two or more school districts.

§ 10-102.1. Police as attendance officers

The board of education of each school district may enter into an agreement with the municipal police department serving the school district which provides that some or all of the duties of an attendance officer for the school district shall be performed by a certified police officer of the municipality. The agreement may further provide that the compensation and necessary traveling expenses of such attendance officer shall be payable from municipal funds.

§ 10-105. Neglect or refusal to compel child to attend school--Exceptions—Enforcement

C. It shall be the duty of the attendance officer to enforce the provisions of this section. In the prosecution of a parent, guardian, or other person having custody of a child for violation of any provision of this section, it shall be an affirmative defense that the parent, guardian, or other person having custody of the child has made substantial and reasonable efforts to comply with the compulsory attendance requirements of this section but is unable to cause the child to attend school. If the court determines the affirmative defense is valid, it shall dismiss the complaint against the parent, guardian, or other person having custody of the child and shall notify the school attendance officer who shall refer the child to the district attorney for the county in which the child resides for the filing of a Child in Need of Supervision petition against the child pursuant to the Oklahoma Juvenile Code.

§ 10-106. Records of attendance of pupil--Report of absence

It shall be the duty of the principal or head teacher of each public, private or other school in the State of Oklahoma to keep a full and complete record of the attendance of all children at such school and to notify the attendance officer of the district in which such school is located of the absence of such children from the school together with the causes thereof, if known; and it shall be the duty of any parent, guardian or other person having charge of any child of compulsory attendance age to notify the child's teacher concerning the cause of any absences of such child. It shall be the duty of the principal or head teacher to notify the parent, guardian or responsible person of the absence of the child for any part of the school day, unless the parent, guardian or other responsible person notifies the principal or head teacher of such absence. Such attendance officer and teacher shall be required to report to the school health officer all absences on account of illness with such information respecting the same as may be available by report or investigation; and the attendance officer shall, if justified by the circumstances, promptly give to the parent, guardian or custodian of any child who has not complied with the provisions of this article oral and documented or written warning to the last-known address of such person that the attendance of such child is required at some public, private or other school as herein provided. If within five (5) days after the

warning has been received, the parent, guardian or custodian of such child does not comply with the provisions of this article, then such attendance officer shall make complaint against the parent, guardian or custodian of such child in a court of competent jurisdiction for such violation, which violation shall be a misdemeanor. If a child is absent without valid excuse four (4) or more days or parts of days within a four-week period or is absent without valid excuse for ten (10) or more days or parts of days within a semester, the attendance officer shall notify the parent, guardian or custodian of the child and immediately report such absences to the district attorney in the county wherein the school is located for juvenile proceedings pursuant to Title 10A of the Oklahoma Statutes.

§ 10-107. Rules and regulations

In any matter pertaining to the duties of the attendance officer and keeping records thereof, the board of education of the district shall make rules and regulations subject only to the limitations of the regulations of the State Board of Education and of the law, which shall have the force and effect of law, and all attendance officers are hereby required to comply with all such rules and regulations the same as if they had been specifically mentioned herein.

§ 10-109. Temporary detention and custody of children subject to compulsory attendance law

A. An attendance officer, any school administrator, or designee of the school administrator who is employed by the school, or any peace officer may, except for children being home schooled pursuant to Section 10-105 of the Oklahoma Statutes, temporarily detain and assume temporary custody of any child subject to compulsory full-time education, during hours in which school is actually in session, who is found away from the home of such child and who is absent from school without lawful excuse within the school district that such attendance officer, peace officer or school official serves, if said school district has previously approved the temporary detention and custody pursuant to this section.

B. Any person temporarily detaining and assuming temporary custody of a child pursuant to this section shall immediately deliver the child either to the parent, guardian, or other person having control or custody of the child, or to the school from which the child is absent without valid excuse, or to a nonsecure youth service or community center servicing the school district, or to a community intervention center, as defined by Section 2-1-103 of Title 10A of the Oklahoma Statutes.

C. The temporary custody or detention provided by this section shall be utilized as a means of reforming and returning the truant students to school and shall not be used as a pretext for investigating criminal matters. The temporary custody or detention herein provided is a severely limited type of detention and is not justified unless there are specific facts causing an attendance officer or other authorized person to reasonably suspect that a truancy violation is occurring and that the person the officer intends to detain is a truant.

Certification or training

No relevant statutes found.

MOUs, authorization and/or funding

STATUTES

§ 10-102.1. Police as attendance officers

The board of education of each school district may enter into an agreement with the municipal police department serving the school district which provides that some or all of the duties of an attendance officer for the school district shall be performed by a certified police officer of the municipality. The

agreement may further provide that the compensation and necessary traveling expenses of such attendance officer shall be payable from municipal funds.

§ 10-108. Necessary travel expenses

The attendance officer or assistants shall receive, in addition to their salaries, all necessary travel expenses incurred by them in the performance of their official duties.

State Education Agency Support

State model policies and implementation support

No relevant statutes found.

Funding appropriations

STATUTES

70 O.S § 1210.227. Funds

In implementing this act every effort shall be made to combine funds appropriated for this purpose with funds available from all other sources, federal, state, local or private, in order to achieve maximum benefits for improving drug abuse education.

Other/Uncategorized

Professional immunity or liability

STATUTES

70 O.S § 5-146.1. Reporting Suspected Gang Activity

A. Any school employee, as defined by subsection A of Section 650.7 of Title 21 of the Oklahoma Statutes, who has reason to believe that a child under the age of eighteen (18) years is involved in gang activity shall notify the person designated by the school district. Upon receiving such report, the person designated by the school district may report the matter to the nearest local law enforcement agency. The report may be made by telephone, in writing, personally or by any other method prescribed by the school district.

B. A school district employee or contractor who, in good faith and exercising due care in the making of a report pursuant to subsection A of this section, shall be granted immunity from all civil or criminal liability which might be incurred or imposed by making such report.

70 O.S § 24-101.3. Student suspension

I. No school board, administrator or teacher may be held civilly liable for any action taken in good faith which is authorized by this section.

70 O.S § 24-132. School Officials Immune from Liability for Making Certain Reports

A. Any public school administrator, teacher or counselor having reasonable cause to suspect that a student is under the influence of low-point beer as defined in Section 163.2 of Title 37 of the Oklahoma Statutes, alcoholic beverages as defined in Section 506 of Title 37 of the Oklahoma Statutes or a controlled dangerous substance as defined in Section 2-101 of Title 63 of the Oklahoma Statutes or has in the student's possession low-point beer or alcoholic beverages or a controlled dangerous substance, who reports such information to the appropriate school official, court personnel, community substance abuse prevention and treatment personnel or any law enforcement agency, pursuant to the school's policy shall have immunity from any civil liability that might otherwise be incurred or imposed as a result of the making of such a report.

Community input or involvement

STATUTES

70 O.S § 24-100.5. Safe School Committee

A. Due to the growing concern regarding safety and the ever constant threat of violence in the public schools, it is the intent of the Legislature that public schools and families work together to combat this rising problem. Therefore, beginning October 1, 1996, and every year thereafter, each public school site shall establish a Safe School Committee to be composed of at least seven (7) members. The Safe School Committee shall be composed of an equal number of teachers, parents of the children affected, students, and a school official who participates in the investigation of reports of harassment, intimidation, bullying, and threatening behavior as required by subsection A of Section 24- 100.4 of this title.

B. The Safe School Committee shall study and make recommendations to the principal regarding:

1. Unsafe conditions, possible strategies for students to avoid harm at school, student victimization, crime prevention, school violence, and other issues which prohibit the maintenance of a safe school;
2. Student harassment, intimidation, and bullying at school;
3. Professional development needs of faculty and staff to implement methods to decrease student harassment, intimidation, and bullying; and
4. Methods to encourage the involvement of the community and students, the development of individual relationships between students and school staff, and use of problem-solving teams that include counselors and/or school psychologists.

In its considerations, the Safe School Committee shall review traditional and accepted harassment, intimidation, and bullying prevention programs utilized by other states, state agencies, or school districts.

C. The State Department of Education shall compile and distribute to each public school site a list of research based programs appropriate for the prevention of harassment, intimidation, and bullying of students at school. If a school district implements a commercial bullying prevention program, it shall use a program listed by the State Department of Education.

Other/uncategorized

STATUTES

70 O.S § 24-100.6. Right of student victims to be separated from offender – Notice to school district of juvenile sex offender identity – School attendance of juvenile sex offender

A. Students who have been victims of certain felony offenses by other students, as well as the siblings of the student victims, have the right to be kept separated from the student offender both at school and during school transportation.

B. Notwithstanding any provision of law prohibiting the disclosure of the identity of a minor, within thirty (30) days of the time of the adjudication or withholding of adjudication of any juvenile offender for any offense subject to the Juvenile Sex Offender Registration Act, either the juvenile bureau in counties which have juvenile bureaus or the Office of Juvenile Affairs in all other counties shall notify the superintendent of the school district in which the juvenile offender is enrolled or intends to enroll of the adjudication and the offense for which the child was adjudicated. Upon receipt of such notice, the school district shall notify the victim and parent or guardian of the victim of their right to request to be separated from the offender at school and during school transportation. If the victim requests to be separated from the offender, the school district shall take appropriate action to effectuate the provisions of subsection C of this section. The decision of the victim shall be final and not reversible.

C. Any offender described in subsection B of this section shall, upon the request of the victim, not attend any school attended by the victim or a sibling of the victim or ride on a school bus on which the victim or a sibling of the victim is riding. The offender shall be permitted by the school district to attend another school within the district in which the offender resides, provided the other school is not attended by the victim or sibling of the victim. If the offender is unable to attend another school in the district in which the offender resides, the offender shall transfer to another school district pursuant to the provisions of the Education Open Transfer Act.

D. The offender or the parents of the offender, if the offender is a juvenile, shall be responsible for arranging and paying for transportation and any other cost associated with or required for the offender to attend another school or that is required as a consequence of the prohibition against attending a school or riding on a school bus on which the victim or a sibling of the victim is attending or riding. However, the offender or the parents of the offender shall not be charged for existing modes of transportation that can be used by the offender at no additional cost to the school district.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by Oklahoma provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
Website		
Education Law Book	One-stop resource for finding resources and information about state education law, rules in the Oklahoma Administrative Code and more.	http://www.ok.gov/sde/education-law-book
Bullying Prevention	Provides information on bullying prevention resources, frequently asked questions, and general information.	http://ok.gov/sde/bullying-prevention
Prevention Education	Provides information and resources on suicide prevention, youth dating violence prevention, substance abuse prevention, and more.	http://ok.gov/sde/prevention-education
Documents		
No relevant resources found		
Other Resources		
No relevant resources found		

Oregon
Compilation of School Discipline Laws and Regulations

Prepared: August 12, 2013

Introduction

This compilation presents school discipline-related state statutes, school discipline-related regulations, and, where available, links to state-sponsored websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSLE). For example, one major category encompasses all state laws or regulations mandating specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of state legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in each state.

Discipline categories were not mutually exclusive. Statutes and regulations often appeared across multiple categories. For states with more extensive statutes covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. State laws, ordered by chapter and section number, appear first within each category followed by state regulations. All statutes and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists statutes by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to state-sponsored websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of May 2013, with the exception of the state laws related to seclusion and restraint, which are complete and current as of December 2012. Readers should also note that the information in this document was compiled from individual state sources that are created by each state and which are maintained and updated with varying frequencies. Readers should consult the source information provided for each state directly in order to check for updates to this state's laws and regulations or conduct further research.

For further information, including definitions of the different policy categories, please refer to the Discipline Laws and Regulations Compendium posted on the Center's website.

Note: Per personal communication with state representative Michael Mahoney on 4/2/13, the legislature is in the process of amending school discipline statutes. While there will most likely be some amendments by the end of the 2013 legislative session, a work group has been appointed to continue to work on refining the school discipline statutes over the next two sessions, through legislative session 2015.

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Safe Supportive Learning
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Table of Contents

Oregon State Codes Cited **1**

General Provisions **3**

Authority to develop and establish rules of conduct 3
Scope 4
Communication of policy 5

In-School Discipline **6**

Use of multi-tiered discipline approaches 6
Teacher authority to remove students from classrooms 6
Alternatives to suspension 6
Use of corporal punishment 6
Use of student and locker searches 7
Other in-school disciplinary approaches 7

Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements **8**

Grounds for possible suspension or expulsion 8
Grounds for mandatory suspension or expulsion 8
Limitations, conditions or exclusions for use of suspension and expulsion 8
Administrative procedures related to suspension and expulsion 9
In-school suspension 9
Return to school following removal 10
Use of restraint and seclusion 10
Alternative placements 14

Disciplinary Approaches Addressing Specific Infractions and Conditions **15**

Firearms (as required by the Guns-Free Schools Act) 15
Other weapons 16
Students with chronic disciplinary issues 17
Attendance and truancy 17
Substance use 18
Bullying, harassment, or hazing 18
Other special infractions or conditions 20

Prevention and Behavioral Interventions (Non-Punitive) **22**

Prevention 22
Behavioral interventions and student support services 22
Professional development 23

Monitoring and Accountability **24**

Formal incident reporting of conduct violations 24
Parental notification 25
Reporting and referrals between schools and law enforcement 27
Disclosure of school records 28
Data collection, review, and reporting of disciplinary policies and actions 28

School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers 30
Authority and power to implement school arrest 30
Certification or training 30
MOUs, authorization, and/or funding 30
State Education Agency Support 31
State model policies and implementation support 31
Funding appropriations 31
Other/Uncategorized 32
Professional immunity or liability 32
Community input or involvement 32
Other/Uncategorized 32
State-Sponsored, Publicly Available Websites or Other Resources on School Discipline 33

Oregon State Codes Cited

Oregon Revised Statutes

Chapter 339 — School Attendance; Admission; Discipline; Safety

Compulsory School Attendance

339.071. Attendance notification policy
339.080. Nonattendance notice to parents, school officials and parole or probation officer

Admission of Students

339.115. Admission of students; waiver; denial

Student Conduct and Discipline

339.240. Rules of student conduct, discipline and rights; duties of state board and district school boards
339.250. Duty of student to comply with rules; discipline, suspension, expulsion, removal and counseling; written information on alternative programs required

School Safety

339.315. Report required if person has possession of unlawful firearm or destructive device; immunity; law enforcement investigation required
339.351. Definitions for ORS 339.351 to 339.364
339.353. Findings
339.356. District policy required
339.359. Training programs; prevention task forces, programs and other initiatives
339.362. Retaliation against victims and witnesses prohibited; school employee immunity
339.364. Victim may seek redress under other laws

Miscellaneous

339.885 Secret societies in public schools prohibited; membership grounds for suspension or expulsion

Enforcement

339.925 Compulsory school attendance violation procedure; rules

Oregon Administrative Code

Chapter 581: Oregon Department of Education

Division 21: School governance

Student Conduct and Discipline

581-021-0061. Corporal Punishment Defined

Physical Restraint and Seclusion

581-021-0550. Definitions
581-021-0553. Use of Physical Restraint and Seclusion in Public Education Programs
581-021-0556. Program's Procedures Regarding Physical Restraint & Seclusion
581-021-0559. Reporting Requirements for the Use of Physical Restraint & Seclusion
581-021-0563. Approval of Physical Restraint and Seclusion Training Programs for School Staff
581-021-0566. Required Use of Approved Restraint and Seclusion Programs

General Provisions

Authority to develop and establish rules of conduct

STATUTES

339.240. Rules of student conduct, discipline and rights; duties of state board and district school boards.

(1) The State Board of Education in accordance with ORS chapter 183 shall adopt rules setting minimum standards for pupil conduct and discipline and for rights and procedures pertaining thereto that are consistent with orderly operation of the educational processes and with fair hearing requirements. The rules shall be distributed by the Superintendent of Public Instruction to all school districts.

(3) Every district school board shall enforce consistently and fairly its written rules regarding pupil conduct, discipline and rights. This subsection does not apply to a pupil who is eligible for special education as a child with a disability under ORS 343.035.

339.356 District policy required.

(1) Each school district shall adopt a policy prohibiting harassment, intimidation or bullying and prohibiting cyberbullying. School districts shall develop the policy after consultation with parents, guardians, school employees, volunteers, students, administrators and community representatives.

(2) School districts must include in the policy:

(a) A statement prohibiting harassment, intimidation or bullying and prohibiting cyberbullying.

(b) Definitions of “harassment,” “intimidation” or “bullying” and of “cyberbullying” that are consistent with ORS 339.351.

(c) Definitions of “protected class” that are consistent with ORS 174.100 and 339.351.

(d) A statement of the scope of the policy, including a notice that the policy applies to behavior at school-sponsored activities, on school-provided transportation and at any official school bus stop.

(e) A description of the type of behavior expected from each student.

(f) A procedure that is uniform throughout the school district for reporting an act of harassment, intimidation or bullying or an act of cyberbullying. A procedure established under this paragraph shall:

(A) Identify by job title the school officials responsible for receiving such a report at a school.

(B) Require a school employee to report an act of harassment, intimidation or bullying or an act of cyberbullying to a person identified under subparagraph (A) of this paragraph.

(C) Identify any remedial action that may be imposed on a school employee for failure to make a report as required by subparagraph (B) of this paragraph.

(D) Allow a student or volunteer to report an act of harassment, intimidation or bullying or an act of cyberbullying voluntarily and anonymously to a person identified under subparagraph (A) of this paragraph. Nothing in this subparagraph may be construed to permit remedial action solely on the basis of an anonymous report.

(g) A procedure that is uniform throughout the school district for prompt investigation of a report of an act of harassment, intimidation or bullying or an act of cyberbullying. A procedure established under this paragraph shall identify by job title the school officials responsible for investigating such a report.

(h) A procedure by which a person may request a school district to review the actions of a school in responding to a report of an act of harassment, intimidation or bullying or an act of cyberbullying or investigating such a report.

(i) A statement of the manner in which a school and a school district will respond after an act of harassment, intimidation or bullying or an act of cyberbullying is reported, investigated and confirmed.

(j) A statement of the consequences and appropriate remedial action for a person found to have committed an act of harassment, intimidation or bullying or an act of cyberbullying.

(k) A statement prohibiting reprisal or retaliation against any person who reports an act of harassment, intimidation or bullying or an act of cyberbullying and stating the consequences and appropriate remedial action for a person who engages in such reprisal or retaliation.

(l) A statement of the consequences and appropriate remedial action for a person found to have falsely accused another of having committed an act of harassment, intimidation or bullying or an act of cyberbullying as a means of reprisal or retaliation, as a means of harassment, intimidation or bullying or as a means of cyberbullying.

(m) A statement of how the policy is to be publicized within the district. At a minimum, a school district shall make the policy:

(A) Annually available to parents, guardians, school employees and students in a student or employee handbook; and

(B) Readily available to parents, guardians, school employees, volunteers, students, administrators and community representatives at each school office or at the school district office and, if available, on the website for a school or the school district.

(n) The identification by job title of school officials and school district officials responsible for ensuring that the policy is implemented.

(3) A school district that does not comply with the requirements of this section is considered nonstandard under ORS 327.103.

ADMINISTRATIVE CODE

581- 021-0556 Program's Procedures Regarding Physical Restraint & Seclusion.

(1) Each entity that has jurisdiction over a public education program must establish procedures for the public education program to follow after an incident involving the use of physical restraint or seclusion.

(10) The district school board shall adopt written policies to implement Physical Restraint & Seclusion procedures consistent with and as indicated in chapter 665, Oregon Laws 2011 (Enrolled House Bill 2939), ORS 339.250 and OARs 581-021-0550 to 581-021-0566, and shall inform teachers, administrators, school employees and school volunteers.

Scope

STATUTES

339.315. Report required if person has possession of unlawful firearm or destructive device; immunity; law enforcement investigation required.

(3) As used in this section, "school" means:

(a) A public or private institution of learning providing instruction at levels kindergarten through grade 12, or their equivalents, or any part thereof;

(b) The grounds adjacent to the institution; and

(c) Any site or premises that at the time is being used exclusively for a student program or activity that is sponsored or sanctioned by the institution, a public school district, an education service district or a voluntary organization and that is posted as such.

339.351 Definitions for ORS 339.351 to 339.364.

(1) "Cyberbullying" means the use of any electronic communication device to harass, intimidate or bully.

(2) "Harassment, intimidation or bullying" means any act that:

(a) Substantially interferes with a student's educational benefits, opportunities or performance;

(b) Takes place on or immediately adjacent to school grounds, at any school-sponsored activity, on school-provided transportation or at any official school bus stop;

339.356. District policy required

(1) Each school district shall adopt a policy prohibiting harassment, intimidation or bullying and prohibiting cyberbullying. School districts shall develop the policy after consultation with parents, guardians, school employees, volunteers, students, administrators and community representatives.

(2) School districts must include in the policy:

(d) A statement of the scope of the policy, including a notice that the policy applies to behavior at school-sponsored activities, on school-provided transportation and at any official school bus stop.

Communication of policy

STATUTES

339.240. Rules of student conduct, discipline and rights; duties of state board and district school boards

(2) Every district school board shall adopt and attempt to give the widest possible distribution of copies of reasonable written rules regarding pupil conduct, discipline and rights and procedures pertaining thereto. Such rules must comply with minimum standards adopted by the State Board of Education under subsection (1) of this section.

339.356. District policy required

(1) Each school district shall adopt a policy prohibiting harassment, intimidation or bullying and prohibiting cyberbullying. School districts shall develop the policy after consultation with parents, guardians, school employees, volunteers, students, administrators and community representatives.

(2) School districts must include in the policy:

(m) A statement of how the policy is to be publicized within the district. At a minimum, a school district shall make the policy:

(A) Annually available to parents, guardians, school employees and students in a student or employee handbook; and

(B) Readily available to parents, guardians, school employees, volunteers, students, administrators and community representatives at each school office or at the school district office and, if available, on the website for a school or the school district.

In-School Discipline

Use of multi-tiered discipline approaches

No relevant statutes found.

Teacher authority to remove students from classrooms

STATUTES

339.250. Duty of student to comply with rules; discipline, suspension, expulsion, removal and counseling; written information on alternative programs required.

(b) District school boards shall develop policies on managing students who threaten violence or harm in public schools. The policies adopted by a school district shall include staff reporting methods and shall require an administrator to consider:

(A) Immediately removing from the classroom setting any student who has threatened to injure another person or to severely damage school property.

(B) Placing the student in a setting where the behavior will receive immediate attention, including, but not limited to, the office of the school principal, vice principal, assistant principal or counselor or a school psychologist licensed by the Teacher Standards and Practices Commission or the office of any licensed mental health professional.

(C) Requiring the student to be evaluated by a licensed mental health professional before allowing the student to return to the classroom setting.

Alternatives to suspension

STATUTES

339.250. Duty of student to comply with rules; discipline, suspension, expulsion, removal and counseling; written information on alternative programs required.

(8) Notwithstanding ORS 336.010, a school district may require a student to attend school during nonschool hours as an alternative to suspension.

Use of corporal punishment

STATUTES

339.250. Duty of student to comply with rules; discipline, suspension, expulsion, removal and counseling; written information on alternative programs required.

(12)(a) The authority to discipline a student does not authorize the infliction of corporal punishment. Every resolution, bylaw, rule, ordinance or other act of a district school board, a public charter school or the Department of Education that permits or authorizes the infliction of corporal punishment upon a student is void and unenforceable.

(b) As used in this subsection, “corporal punishment” means the willful infliction of, or willfully causing the infliction of, physical pain on a student.

(c) As used in this subsection, “corporal punishment” does not mean:

(A) The use of physical force authorized by ORS 161.205 for the reasons specified therein; or

(B) Physical pain or discomfort resulting from or caused by participation in athletic competition or other such recreational activity, voluntarily engaged in by a student.

ADMINISTRATIVE CODE

581-021-0061. Corporal Punishment Defined.

(1) Corporal punishment is any act which willfully inflicts or willfully causes the infliction of physical pain on a student.

(2) Corporal punishment does not include the emergency use of reasonable physical force by a school administrator, teacher, school employee, or volunteer as necessary to maintain order or to prevent a student from harming him/herself, other students, and school staff or property.

(3) Corporal punishment does not include physical pain or discomfort resulting from or caused by:

(a) Training for or participation in athletic competition voluntarily engaged in by a student;

(b) Recreational activity voluntarily engaged in by a student;

(c) Physical exertion shared by all students in a teacher directed class activity, which may include, but is not limited to, physical education exercises, field trips, or vocational education projects; or

(d) Physical restraint or seclusion:

(A) As part of a behavior support plan in a student's individual education program which has been developed with parent participation as required in Chapter 343, or, with parent participation, in a student's Section 504 plan or other behavior support plan;

(B) That includes an individual threshold (number of incidents within a specific time period) for reviewing the plan; and

(C) Is carried out according to district policies and procedures under OAR 581-021-0062, which must be provided to the parents upon request when a plan is developed that includes the use of physical restraint and/or seclusion.

Use of student and locker searches

No relevant statutes found.

Other in-school disciplinary approaches

No relevant statutes found.

Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements

Grounds for possible suspension or expulsion

STATUTES

339.250. Duty of student to comply with rules; discipline, suspension, expulsion, removal and counseling; written information on alternative programs required.

(3) The district school board may authorize the discipline, suspension or expulsion of any refractory student and may suspend or expel any student who assaults or menaces a school employee or another student. The age of a student and the past pattern of behavior of a student shall be considered prior to a suspension or expulsion of a student. As used in this subsection "menace" means by word or conduct the student intentionally attempts to place a school employee or another student in fear of imminent serious physical injury.

(4)(a) Willful disobedience, willful damage or injury to school property, use of threats, intimidation, harassment or coercion against any fellow student or school employee, open defiance of a teacher's authority or use or display of profane or obscene language is sufficient cause for discipline, suspension or expulsion from school.

Grounds for mandatory suspension or expulsion

STATUTES

339.250. Duty of student to comply with rules; discipline, suspension, expulsion, removal and counseling; written information on alternative programs required.

(6)(a) Notwithstanding subsection (5) of this section, a school district shall have a policy that requires the expulsion from school for a period of not less than one year of any student who is determined to have:

(A) Brought a weapon to a school, to school property under the jurisdiction of the district or to an activity under the jurisdiction of the school district;

(B) Possessed, concealed or used a weapon in a school or on school property or at an activity under the jurisdiction of the district; or

(C) Brought to or possessed, concealed or used a weapon at an interscholastic activity administered by a voluntary organization.

Limitations, conditions or exclusions for use of suspension and expulsion

STATUTES

339.250 Duty of student to comply with rules; discipline, suspension, expulsion, removal and counseling; written information on alternative programs required.

(5) Expulsion of a student shall not extend beyond one calendar year and suspension shall not extend beyond 10 school days.

Administrative procedures related to suspension and expulsion

STATUTES

339.115. Admission of students; waiver; denial.

(8) Notwithstanding subsection (1) of this section, a school district:

(a) May for the remaining period of an expulsion deny admission to the regular school to a resident student who is expelled from another school district; and

(b) Shall for at least one calendar year from the date of the expulsion and if the expulsion is for more than one calendar year, may for the remaining period of time deny admission to the regular school program to a student who is under expulsion from another school district for an offense that constitutes a violation of a school district policy adopted pursuant to ORS 339.250 (6).

339.250. Duty of student to comply with rules; discipline, suspension, expulsion, removal and counseling; written information on alternative programs required.

(3) The district school board may authorize the discipline, suspension or expulsion of any refractory student and may suspend or expel any student who assaults or menaces a school employee or another student. The age of a student and the past pattern of behavior of a student shall be considered prior to a suspension or expulsion of a student. As used in this subsection "menace" means by word or conduct the student intentionally attempts to place a school employee or another student in fear of imminent serious physical injury.

(4)(a) Willful disobedience, willful damage or injury to school property, use of threats, intimidation, harassment or coercion against any fellow student or school employee, open defiance of a teacher's authority or use or display of profane or obscene language is sufficient cause for discipline, suspension or expulsion from school.

(b) District school boards shall develop policies on managing students who threaten violence or harm in public schools. The policies adopted by a school district shall include staff reporting methods and shall require an administrator to consider:

(A) Immediately removing from the classroom setting any student who has threatened to injure another person or to severely damage school property.

(B) Placing the student in a setting where the behavior will receive immediate attention, including, but not limited to, the office of the school principal, vice principal, assistant principal or counselor or a school psychologist licensed by the Teacher Standards and Practices Commission or the office of any licensed mental health professional.

(C) Requiring the student to be evaluated by a licensed mental health professional before allowing the student to return to the classroom setting.

(c) The administrator shall notify the parent or legal guardian of the student's behavior and the school's response.

(d) District school boards may enter into contracts with licensed mental health professionals to perform the evaluations required under paragraph (b) of this subsection.

(e) District school boards shall allocate any funds necessary for school districts to implement the policies adopted under paragraph (b) of this subsection.

In-school suspension

No relevant statutes found.

Return to school following removal

No relevant statutes found.

Use of restraint and seclusion

ADMINISTRATIVE CODE

581-021-0061. Corporal Punishment Defined.

(2) Corporal punishment does not include the emergency use of reasonable physical force by a school administrator, teacher, school employee, or volunteer as necessary to maintain order or to prevent a student from harming him/herself, other students, and school staff or property.

(3) Corporal punishment does not include physical pain or discomfort resulting from or caused by:

(d) Physical restraint or seclusion:

(A) As part of a behavior support plan in a student's individual education program which has been developed with parent participation as required in Chapter 343, or, with parent participation, in a student's Section 504 plan or other behavior support plan;

(B) That includes an individual threshold (number of incidents within a specific time period) for reviewing the plan; and

581-021-0550. Definitions.

As used in OAR 581-021-0550 to 581-021-0566:

'Chemical restraint' means a drug or medication that is used on a student to control behavior or restrict freedom of movement and that is not:

(a) Prescribed by a licensed physician or other qualified health professional acting under the professional's scope of practice for standard treatment of the student's medical or psychiatric condition;

(b) Administered as prescribed by a licensed physician or other qualified health professional acting under the professional's scope of practice.

(2) 'Mechanical restraint' means a device used to restrict the movement of a student or the movement or normal function of a portion of the body of a student. 'Mechanical restraint' does not include:

(a) A protective or stabilizing device ordered by a licensed physician; or

(b) A vehicle safety restraint when used as intended during the transport of a student in a moving vehicle.

(3) 'Physical restraint' means the restriction of a student's movement by one or more persons holding the student or applying physical pressure upon the student.

(a) 'Physical restraint' does not include the touching or holding of a student without the use of force for the purpose of directing the student or assisting the student in completing a task or activity;

(b) 'Physical restraint does not include prone restraint as defined in Section 2, chapter 665, Oregon Laws 2011 (Enrolled House Bill 2939).

(4) 'Prone restraint' means a restraint in which a student is held face down on the floor.

(5) 'Public education program' means a program that:

(a) Is for students in early childhood education, elementary school or secondary school;

(b) Is under the jurisdiction of a school district, an education service district or another educational institution or program; and

(c) Receives, or serves students who receive, support in any form from any program supported, directly or indirectly, with funds appropriated to the Department of Education.

(6) 'Seclusion' means the involuntary confinement of a student alone in a room from which the student is physically prevented from leaving. 'Seclusion' does not include:

(a) The removal of a student for a short period of time to provide the student with an opportunity to regain self-control if the student is in a setting from which the student is not physically prevented from leaving.

(7) 'Serious bodily injury' means any significant impairment of the physical condition of a person, as determined by qualified medical personnel, whether self-inflicted or inflicted by someone else.

581- 021-0553. Use of Physical Restraint and Seclusion in Public Education Programs.

(1)The use of a chemical restraint, mechanical restraint or prone restraint on a student in a public education program in this state is prohibited.

(2) The use of physical restraint or seclusion on a student in a public education program in this state is prohibited unless used as provided in Section 3, chapter 665, Oregon Laws 2011 (Enrolled House Bill 2939), which includes the following:

(a) Physical restraint or seclusion may be used on a student in a public education program only if:

(A) The student's behavior imposes a reasonable threat of imminent, serious bodily injury to the student or others; and,

(B) Less restrictive interventions would not be effective.

(b) Physical restraint or seclusion may not be used for discipline, punishment or convenience of personnel of the public education program.

(c) If physical restraint or seclusion is used on a student, the physical restraint or seclusion must be:

(A) Used only for as long as the student's behavior poses a reasonable threat of imminent, serious bodily injury to the student or others;

(B) Imposed by personnel of the public education program who are:

(i) Trained to use physical restraint or seclusion through programs approved by the Department of Education under OAR 581-021-0563; or

(ii) Otherwise available in the case of an emergency circumstance when trained personnel are not immediately available due to the unforeseeable nature of the emergency circumstance;

(C) Continuously monitored by personnel of the public education program for the duration of the physical restraint or seclusion.

(3) If physical restraint or seclusion continues for more than 30 minutes:

(a) The student must be provided with adequate access to the bathroom and water every 30 minutes;

(b) Personnel of the public education program must immediately attempt to verbally or electronically notify a parent or guardian of the student; and,

(c) Every 15 minutes after the first 30 minutes of the physical restraint or seclusion, an administrator for the public education program must provide written authorization for the continuation of the physical restraint or seclusion, including providing documentation for the reason the physical restraint or seclusion must be continued.

581- 021-0556. Program's Procedures Regarding Physical Restraint & Seclusion.

(1) Each entity that has jurisdiction over a public education program must establish procedures for the public education program to follow after an incident involving the use of physical restraint or seclusion.

(2) Following an incident involving the use of physical restraint or seclusion, the following must be provided to a parent or guardian of the student:

(a) Verbal or electronic notification of the incident by the end of the school day when the incident occurred;

(b) Written documentation of the incident within 24 hours of the incident that provides a description of the physical restraint or seclusion including:

(A) The date of the physical restraint or seclusion;

(B) The times when the physical restraint or seclusion began and ended;

(C) The location of the physical restraint or seclusion;

(D) A description of the student's activity that prompted the use of physical restraint or seclusion;

(E) The efforts used to de-escalate the situation and the alternatives to physical restraint or seclusion that were attempted;

(F) The names of the personnel of the public education program who administered the physical restraint or seclusion;

(G) A description of the training status of the personnel of the public education program who administered the physical restraint or seclusion, including any information that may need to be provided to the parent or guardian; and,

(H) Timely notification of a debriefing meeting to be held and of the parent's or guardian's right to attend the meeting.

(3) If the personnel of the public education program who administered the physical restraint or seclusion had not received training from a program approved by the Department of Education, as required and in accordance with OAR 581-021-0563, the administrator of the public education program shall ensure that a parent or guardian of the student and the district superintendent receive written notification of:

(a) The lack of training; and

(b) The reason the physical restraint or seclusion was administered by a person without training.

(4) A debriefing meeting related to the use of physical restraint or seclusion must be held within two school days of the incident and must include all personnel of the public education program who were involved in the incident and any other appropriate personnel.

(a) Written notes must be taken of the debriefing meeting, and a copy of the written notes must be provided to a parent or guardian of the student.

(5) If a student is involved in five incidents in a school year involving physical restraint or seclusion, a team consisting of personnel of the public education program and a parent or guardian of the student must be formed for the purposes of reviewing and revising the student's behavior plan and ensuring the provision of any necessary behavioral supports.

(6) If serious bodily injury or death of a student occurs in relation to the use of physical restraint or seclusion, written notification of the incident must be provided by the public education providers within 24 hours of the incident to the Department of Human Services.

(7) If serious bodily injury or death of personnel of the public education program occurs in relation to the use of physical restraint or seclusion, written notification of the incident must be provided within 24 hours of the incident to the district superintendent and, if applicable, to the union representative for the affected party.

(8) Each public education program must maintain a record of each incident in which injuries or death occurs in relation to the use of physical restraint or seclusion.

(9) As indicated, per ORS 161.205 and 339.250, an individual who is a teacher, administrator, school employee or school volunteer may use reasonable physical force upon a student when and to the extent the application of force is consistent with Section 3, chapter 665, Oregon Laws 2011 (Enrolled House Bill 2939) and OAR 581-021-0553.

(10) The district school board shall adopt written policies to implement Physical Restraint & Seclusion procedures consistent with and as indicated in chapter 665, Oregon Laws 2011 (Enrolled House Bill 2939), ORS 339.250 and OARs 581-021-0550 to 581-021-0566, and shall inform teachers, administrators, school employees and school volunteers.

581-021-0559. Reporting Requirements for the Use of Physical Restraint & Seclusion.

(1) Each entity that has jurisdiction over a public education program must prepare an annual report detailing the use of physical restraint and seclusion for the preceding school year, including, at a minimum:

(a) The total number of incidents involving physical restraint;

(b) The total number of incidents involving seclusion;

(c) The total number of seclusions in a locked room;

(d) The total number of students placed in physical restraint;

(e) The total number of students placed in seclusion;

(f) The total number of incidents that resulted in injuries or death to students or personnel as a result of the use of physical restraint or seclusion;

(g) The number of students who were placed in physical restraint or seclusion more than 10 times in the course of a school year and an explanation of what steps have been taken by the public education program to decrease the use of physical restraint and seclusion for each student;

(h) The number of incidents in which the personnel of the public education program administering physical restraint or seclusion were not trained; and

(i) The demographic characteristics of all students upon whom physical restraint or seclusion was imposed, including race, ethnicity, gender, disability status, migrant status, English proficiency, and status as economically disadvantaged, unless the demographic information would reveal personally identifiable information about an individual student.

(2) Each entity that has jurisdiction over a public education program shall make its annual report about physical restraint and seclusion available to:

(a) The public at the entity's main office and the website of the entity; and

(b) The school board or governing body overseeing the entity;

(c) If the entity is an education service district, the component school districts of the education service district;

(d) If the entity is a public charter school, the sponsor of the public charter school;

(e) Parents and guardians of students in a public education program, who shall be advised at least once each school year about how to access the report.

581-021-0563. Approval of Physical Restraint and Seclusion Training Programs for School Staff.

(1) The Department of Education shall approve training programs in physical restraint and seclusion that:

(a) Teach evidence-based techniques that are shown to be effective in the prevention and safe use of physical restraint or seclusion;

(b) Provide evidence-based skills training related to positive behavior support, conflict prevention, de-escalation and crisis response techniques; and

(c) Are consistent with the philosophies, practices and techniques for physical restraint and seclusion that are established by rule or policy of the Department of Human Services.

(2) A training program seeking approval must submit in writing to the Oregon Department of Education that meets the expectations subsection (1) of this rule.

(3) Training programs approved remain in effect unless significant changes are made to the program.

(a) If significant changes are made, the training program must be re-submitted for approval.

(4) The ODE must remove training programs from the approved list if they no longer meets the requirements specified in subsection (1) of this rule, or if they are found by the Oregon Department of Education to have violated any other laws.

581-021-0566. Required Use of Approved Restraint and Seclusion Programs.

On or after July 1, 2012, a Public Education Program may only use training programs on physical restraint and seclusion that are approved by the Department of Education under OAR 581-021-0563. The Department of Education shall make the approved training list available to all Public Education Programs.

Alternative placements

STATUTES

339.250. Duty of student to comply with rules; discipline, suspension, expulsion, removal and counseling; written information on alternative programs required.

(9) Unless a student is under expulsion for an offense that constitutes a violation of a school district policy adopted pursuant to subsection (6) of this section, a school district board shall consider and propose to the student prior to expulsion or leaving school, and document to the parent, legal guardian or person in parental relationship, alternative programs of instruction or instruction combined with counseling for the student that are appropriate and accessible to the student in the following circumstances:

(a) When a student is expelled pursuant to subsection (4) of this section;

(b) Following a second or subsequent occurrence within any three-year period of a severe disciplinary problem with a student;

(c) When it has been determined that a student's attendance pattern is so erratic that the student is not benefiting from the educational program; or

(d) When a parent or legal guardian applies for a student's exemption from compulsory attendance on a semiannual basis as provided in ORS 339.030 (2).

Disciplinary Approaches Addressing Specific Infractions and Conditions

Firearms (as required by the Guns-Free Schools Act)

STATUTES

339.250. Duty of student to comply with rules; discipline, suspension, expulsion, removal and counseling; written information on alternative programs required.

(6)(a) Notwithstanding subsection (5) of this section, a school district shall have a policy that requires the expulsion from school for a period of not less than one year of any student who is determined to have:

(A) Brought a weapon to a school, to school property under the jurisdiction of the district or to an activity under the jurisdiction of the school district;

(B) Possessed, concealed or used a weapon in a school or on school property or at an activity under the jurisdiction of the district; or

(C) Brought to or possessed, concealed or used a weapon at an interscholastic activity administered by a voluntary organization.

(b) The policy shall allow an exception for courses, programs and activities approved by the school district that are conducted on school property, including but not limited to hunter safety courses, Reserve Officer Training Corps programs, weapons-related sports or weapons-related vocational courses. In addition, the State Board of Education may adopt by rule additional exceptions to be included in school district policies.

(c) The policy shall allow a superintendent to modify the expulsion requirement for a student on a case-by-case basis.

(d) The policy shall require a referral to the appropriate law enforcement agency of any student who is expelled under this subsection.

(e) For purposes of this subsection, “weapon” includes a:

(A) “Firearm” as defined in 18 U.S.C. 921;

339.315 Report required if person has possession of unlawful firearm or destructive device; immunity; law enforcement investigation required.

(1)(a) Any employee of a public school district, an education service district or a private school who has reasonable cause to believe that a person, while in a school, is or within the previous 120 days has been in possession of a firearm or destructive device in violation of ORS 166.250, 166.370 or 166.382 shall report the person’s conduct immediately to a school administrator, school director, the administrator’s or director’s designee or law enforcement agency within the county. A school administrator, school director or the administrator’s or director’s designee, who has reasonable cause to believe that the person, while in a school, is or within the previous 120 days has been in possession of a firearm or destructive device in violation of ORS 166.250, 166.370 or 166.382, shall promptly report the person’s conduct to a law enforcement agency within the county. If the school administrator, school director or employee has reasonable cause to believe that a person has been in possession of a firearm or destructive device as described in this paragraph more than 120 days previously, the school administrator, school director or employee may report the person’s conduct to a law enforcement agency within the county.

(b) Anyone participating in the making of a report under paragraph (a) of this subsection who has reasonable grounds for making the report is immune from any liability, civil or criminal, that might otherwise be incurred or imposed with respect to the making or content of the report. Any participant has the same immunity with respect to participating in any judicial proceeding resulting from the report.

(c) Except as required by ORS 135.805 to 135.873 and 419C.270 (5) or (6), the identity of a person participating in good faith in the making of a report under paragraph (a) of this subsection who has reasonable grounds for making the report is confidential and may not be disclosed by law enforcement agencies, the district attorney or any public or private school administrator, school director or employee.

(2) When a law enforcement agency receives a report under subsection (1) of this section, the law enforcement agency shall promptly conduct an investigation to determine whether there is probable cause to believe that the person, while in a school, did possess a firearm or destructive device in violation of ORS 166.250, 166.370 or 166.382.

(3) As used in this section, “school” means:

(a) A public or private institution of learning providing instruction at levels kindergarten through grade 12, or their equivalents, or any part thereof;

(b) The grounds adjacent to the institution; and

(c) Any site or premises that at the time is being used exclusively for a student program or activity that is sponsored or sanctioned by the institution, a public school district, an education service district or a voluntary organization and that is posted as such.

(4) For purposes of subsection (3)(c) of this section, a site or premises is posted as such when the sponsoring or sanctioning entity has posted a notice identifying the sponsoring or sanctioning entity and stating, in substance, that the program or activity is a school function and that the possession of firearms or dangerous weapons in or on the site or premises is prohibited under ORS 166.370.

Other weapons

STATUTES

339.250. Duty of student to comply with rules; discipline, suspension, expulsion, removal and counseling; written information on alternative programs required.

(6)(a) Notwithstanding subsection (5) of this section, a school district shall have a policy that requires the expulsion from school for a period of not less than one year of any student who is determined to have:

(A) Brought a weapon to a school, to school property under the jurisdiction of the district or to an activity under the jurisdiction of the school district;

(B) Possessed, concealed or used a weapon in a school or on school property or at an activity under the jurisdiction of the district; or

(C) Brought to or possessed, concealed or used a weapon at an interscholastic activity administered by a voluntary organization.

(b) The policy shall allow an exception for courses, programs and activities approved by the school district that are conducted on school property, including but not limited to hunter safety courses, Reserve Officer Training Corps programs, weapons-related sports or weapons-related vocational courses. In addition, the State Board of Education may adopt by rule additional exceptions to be included in school district policies.

(c) The policy shall allow a superintendent to modify the expulsion requirement for a student on a case-by-case basis.

(d) The policy shall require a referral to the appropriate law enforcement agency of any student who is expelled under this subsection.

(e) For purposes of this subsection, “weapon” includes a:

(B) “Dangerous weapon” as defined in ORS 161.015; or

(C) “Deadly weapon” as defined in ORS 161.015.

Students with chronic disciplinary issues

STATUTES

339.250. Duty of student to comply with rules; discipline, suspension, expulsion, removal and counseling; written information on alternative programs required.

(9) Unless a student is under expulsion for an offense that constitutes a violation of a school district policy adopted pursuant to subsection (6) of this section, a school district board shall consider and propose to the student prior to expulsion or leaving school, and document to the parent, legal guardian or person in parental relationship, alternative programs of instruction or instruction combined with counseling for the student that are appropriate and accessible to the student in the following circumstances:

(b) Following a second or subsequent occurrence within any three-year period of a severe disciplinary problem with a student;

ADMINISTRATIVE CODE

581- 021-0556 Program’s Procedures Regarding Physical Restraint & Seclusion.

(5) If a student is involved in five incidents in a school year involving physical restraint or seclusion, a team consisting of personnel of the public education program and a parent or guardian of the student must be formed for the purposes of reviewing and revising the student's behavior plan and ensuring the provision of any necessary behavioral supports.

Attendance and truancy

STATUTES

339.925 Compulsory school attendance violation procedure; rules.

(1) In addition to any other persons permitted to enforce violations, the school district superintendent or education service district superintendent, or any employee specifically designated by either superintendent, may issue citations for violations established under ORS 339.990 in the manner provided by ORS chapter 153.

(2) Prior to issuing the citation described in subsection (3) of this section to the parent or guardian of a student not regularly attending full-time school, a school district superintendent or education service district superintendent shall:

(a) Provide a parent or guardian of the student and the student with written notification that:

(A) States that the student is required to attend regularly a full-time school;

(B) Explains that the failure to send the student and maintain the student in regular attendance is a Class C violation;

(C) States that the superintendent may issue a citation;

(D) Requires the parent or guardian of the student and the student to attend a conference with a designated official; and

(E) Is written in the native language of the parent or guardian of the student.

(b) Schedule the conference described in paragraph (a)(D) of this subsection.

(3) Notwithstanding ORS 1.525 or any provision of ORS chapter 153, the State Board of Education by rule shall establish the citation form to be used by superintendents in citing violations established under ORS 339.990. Notwithstanding ORS 153.045, each of the parts of the citation shall contain the information required by the state board.

Substance use

No relevant statutes found.

Bullying, harassment, or hazing

STATUTES

339.351 Definitions for ORS 339.351 to 339.364.

(1) "Cyberbullying" means the use of any electronic communication device to harass, intimidate or bully.

(2) "Harassment, intimidation or bullying" means any act that:

(a) Substantially interferes with a student's educational benefits, opportunities or performance;

(b) Takes place on or immediately adjacent to school grounds, at any school-sponsored activity, on school-provided transportation or at any official school bus stop;

(c) Has the effect of:

(A) Physically harming a student or damaging a student's property;

(B) Knowingly placing a student in reasonable fear of physical harm to the student or damage to the student's property; or

(C) Creating a hostile educational environment, including interfering with the psychological well-being of a student; and

(d) May be based on, but not be limited to, the protected class status of a person.

(3) "Protected class" means a group of persons distinguished, or perceived to be distinguished, by race, color, religion, sex, sexual orientation, national origin, marital status, familial status, source of income or disability.

339.353 Findings.

(1) The Legislative Assembly finds that:

(a) A safe and civil environment is necessary for students to learn and achieve high academic standards.

(b) Harassment, intimidation or bullying and cyberbullying, like other disruptive or violent behavior, are conduct that disrupts a student's ability to learn and a school's ability to educate its students in a safe environment.

(c) Students learn by example.

(2) The Legislative Assembly commends school administrators, faculty, staff and volunteers for demonstrating appropriate behavior, treating others with civility and respect, refusing to tolerate harassment, intimidation or bullying and refusing to tolerate cyberbullying.

339.356 District policy required.

(1) Each school district shall adopt a policy prohibiting harassment, intimidation or bullying and prohibiting cyberbullying. School districts shall develop the policy after consultation with parents, guardians, school employees, volunteers, students, administrators and community representatives.

(2) School districts must include in the policy:

(a) A statement prohibiting harassment, intimidation or bullying and prohibiting cyberbullying.

(b) Definitions of “harassment,” “intimidation” or “bullying” and of “cyberbullying” that are consistent with ORS 339.351.

(c) Definitions of “protected class” that are consistent with ORS 174.100 and 339.351.

(d) A statement of the scope of the policy, including a notice that the policy applies to behavior at school-sponsored activities, on school-provided transportation and at any official school bus stop.

(e) A description of the type of behavior expected from each student.

(f) A procedure that is uniform throughout the school district for reporting an act of harassment, intimidation or bullying or an act of cyberbullying. A procedure established under this paragraph shall:

(A) Identify by job title the school officials responsible for receiving such a report at a school.

(B) Require a school employee to report an act of harassment, intimidation or bullying or an act of cyberbullying to a person identified under subparagraph (A) of this paragraph.

(C) Identify any remedial action that may be imposed on a school employee for failure to make a report as required by subparagraph (B) of this paragraph.

(D) Allow a student or volunteer to report an act of harassment, intimidation or bullying or an act of cyberbullying voluntarily and anonymously to a person identified under subparagraph (A) of this paragraph. Nothing in this subparagraph may be construed to permit remedial action solely on the basis of an anonymous report.

(g) A procedure that is uniform throughout the school district for prompt investigation of a report of an act of harassment, intimidation or bullying or an act of cyberbullying. A procedure established under this paragraph shall identify by job title the school officials responsible for investigating such a report.

(h) A procedure by which a person may request a school district to review the actions of a school in responding to a report of an act of harassment, intimidation or bullying or an act of cyberbullying or investigating such a report.

(i) A statement of the manner in which a school and a school district will respond after an act of harassment, intimidation or bullying or an act of cyberbullying is reported, investigated and confirmed.

(j) A statement of the consequences and appropriate remedial action for a person found to have committed an act of harassment, intimidation or bullying or an act of cyberbullying.

(k) A statement prohibiting reprisal or retaliation against any person who reports an act of harassment, intimidation or bullying or an act of cyberbullying and stating the consequences and appropriate remedial action for a person who engages in such reprisal or retaliation.

(l) A statement of the consequences and appropriate remedial action for a person found to have falsely accused another of having committed an act of harassment, intimidation or bullying or an act of cyberbullying as a means of reprisal or retaliation, as a means of harassment, intimidation or bullying or as a means of cyberbullying.

(m) A statement of how the policy is to be publicized within the district. At a minimum, a school district shall make the policy:

(A) Annually available to parents, guardians, school employees and students in a student or employee handbook; and

(B) Readily available to parents, guardians, school employees, volunteers, students, administrators and community representatives at each school office or at the school district office and, if available, on the website for a school or the school district.

(n) The identification by job title of school officials and school district officials responsible for ensuring that the policy is implemented.

(3) A school district that does not comply with the requirements of this section is considered nonstandard under ORS 327.103.

339.359 Training programs; prevention task forces, programs and other initiatives.

(1) School districts must incorporate into existing training programs for students and school employees information related to:

(a) The prevention of, and the appropriate response to, acts of harassment, intimidation and bullying and acts of cyberbullying; and

(b) The policy adopted under ORS 339.353.

(2) School districts are encouraged to form task forces and to implement programs and other initiatives that are aimed at the prevention of, and the appropriate response to, acts of harassment, intimidation or bullying and acts of cyberbullying and that involve school employees, students, administrators, volunteers, parents, guardians, law enforcement and community representatives.

339.362. Retaliation against victims and witnesses prohibited; school employee immunity.

(1) A school employee, student or volunteer may not engage in reprisal or retaliation against a victim of, witness to or person with reliable information about an act of harassment, intimidation or bullying or an act of cyberbullying.

(2)(a) A school employee who witnesses or has reliable information that a student has been subjected to an act of harassment, intimidation or bullying or an act of cyberbullying must report the act to the appropriate school official designated by the school district's policy.

(b) A student or volunteer who witnesses or has reliable information that a student has been subjected to an act of harassment, intimidation or bullying or an act of cyberbullying is encouraged to report the act to the appropriate school official designated by the school district's policy.

(3) A school employee who promptly reports an act of harassment, intimidation or bullying or an act of cyberbullying to the appropriate school official in compliance with the procedures set forth in the school district's policy is immune from a cause of action for damages arising from any failure to remedy the reported act.

339.364 Victim may seek redress under other laws.

ORS 339.351 to 339.364 may not be interpreted to prevent a victim of harassment, intimidation or bullying or a victim of cyberbullying from seeking redress under any other available law, whether civil or criminal. ORS 339.351 to 339.364 do not create any statutory cause of action.

Other special infractions or conditions

STATUTES

339.885 Secret societies in public schools prohibited; membership grounds for suspension or expulsion.

(1) No secret society of any kind, including a fraternity or sorority, shall be permitted in any public school.

(2) The district school board may order the suspension or expulsion of any pupil who belongs to a secret society.

(3) This section does not apply to any public university listed in ORS 352.002.

Prevention and Behavioral Interventions (Non-Punitive)

Prevention

STATUTES

339.359. Training programs; prevention task forces, programs and other initiatives.

(1) School districts must incorporate into existing training programs for students and school employees information related to:

(a) The prevention of, and the appropriate response to, acts of harassment, intimidation and bullying and acts of cyberbullying; and

(b) The policy adopted under ORS 339.356.

(2) School districts are encouraged to form task forces and to implement programs and other initiatives that are aimed at the prevention of, and the appropriate response to, acts of harassment, intimidation or bullying and acts of cyberbullying and that involve school employees, students, administrators, volunteers, parents, guardians, law enforcement and community representatives.

ADMINISTRATIVE CODE

581-021-0563. Approval of Physical Restraint and Seclusion Training Programs for School Staff.

(1) The Department of Education shall approve training programs in physical restraint and seclusion that:

(a) Teach evidence-based techniques that are shown to be effective in the prevention and safe use of physical restraint or seclusion;

(b) Provide evidence-based skills training related to positive behavior support, conflict prevention, de-escalation and crisis response techniques; and

(c) Are consistent with the philosophies, practices and techniques for physical restraint and seclusion that are established by rule or policy of the Department of Human Services.

(2) A training program seeking approval must submit in writing to the Oregon Department of Education that meets the expectations subsection (1) of this rule.

(3) Training programs approved remain in effect unless significant changes are made to the program.

(a) If significant changes are made, the training program must be re-submitted for approval.

(4) The ODE must remove training programs from the approved list if they no longer meets the requirements specified in subsection (1) of this rule, or if they are found by the Oregon Department of Education to have violated any other laws.

Behavioral interventions and student support services

No relevant statutes found.

Professional development

STATUTES

339.359. Training programs; prevention task forces, programs and other initiatives.

(1) School districts must incorporate into existing training programs for students and school employees information related to:

(a) The prevention of, and the appropriate response to, acts of harassment, intimidation and bullying and acts of cyberbullying; and

(b) The policy adopted under ORS 339.356.

ADMINISTRATIVE CODE

581-021-0563. Approval of Physical Restraint and Seclusion Training Programs for School Staff.

(1) The Department of Education shall approve training programs in physical restraint and seclusion that:

(a) Teach evidence-based techniques that are shown to be effective in the prevention and safe use of physical restraint or seclusion;

(b) Provide evidence-based skills training related to positive behavior support, conflict prevention, de-escalation and crisis response techniques; and

(c) Are consistent with the philosophies, practices and techniques for physical restraint and seclusion that are established by rule or policy of the Department of Human Services.

(2) A training program seeking approval must submit in writing to the Oregon Department of Education that meets the expectations subsection (1) of this rule.

(3) Training programs approved remain in effect unless significant changes are made to the program.

(a) If significant changes are made, the training program must be re-submitted for approval.

(4) The ODE must remove training programs from the approved list if they no longer meets the requirements specified in subsection (1) of this rule, or if they are found by the Oregon Department of Education to have violated any other laws.

581-021-0566. Required Use of Approved Restraint and Seclusion Programs.

On or after July 1, 2012, a Public Education Program may only use training programs on physical restraint and seclusion that are approved by the Department of Education under OAR 581-021-0563. The Department of Education shall make the approved training list available to all Public Education Programs.

Monitoring and Accountability

Formal incident reporting of conduct violations

ADMINISTRATIVE CODE

581- 021-0556. Program's Procedures Regarding Physical Restraint & Seclusion.

(6) If serious bodily injury or death of a student occurs in relation to the use of physical restraint or seclusion, written notification of the incident must be provided by the public education providers within 24 hours of the incident to the Department of Human Services.

(7) If serious bodily injury or death of personnel of the public education program occurs in relation to the use of physical restraint or seclusion, written notification of the incident must be provided within 24 hours of the incident to the district superintendent and, if applicable, to the union representative for the affected party.

(8) Each public education program must maintain a record of each incident in which injuries or death occurs in relation to the use of physical restraint or seclusion.

581-021-0559. Reporting Requirements for the Use of Physical Restraint & Seclusion.

(1) Each entity that has jurisdiction over a public education program must prepare an annual report detailing the use of physical restraint and seclusion for the preceding school year, including, at a minimum:

(a) The total number of incidents involving physical restraint;

(b) The total number of incidents involving seclusion;

(c) The total number of seclusions in a locked room;

(d) The total number of students placed in physical restraint;

(e) The total number of students placed in seclusion;

(f) The total number of incidents that resulted in injuries or death to students or personnel as a result of the use of physical restraint or seclusion;

(g) The number of students who were placed in physical restraint or seclusion more than 10 times in the course of a school year and an explanation of what steps have been taken by the public education program to decrease the use of physical restraint and seclusion for each student;

(h) The number of incidents in which the personnel of the public education program administering physical restraint or seclusion were not trained; and

(i) The demographic characteristics of all students upon whom physical restraint or seclusion was imposed, including race, ethnicity, gender, disability status, migrant status, English proficiency, and status as economically disadvantaged, unless the demographic information would reveal personally identifiable information about an individual student.

(2) Each entity that has jurisdiction over a public education program shall make its annual report about physical restraint and seclusion available to:

(a) The public at the entity's main office and the website of the entity; and

(b) The school board or governing body overseeing the entity;

(c) If the entity is an education service district, the component school districts of the education service district;

(d) If the entity is a public charter school, the sponsor of the public charter school;

(e) Parents and guardians of students in a public education program, who shall be advised at least once each school year about how to access the report.

Parental notification

STATUTES

339.250. Duty of student to comply with rules; discipline, suspension, expulsion, removal and counseling; written information on alternative programs required.

(4)(c) The administrator shall notify the parent or legal guardian of the student's behavior and the school's response.

(11) Information on alternative programs provided under subsections (9) and (10) of this section shall be in writing. The information need not be given to the student and the parent, guardian or person in parental relationship more often than once every six months unless the information has changed because of the availability of new programs.

339.071 Attendance notification policy.

(1) Each district school board shall adopt an attendance notification policy that satisfies the requirements of this section.

(2) An attendance notification policy must:

(a) Be implemented by each school in the school district; and

(b) Require that each school ensure that a parent or other person in parental relationship to a child is notified by the end of the school day on any day that the child has an unplanned absence.

(3)(a) Notification required by subsection (2)(b) of this section must be provided:

(A) In person;

(B) Directly by telephone; or

(C) By any other method identified in writing by the parent or person in parental relationship to the child.

(b) If a parent or other person in parental relationship to a child cannot be contacted in person or directly by telephone and another method has not been identified by the parent or person, a message shall be left for the parent or person, if possible.

(4) Notice of the child's absence shall be provided to the attendance supervisor, who shall proceed as provided in ORS 339.055, if:

(a) Notification is not provided in person or directly by telephone; and

(b) The parent or other person in parental relationship to the child has not confirmed within the timeline established by the attendance notification policy that the parent or person has received notification.

339.080 Nonattendance notice to parents, school officials and parole or probation officer.

(1) Except as provided in ORS 339.030, in case any parent or other person in parental relation fails to send any child under the control of the parent or other person to the public school, the attendance supervisor, within 24 hours after notification from the proper authority of the failure, shall give formal written notice in person or by registered or certified mail to the parent or other person. The notice shall state that the child must appear at the public school on the next school day following the receipt of the notice. The notice shall inform the parent or other person that regular attendance at school must be maintained during the remainder of the school year.

(2) At the same time notice is given to the parent or other person, the attendance supervisor shall notify the superintendent or principal, as suitable, of the fact of the notice. The superintendent or principal shall notify the attendance supervisor of any failure on the part of the parent or other person to comply with the notice.

(3) If the child who is the subject of a notice under subsection (1) of this section is a youth offender on parole or probation, at the same time notice is given to the parent or other person, the attendance supervisor shall notify the child's parole or probation officer of the child's absence.

339.925 Compulsory school attendance violation procedure; rules.

(2) Prior to issuing the citation described in subsection (3) of this section to the parent or guardian of a student not regularly attending full-time school, a school district superintendent or education service district superintendent shall:

(a) Provide a parent or guardian of the student and the student with written notification that:

(A) States that the student is required to attend regularly a full-time school;

(B) Explains that the failure to send the student and maintain the student in regular attendance is a Class C violation;

(C) States that the superintendent may issue a citation;

(D) Requires the parent or guardian of the student and the student to attend a conference with a designated official; and

(E) Is written in the native language of the parent or guardian of the student.

ADMINISTRATIVE CODE

581- 021-0556 Program's Procedures Regarding Physical Restraint & Seclusion.

(2) Following an incident involving the use of physical restraint or seclusion, the following must be provided to a parent or guardian of the student:

(a) Verbal or electronic notification of the incident by the end of the school day when the incident occurred;

(b) Written documentation of the incident within 24 hours of the incident that provides a description of the physical restraint or seclusion including:

(A) The date of the physical restraint or seclusion;

(B) The times when the physical restraint or seclusion began and ended;

(C) The location of the physical restraint or seclusion;

(D) A description of the student's activity that prompted the use of physical restraint or seclusion;

(E) The efforts used to de-escalate the situation and the alternatives to physical restraint or seclusion that were attempted;

(F) The names of the personnel of the public education program who administered the physical restraint or seclusion;

(G) A description of the training status of the personnel of the public education program who administered the physical restraint or seclusion, including any information that may need to be provided to the parent or guardian; and,

(H) Timely notification of a debriefing meeting to be held and of the parent's or guardian's right to attend the meeting.

(3) If the personnel of the public education program who administered the physical restraint or seclusion had not received training from a program approved by the Department of Education, as required and in

accordance with OAR 581-021-0563, the administrator of the public education program shall ensure that a parent or guardian of the student and the district superintendent receive written notification of:

(a) The lack of training; and

(b) The reason the physical restraint or seclusion was administered by a person without training.

(4) A debriefing meeting related to the use of physical restraint or seclusion must be held within two school days of the incident and must include all personnel of the public education program who were involved in the incident and any other appropriate personnel.

(a) Written notes must be taken of the debriefing meeting, and a copy of the written notes must be provided to a parent or guardian of the student.

581-021-0559 Reporting Requirements for the Use of Physical Restraint & Seclusion

(2) Each entity that has jurisdiction over a public education program shall make its annual report about physical restraint and seclusion available to:

(a) The public at the entity's main office and the website of the entity; and

(b) The school board or governing body overseeing the entity;

(c) If the entity is an education service district, the component school districts of the education service district;

(d) If the entity is a public charter school, the sponsor of the public charter school;

(e) Parents and guardians of students in a public education program, who shall be advised at least once each school year about how to access the report.

Reporting and referrals between schools and law enforcement

STATUTES

339.315. Report required if person has possession of unlawful firearm or destructive device; immunity; law enforcement investigation required.

(1)(a) Any employee of a public school district, an education service district or a private school who has reasonable cause to believe that a person, while in a school, is or within the previous 120 days has been in possession of a firearm or destructive device in violation of ORS 166.250, 166.370 or 166.382 shall report the person's conduct immediately to a school administrator, school director, the administrator's or director's designee or law enforcement agency within the county. A school administrator, school director or the administrator's or director's designee, who has reasonable cause to believe that the person, while in a school, is or within the previous 120 days has been in possession of a firearm or destructive device in violation of ORS 166.250, 166.370 or 166.382, shall promptly report the person's conduct to a law enforcement agency within the county. If the school administrator, school director or employee has reasonable cause to believe that a person has been in possession of a firearm or destructive device as described in this paragraph more than 120 days previously, the school administrator, school director or employee may report the person's conduct to a law enforcement agency within the county.

(b) Anyone participating in the making of a report under paragraph (a) of this subsection who has reasonable grounds for making the report is immune from any liability, civil or criminal, that might otherwise be incurred or imposed with respect to the making or content of the report. Any participant has the same immunity with respect to participating in any judicial proceeding resulting from the report.

(c) Except as required by ORS 135.805 to 135.873 and 419C.270 (5) or (6), the identity of a person participating in good faith in the making of a report under paragraph (a) of this subsection who has

reasonable grounds for making the report is confidential and may not be disclosed by law enforcement agencies, the district attorney or any public or private school administrator, school director or employee.

(2) When a law enforcement agency receives a report under subsection (1) of this section, the law enforcement agency shall promptly conduct an investigation to determine whether there is probable cause to believe that the person, while in a school, did possess a firearm or destructive device in violation of ORS 166.250, 166.370 or 166.382.

(3) As used in this section, “school” means:

(a) A public or private institution of learning providing instruction at levels kindergarten through grade 12, or their equivalents, or any part thereof;

(b) The grounds adjacent to the institution; and

(c) Any site or premises that at the time is being used exclusively for a student program or activity that is sponsored or sanctioned by the institution, a public school district, an education service district or a voluntary organization and that is posted as such.

(4) For purposes of subsection (3)(c) of this section, a site or premises is posted as such when the sponsoring or sanctioning entity has posted a notice identifying the sponsoring or sanctioning entity and stating, in substance, that the program or activity is a school function and that the possession of firearms or dangerous weapons in or on the site or premises is prohibited under ORS 166.370.

Disclosure of school records

No relevant statutes found.

Data collection, review, and reporting of disciplinary policies and actions

ADMINISTRATIVE CODE

581-021-0559. Reporting Requirements for the Use of Physical Restraint & Seclusion.

(1) Each entity that has jurisdiction over a public education program must prepare an annual report detailing the use of physical restraint and seclusion for the preceding school year, including, at a minimum:

(a) The total number of incidents involving physical restraint;

(b) The total number of incidents involving seclusion;

(c) The total number of seclusions in a locked room;

(d) The total number of students placed in physical restraint;

(e) The total number of students placed in seclusion;

(f) The total number of incidents that resulted in injuries or death to students or personnel as a result of the use of physical restraint or seclusion;

(g) The number of students who were placed in physical restraint or seclusion more than 10 times in the course of a school year and an explanation of what steps have been taken by the public education program to decrease the use of physical restraint and seclusion for each student;

(h) The number of incidents in which the personnel of the public education program administering physical restraint or seclusion were not trained; and

(i) The demographic characteristics of all students upon whom physical restraint or seclusion was imposed, including race, ethnicity, gender, disability status, migrant status, English proficiency, and status as economically disadvantaged, unless the demographic information would reveal personally identifiable information about an individual student.

(2) Each entity that has jurisdiction over a public education program shall make its annual report about physical restraint and seclusion available to:

(a) The public at the entity's main office and the website of the entity; and

(b) The school board or governing body overseeing the entity;

(c) If the entity is an education service district, the component school districts of the education service district;

(d) If the entity is a public charter school, the sponsor of the public charter school;

(e) Parents and guardians of students in a public education program, who shall be advised at least once each school year about how to access the report.

School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers

Authority and power to implement school arrest

No relevant statutes found.

Certification or training

No relevant statutes found.

MOUs, authorization, and/or funding

No relevant statutes found.

State Education Agency Support

State model policies and implementation support

No relevant statutes found.

Funding appropriations

STATUTES

339.250. Duty of student to comply with rules; discipline, suspension, expulsion, removal and counseling; written information on alternative programs required.

(e) District school boards shall allocate any funds necessary for school districts to implement the policies adopted under paragraph (b) of this subsection.

Other/Uncategorized

Professional immunity or liability

STATUTES

339.315. Report required if person has possession of unlawful firearm or destructive device; immunity; law enforcement investigation required.

(1) (b) Anyone participating in the making of a report under paragraph (a) of this subsection who has reasonable grounds for making the report is immune from any liability, civil or criminal, that might otherwise be incurred or imposed with respect to the making or content of the report. Any participant has the same immunity with respect to participating in any judicial proceeding resulting from the report.

(c) Except as required by ORS 135.805 to 135.873 and 419C.270 (5) or (6), the identity of a person participating in good faith in the making of a report under paragraph (a) of this subsection who has reasonable grounds for making the report is confidential and may not be disclosed by law enforcement agencies, the district attorney or any public or private school administrator, school director or employee.

(4) For purposes of subsection (3)(c) of this section, a site or premises is posted as such when the sponsoring or sanctioning entity has posted a notice identifying the sponsoring or sanctioning entity and stating, in substance, that the program or activity is a school function and that the possession of firearms or dangerous weapons in or on the site or premises is prohibited under ORS 166.370.

339.362. Retaliation against victims and witnesses prohibited; school employee immunity.

(3) A school employee who promptly reports an act of harassment, intimidation or bullying or an act of cyberbullying to the appropriate school official in compliance with the procedures set forth in the school district's policy is immune from a cause of action for damages arising from any failure to remedy the reported act.

Community input or involvement

STATUTES

339.356. District policy required.

(1) Each school district shall adopt a policy prohibiting harassment, intimidation or bullying and prohibiting cyberbullying. School districts shall develop the policy after consultation with parents, guardians, school employees, volunteers, students, administrators and community representatives.

339.359. Training programs; prevention task forces, programs and other initiatives.

(2) School districts are encouraged to form task forces and to implement programs and other initiatives that are aimed at the prevention of, and the appropriate response to, acts of harassment, intimidation or bullying and acts of cyberbullying and that involve school employees, students, administrators, volunteers, parents, guardians, law enforcement and community representatives.

Other/Uncategorized

No relevant statutes found.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by Oregon provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
Website		
"Bridging the Gap"	Web-based Clearinghouse of resources for safe schools, violence prevention, bullying prevention/intervention, substance abuse prevention, crisis response	http://www.oregonschoolclimate.org
Safe & Healthy Schools Coordinator ODE Webpage	Guidelines, technical assistance, resources for safe schools	http://www.ode.state.or.us/search/results/?id=107
Documents		
No relevant resources found		
Other Resources		
No relevant resources found		

Pennsylvania Compilation of School Discipline Laws and Regulations

Prepared: August 12, 2013

Introduction

This compilation presents school discipline-related state statutes, school discipline-related regulations, and, where available, links to state-sponsored websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSLE). For example, one major category encompasses all state laws or regulations mandating specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of state legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in each state.

Discipline categories were not mutually exclusive. Statutes and regulations often appeared across multiple categories. For states with more extensive statutes covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. State laws, ordered by chapter and section number, appear first within each category followed by state regulations. All statutes and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists statutes by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to state-sponsored websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of May 2013, with the exception of the state laws related to seclusion and restraint, which are complete and current as of December 2012. Readers should also note that the information in this document was compiled from individual state sources that are created by each state and which are maintained and updated with varying frequencies. Readers should consult the source information provided for each state directly in order to check for updates to this state's laws and regulations or conduct further research.

For further information, including definitions of the different policy categories, please refer to the Discipline Laws and Regulations Compendium posted on the Center's website.

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Safe Supportive Learning
Engagement | Safety | Environment

Table of Contents

Pennsylvania State Codes Cited **1**

General Provisions **3**

Scope 5
Communication of Policy 5

In-School Discipline **6**

Use of multi-tiered discipline approaches 6
Teacher authority to remove students from classrooms 6
Alternatives to suspension 6
Use of corporal punishment 6
Use of student and locker searches 7
Other in-school disciplinary approaches 7

Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements **8**

Grounds for possible suspension or expulsion 8
Grounds for mandatory suspension or expulsion 8
Limitations, conditions, or exclusions for use of suspension and expulsion 9
Administrative procedures related to suspensions and expulsion 9
In-school suspension 12
Return to school following removal 12
Use of restraint and seclusion 13
Alternative Placements 15

Disciplinary Approaches Addressing Specific Infractions and Conditions **20**

Firearms (as required by the Guns-Free Schools Act) 20
Other weapons 21
Students with chronic disciplinary issues 22
Attendance and truancy 22
Substance use 26
Bullying, harassment, or hazing 28
Other special infractions or conditions 29

Prevention and Behavioral Interventions (Non-Punitive) **30**

Prevention 30
Behavioral interventions and student support services 32
Professional development 36

Monitoring and Accountability **37**

Formal incident reporting of conduct violations 37
Parental notification 41
Reporting and referrals between schools and law enforcement 42
Disclosure of school records 46
Data collection, review, and reporting of disciplinary policies and actions 46

School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers 49
Authority and power to implement school arrest 49
Certification or training 50
MOUs, authorization and/or funding 50
State Education Agency Support 52
State model policies and implementation support 52
Funding appropriations 52
Other/Uncategorized 53
Professional immunity or liability 53
Community input or involvement 53
Other/uncategorized 54
State-Sponsored, Publicly Available Websites or Other Resources on School Discipline 58

Pennsylvania State Codes Cited

Pennsylvania Revised Statutes

Public School Code of 1949

Article VI. School Finances

617.	Intergovernmental agreements for school security and safety

Article VII. Grounds and Buildings

778.	School police officers

Article XIII. Pupils and Attendance

1317.	Authority of teachers, vice principals and principals over pupils
1317.1.	Possession of telephone pagers prohibited
1317.2.	Possession of weapons prohibited
1318.	Suspension and expulsion of pupils
1327.	Compulsory school attendance
1333.	Penalties for violation of compulsory attendance requirements
1338.2.	Antitruancy programs
1343.	Arrest of children failing to attend school

Article XIII–A. Safe Schools

1302–A.	Office for safe schools
1303–A.	Reporting
1303.1–A.	Policy relating to bullying
1305–A.	Transfer of records
1306–A.	Availability of records
1307–A.	Maintenance of records
1308–A.	Report
1310–A.	Safe schools advocate in school districts of the first class

Article XV. Terms and Courses of Study

15-1547.	Alcohol, chemical and tobacco abuse program

Article XIX–C. Disruptive Student Programs

1901–C.	Definitions
1902–C.	Applications

Article XIX–D. Community Education Councils

1903–D.	Powers and duties of community education council

Article XIX–E. Private Alternative Education Institutions for Disruptive Students

1901-E.	Definitions
1902–E.	Contracts with private alternative education institutions
1903–E.	Approval by Department of Education

Article XXI. School Districts of the first class

21-2134. Placement of certain adjudicated students

Pennsylvania Consolidated Statutes

Title 18. Crimes and Offenses

Chapter 9. Inchoate Crimes

912. Possession of weapon on school property

Pennsylvania Administrative Code

Title 22. Education

Chapter 10. Safe Schools

Memorandum of Understanding

10.11. Memorandum of understanding

Notification of Incidents

10.21. Immediate notification
10.21. Discretionary notification
10.23. Response and handling of a student with a disability
10.25. Notification to parents/guardians

Chapter 12. Students and Student Services

Student Rights and Responsibilities

12.1. Free education and attendance
12.2. Student responsibilities
12.3. School rules
12.5. Corporal punishment
12.6. Exclusions from school
12.7. Exclusion from classes—in-school suspension
12.8. Hearings
12.14. Searches

Chapter 14. Special Education Services and Programs

Educational Placement

14.143. Disciplinary placements

Chapter 403. Compliance with the No Child Left Behind Act of 2001

403.6. Unsafe school choice option

General Provisions

Authority to develop and establish rules of conduct

STATUTES

1302-A. Office for Safe Schools

(a) There is hereby established in the Department of Education an Office for Safe Schools.

(b) The office shall have the power and duty to implement the following:

(1) To coordinate antiviolence efforts between school, professional, parental, governmental, law enforcement and community organizations and associations.

(2) To collect, develop and disseminate information, policies, strategies and other information to assist in the development of programs to impact school violence.

(2.1) To direct all school entities to submit annual school violence statistics and reports to the office no later than July 31 of each year.

(3) To provide direct training to school employees, parents, law enforcement officials and communities on effective measures to prevent and combat school violence.

(4) To advise school entities and nonpublic schools on the development of policies to be used regarding possession of weapons by any person, acts of violence and protocols for coordination with and reporting to law enforcement officials and the Department of Education.

(4.1) To verify the existence of corrective action plans to reduce incidents of violence as required in the No Child Left Behind Act of 2001 (Public Law 107-110, 115 Stat. 1425).

(5) To develop forms to be used by school entities and police departments for reporting incidents involving acts of violence and possession of weapons on school property. The forms shall be reviewed on a biennial basis and revised when necessary.

(6) To verify that each school entity has a biennially updated and reexecuted memorandum of understanding with local law enforcement and has filed such memorandum with the office on a biennial basis.

(7) To publish and post on the Department of Education's Internet website a School Safety Annual Report no later than November 1 of each calendar year outlining all incidents required to be reported under section 1303-A and any school district that failed to submit a report under section 1303-A.

(b.1) The office shall process and tabulate the data on an annual basis to assist school administrators and law enforcement officials in their duties under this article.

(c) In addition to the powers and duties set forth under subsection (b), the office is authorized to make targeted grants to school entities to fund programs which address school violence, including:

(1) Conflict resolution or dispute management, including restorative justice strategies.

(1.1) School-wide positive behavior support that includes primary or universal, secondary and tertiary supports and interventions in school entities.

(1.2) School-based diversion programs.

(2) Peer helpers programs.

(3) Risk assessment, safety-related, violence prevention curricula, including, but not limited to, dating violence curricula and restorative justice strategies.

(4) Classroom management.

(5) Student codes of conduct.

(6) Training to undertake a districtwide assessment of risk factors that increase the likelihood of problem behaviors among students.

(7) Development and implementation of research-based violence prevention programs that address risk factors to reduce incidents of problem behaviors among students including, but not limited to, bullying.

(8) Comprehensive, districtwide school safety and violence prevention plans.

(9) Security planning, purchase of security-related technology which may include metal detectors, protective lighting, surveillance equipment, special emergency communications equipment, electronic locksets, deadbolts and theft control devices and training in the use of security-related technology. Security planning and purchase of security-related technology shall be based on safety needs identified by the school entity's board of directors.

(10) Institution of student, staff and visitor identification systems, including criminal background check software.

(11) Establishment or enhancement of school security personnel, including school resource officers.

(12) Provision of specialized staff and student training programs, including training for Student Assistance Program team members in elementary, middle and high schools in the referral of students at risk of violent behavior to appropriate community-based services, including mental health services.

(13) Alternative education programs provided for in Article XIX-C.

(14) Counseling services for students enrolled in alternative education programs.

(15) An Internet web-based system for the management of student discipline, including misconduct and criminal offenses.

(16) Staff training programs in the use of positive behavior supports, de-escalation techniques and appropriate responses to student behavior that may require immediate intervention.

1303.1-A. Policy Relating to Bullying.

(a) No later than January 1, 2009, each school entity shall adopt a policy or amend its existing policy relating to bullying and incorporate the policy into the school entity's code of student conduct required under 22 Pa. Code § 12.3(c) (relating to school rules). The policy shall delineate disciplinary consequences for bullying and may provide for prevention, intervention and education programs, provided that no school entity shall be required to establish a new policy under this section if one currently exists and reasonably fulfills the requirements of this section. The policy shall identify the appropriate school staff person to receive reports of incidents of alleged bullying.

ADMINISTRATIVE CODE

§ 12.3. School rules.

(a) The governing board has the authority to make reasonable and necessary rules governing the conduct of students in school. The rulemaking power, however, is not unlimited; it must operate within statutory and constitutional restraints. A governing board has only those powers that are enumerated in the statutes of the Commonwealth, or that may reasonably be implied or necessary for the orderly operation of the school.

(b) Governing boards may not make rules that are arbitrary, capricious, discriminatory or outside their grant of authority from the General Assembly. A rule is generally considered reasonable if it uses a rational means of accomplishing some legitimate school purpose.

(c) Each governing board shall adopt a code of student conduct that includes policies governing student discipline and a listing of students' rights and responsibilities as outlined in this chapter. This conduct

code shall be published and distributed to students and parents or guardians. Copies of the code shall also be available in each school library.

Scope

1317. Authority of Teachers, Vice Principals and Principals over Pupils.

Every teacher, vice principal and principal in the public schools shall have the right to exercise the same authority as to conduct and behavior over the pupils attending his school, during the time they are in attendance, including the time required in going to and from their homes, as the parents, guardians or persons in parental relation to such pupils may exercise over them. (1317 amended July 25, 1963, P.L.315, No.169)

Communication of Policy

STATUTES

1303.1-A. Policy Relating to Bullying.

(b) Each school entity shall make the policy available on its publicly accessible Internet website, if available, and in every classroom. Each school entity shall post the policy at a prominent location within each school building where such notices are usually posted. Each school entity shall ensure that the policy and procedures for reporting bullying incidents are reviewed with students within ninety (90) days after their adoption and thereafter at least once each school year.

ADMINISTRATIVE CODE

§ 12.3. School rules.

(c) Each governing board shall adopt a code of student conduct that includes policies governing student discipline and a listing of students' rights and responsibilities as outlined in this chapter. This conduct code shall be published and distributed to students and parents or guardians. Copies of the code shall also be available in each school library.

In-School Discipline

Use of multi-tiered discipline approaches

No relevant statutes found.

Teacher authority to remove students from classrooms

1317. Authority of Teachers, Vice Principals and Principals over Pupils.

Every teacher, vice principal and principal in the public schools shall have the right to exercise the same authority as to conduct and behavior over the pupils attending his school, during the time they are in attendance, including the time required in going to and from their homes, as the parents, guardians or persons in parental relation to such pupils may exercise over them. (1317 amended July 25, 1963, P.L.315, No.169)

Alternatives to suspension

No relevant statutes found.

Use of corporal punishment

ADMINISTRATIVE CODE

§ 12.5. Corporal punishment.

(a) Corporal punishment is defined as physically punishing a student for an infraction of the discipline policy. Use of corporal punishment is prohibited.

(b) Teachers and school authorities may use reasonable force under the following circumstances:

(1) To quell a disturbance.

(2) To obtain possession of weapons or other dangerous objects.

(3) For the purpose of self-defense.

(4) For the protection of persons or property.

§ 14.133. Positive behavior support.

(e) The following aversive techniques of handling behavior are considered inappropriate and may not be used by agencies in educational programs:

(1) Corporal punishment.

(2) Punishment for a manifestation of a student's disability.

(3) Locked rooms, locked boxes or other structures or spaces from which the student cannot readily exit.

(4) Noxious substances.

(5) Deprivation of basic human rights, such as withholding meals, water or fresh air.

(6) Suspensions constituting a pattern under § 14.143(a) (relating to disciplinary placement).

(7) Treatment of a demeaning nature.

(8) Electric shock.

Use of student and locker searches

ADMINISTRATIVE CODE

§ 12.14. Searches

(a) The governing board of every school entity shall adopt reasonable policies and procedures regarding student searches. The local education agency shall notify students and their parents or guardians of the policies and procedures regarding student searches.

(b) Illegal or prohibited materials seized during a student search may be used as evidence against the student in a school disciplinary proceeding.

(c) Prior to a locker search, students shall be notified and given an opportunity to be present. When school authorities have a reasonable suspicion that the locker contains materials that pose a threat to the health, welfare or safety of students in the school, student lockers may be searched without prior warning.

Other in-school disciplinary approaches

No relevant statutes found.

Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements

Grounds for possible suspension or expulsion

STATUTES

1318. Suspension and Expulsion of Pupils.

Every principal or teacher in charge of a public school may temporarily suspend any pupil on account of disobedience or misconduct, and any principal or teacher suspending any pupil shall promptly notify the district superintendent or secretary of the board of school directors. The board may, after a proper hearing, suspend such child for such time as it may determine, or may permanently expel him. Such hearings, suspension, or expulsion may be delegated to a duly authorized committee of the board, or to a duly qualified hearing examiner, who need not be a member of the board, but whose adjudication must be approved by the board. (1318 amended Feb. 8, 1980, P.L.3, No.2)

Grounds for mandatory suspension or expulsion

STATUTES

1317.2. Possession of Weapons Prohibited.

(a) Except as otherwise provided in this section, a school district or area vocational-technical school shall expel, for a period of not less than one year, any student who is determined to have brought onto or is in possession of a weapon on any school property, any school-sponsored activity or any public conveyance providing transportation to a school or school-sponsored activity.

(b) Every school district and area vocational-technical school shall develop a written policy regarding expulsions for possession of a weapon as required under this section. Expulsions shall be conducted pursuant to all applicable regulations.

(c) The superintendent of a school district or an administrative director of an area vocational-technical school may recommend modifications of such expulsion requirements for a student on a case-by-case basis. The superintendent or other chief administrative officer of a school entity shall, in the case of an exceptional student, take all steps necessary to comply with the Individuals with Disabilities Education Act (Public Law 91-230, 20 U.S.C. § 1400 et seq.).

(d) The provisions of this section shall not apply to the following:

(1) a weapon being used as part of a program approved by a school by an individual who is participating in the program; or

(2) a weapon that is unloaded and is possessed by an individual while traversing school property for the purpose of obtaining access to public or private lands used for lawful hunting, if the entry on school premises is authorized by school authorities.

(e) Nothing in this section shall be construed as limiting the authority or duty of a school or area vocational-technical school to make an alternative assignment or provide alternative educational services during the period of expulsion.

(e.1) A school district receiving a student who transfers from a public or private school during a period of expulsion for an act or offense involving a weapon may assign that student to an alternative assignment

or provide alternative education services, provided that the assignment may not exceed the period of expulsion.

(f) All school districts and area vocational-technical schools shall report all incidents involving possession of a weapon prohibited by this section as follows:

(1) The school superintendent or chief administrator shall report the discovery of any weapon prohibited by this section to local law enforcement officials.

(2) The school superintendent or chief administrator shall report to the Department of Education all incidents relating to expulsions for possession of a weapon on school grounds, school-sponsored activities or public conveyances providing transportation to a school or school-sponsored activity. Reports shall include all information as required under section 1303-A.

(g) As used in this section, the term "weapon" shall include, but not be limited to, any knife, cutting instrument, cutting tool, nunchaku, firearm, shotgun, rifle and any other tool, instrument or implement capable of inflicting serious bodily injury.

ADMINISTRATIVE CODE

§ 12.6. Exclusions from school.

(a) The governing board shall define and publish the types of offenses that would lead to exclusion from school. Exclusions affecting certain students with disabilities shall be governed by § 14.143 (relating to disciplinary placements) and 34 CFR 300.519—300.529 (relating to discipline procedures).

(b) Exclusion from school may take the form of suspension or expulsion.

Limitations, conditions, or exclusions for use of suspension and expulsion

ADMINISTRATIVE CODE

§ 14.143. Disciplinary placements.

(a) Notwithstanding the requirements incorporated by reference in 34 CFR 300.530(b) and 300.536 (relating to authority of school personnel; and change of placement because of disciplinary removals), a disciplinary exclusion of a student with a disability for more than 15 cumulative school days in a school year will be considered a pattern so as to be deemed a change in educational placement.

(b) A removal from school is a change of placement for a student who is identified with mental retardation, except if the student's actions are consistent with 34 CFR 300.530(g)(1)—(3) (relating to authority of school personnel).

Administrative procedures related to suspensions and expulsion

STATUTES

1318. Suspension and Expulsion of Pupils.

Every principal or teacher in charge of a public school may temporarily suspend any pupil on account of disobedience or misconduct, and any principal or teacher suspending any pupil shall promptly notify the district superintendent or secretary of the board of school directors. The board may, after a proper hearing, suspend such child for such time as it may determine, or may permanently expel him. Such hearings, suspension, or expulsion may be delegated to a duly authorized committee of the board, or to a duly qualified hearing examiner, who need not be a member of the board, but whose adjudication must be approved by the board. (1318 amended Feb. 8, 1980, P.L.3, No.2)

ADMINISTRATIVE CODE

§ 12.6. Exclusions from school.

(a) The governing board shall define and publish the types of offenses that would lead to exclusion from school. Exclusions affecting certain students with disabilities shall be governed by § 14.143 (relating to disciplinary placements) and 34 CFR 300.519—300.529 (relating to discipline procedures).

(b) Exclusion from school may take the form of suspension or expulsion.

(1) Suspension is exclusion from school for a period of from 1 to 10 consecutive school days.

(i) Suspensions may be given by the principal or person in charge of the public school.

(ii) A student may not be suspended until the student has been informed of the reasons for the suspension and given an opportunity to respond. Prior notice of the intended suspension need not be given when it is clear that the health, safety or welfare of the school community is threatened.

(iii) The parents or guardians and the superintendent of the district shall be notified immediately in writing when the student is suspended.

(iv) When the suspension exceeds 3 school days, the student and parent shall be given the opportunity for an informal hearing consistent with the requirements in § 12.8(c) (relating to hearings).

(v) Suspensions may not be made to run consecutively beyond the 10 school day period.

(vi) Students shall have the responsibility to make up exams and work missed while being disciplined by suspension and shall be permitted to complete these assignments within guidelines established by the governing board.

(2) Expulsion is exclusion from school by the governing board for a period exceeding 10 school days and may be permanent expulsion from the school rolls. Expulsions require a prior formal hearing under § 12.8.

(c) During the period prior to the hearing and decision of the governing board in an expulsion case, the student shall be placed in his normal class except as set forth in subsection (d).

(d) If it is determined after an informal hearing that a student's presence in his normal class would constitute a threat to the health, safety or welfare of others and it is not possible to hold a formal hearing within the period of a suspension, the student may be excluded from school for more than 10 school days. A student may not be excluded from school for longer than 15 school days without a formal hearing unless mutually agreed upon by both parties. Any student so excluded shall be provided with alternative education, which may include home study.

(e) Students who are under 17 years of age are still subject to the compulsory school attendance law even though expelled and shall be provided an education.

(1) The initial responsibility for providing the required education rests with the student's parents or guardian, through placement in another school, tutorial or correspondence study, or another educational program approved by the district's superintendent.

(2) Within 30 days of action by the governing board, the parents or guardians shall submit to the school district written evidence that the required education is being provided as described in paragraph (1) or that they are unable to do so. If the parents or guardians are unable to provide the required education, the school entity shall, within 10 days of receipt of the notification, make provision for the student's education. A student with a disability shall be provided educational services as required by the Individuals With Disabilities Education Act (20 U.S.C.A. § § 1400—1482).

(3) If the approved educational program is not complied with, the school entity may take action in accordance with 42 Pa.C.S. Chapter 63 (relating to the Juvenile Act) to ensure that the child will receive a proper education. See § 12.1(b) (relating to free education and attendance).

§ 12.8. Hearings.

(a) General. Education is a statutory right, and students shall be afforded due process if they are to be excluded from school. In a case involving a possible expulsion, the student is entitled to a formal hearing.

(b) Formal hearings. A formal hearing is required in all expulsion actions. This hearing may be held before the governing board or an authorized committee of the board, or a qualified hearing examiner appointed by the board. When a committee of the board or a hearing examiner conducts the hearing, a majority vote of the entire governing board is required to expel a student. The following due process requirements shall be observed with regard to the formal hearing:

(1) Notification of the charges shall be sent to the student's parents or guardians by certified mail.

(2) At least 3 days' notice of the time and place of the hearing shall be given. A copy of the expulsion policy, notice that legal counsel may represent the student and hearing procedures shall be included with the hearing notice. A student may request the rescheduling of the hearing when the student demonstrates good cause for an extension.

(3) The hearing shall be held in private unless the student or parent requests a public hearing.

(4) The student may be represented by counsel, at the expense of the parents or guardians, and may have a parent or guardian attend the hearing.

(5) The student has the right to be presented with the names of witnesses against the student, and copies of the statements and affidavits of those witnesses.

(6) The student has the right to request that the witnesses appear in person and answer questions or be cross-examined.

(7) The student has the right to testify and present witnesses on his own behalf.

(8) A written or audio record shall be kept of the hearing. The student is entitled, at the student's expense, to a copy. A copy shall be provided at no cost to a student who is indigent.

(9) The proceeding shall be held within 15 school days of the notification of charges, unless mutually agreed to by both parties. A hearing may be delayed for any of the following reasons, in which case the hearing shall be held as soon as reasonably possible:

(i) Laboratory reports are needed from law enforcement agencies.

(ii) Evaluations or other court or administrative proceedings are pending due to a student invoking his rights under the Individuals With Disabilities Education Act (20 U.S.C.A. § § 1400—1482).

(iii) In cases in juvenile or criminal court involving sexual assault or serious bodily injury, delay is necessary due to the condition or best interests of the victim.

(10) Notice of a right to appeal the results of the hearing shall be provided to the student with the expulsion decision.

(c) Informal hearings. The purpose of the informal hearing is to enable the student to meet with the appropriate school official to explain the circumstances surrounding the event for which the student is being suspended or to show why the student should not be suspended.

(1) The informal hearing is held to bring forth all relevant information regarding the event for which the student may be suspended and for students, their parents or guardians and school officials to discuss ways by which future offenses might be avoided.

(2) The following due process requirements shall be observed in regard to the informal hearing:

(i) Notification of the reasons for the suspension shall be given in writing to the parents or guardians and to the student.

(ii) Sufficient notice of the time and place of the informal hearing shall be given.

(iii) A student has the right to question any witnesses present at the hearing.

(iv) A student has the right to speak and produce witnesses on his own behalf.

(v) The school entity shall offer to hold the informal hearing within the first 5 days of the suspension.

In-school suspension

ADMINISTRATIVE CODE

§ 12.7. Exclusion from classes -- in-school suspension.

(a) A student may not receive an in-school suspension unless the student has been informed of the reasons for the suspension and has been given an opportunity to respond before the suspension becomes effective.

(b) Communication to the parents or guardian shall follow the suspension action taken by the school.

(c) When the in-school suspension exceeds 10 consecutive school days, an informal hearing with the principal shall be offered to the student and the student's parent or guardian prior to the 11th school day in accordance with the procedures in § 12.8 (relating to hearings).

(d) The student's school entity has the responsibility to make provision for the student's education during the period of the in-school suspension.

Return to school following removal

21-2134. Placement of certain adjudicated students.

(a) No student returning from placement as a result of being adjudicated delinquent under 42 Pa.C.S. Ch. 63 (relating to juvenile matters) or who has been adjudged to have committed a crime under an adult criminal proceeding shall be returned directly to the regular classroom.

(b) Prior to returning such student to the regular classroom, the school district shall:

(1) Place the student in a transition center operated by the school district for a period not to exceed four (4) weeks.

(2) Develop a transition plan for the student that includes academic goals, identifies school and community services appropriate to the needs of the student and establishes terms and conditions the student must meet prior to returning to the regular classroom.

(c) The transition plan developed under subsection (b)(2) may provide for the student's direct return to a regular classroom where the underlying offense did not involve any of the following:

(i) Possession of a weapon.

(ii) Possession, use or sale of controlled substances as defined in the act of April 14, 1972 (P.L. 233, No. 64), known as "The Controlled Substance, Drug, Device and Cosmetic Act."

(iii) Possession, use or sale of alcohol or tobacco by any person on school property.

(iv) An act of violence as defined in section 1310-A(h)

(d) In the case of a student whose transition plan does not include immediate return to the regular classroom, the student shall be placed in one of the following as provided for in the student's transition plan:

(1) An alternative education program as defined in Article XIX-C

(2) A private alternative education institution as defined in Article XIX-E

(3) A general education development program.

(4) A program operating after the traditional school day.

(e) (1) Prior to the release of a student subject to this section from a residential or day treatment placement as a result of being adjudicated delinquent under 42 Pa.C.S. Ch. 63 (relating to juvenile matters) or returning from incarceration as a result of having been adjudged to have committed a crime under an adult criminal proceeding, the court shall provide to the person designated in charge of the school district's transition center the information required in the school notification provision under 42 Pa.C.S. § 6341(b.1) (relating to adjudication).

(2) The information shall be updated by the court with information pertaining to treatment reports and supervision plans or any other information deemed necessary by the transition plan and assure appropriate placement of the student.

Use of restraint and seclusion

ADMINISTRATIVE CODE

§ 14.133. Positive behavior support.

(a) Positive, rather than negative, measures must form the basis of behavior support programs to ensure that all students and eligible young children shall be free from demeaning treatment, the use of aversive techniques and the unreasonable use of restraints. Behavior support programs must include research based practices and techniques to develop and maintain skills that will enhance an individual student's or eligible young child's opportunity for learning and self-fulfillment. Behavior support programs and plans must be based on a functional assessment of behavior and utilize positive behavior techniques. When an intervention is needed to address problem behavior, the types of intervention chosen for a particular student or eligible young child shall be the least intrusive necessary. The use of restraints is considered a measure of last resort, only to be used after other less restrictive measures, including de-escalation techniques, in accord with subsection (c)(2).

(b) Notwithstanding the requirements incorporated by reference in 34 CFR 300.34, 300.324 and 300.530 (relating to related services; development, review, and revision of IEP; and authority of school personnel), with regard to a child's behavior, the following words and terms, when used in this section, have the following meanings, unless the context clearly indicates otherwise:

Aversive techniques—Deliberate activities designed to establish a negative association with a specific behavior.

Behavior support—The development, change and maintenance of selected behaviors through the systematic application of behavior change techniques.

Positive behavior support plans—A plan for students with disabilities and eligible young children who require specific intervention to address behavior that interferes with learning. A positive behavior support plan shall be developed by the IEP team, be based on a functional behavior assessment, and become part of the individual eligible young child's or student's IEP. These plans must include methods that utilize positive reinforcement and other positive techniques to shape a student's or eligible young child's behavior, ranging from the use of positive verbal statements as a reward for good behavior to specific tangible rewards.

Restraints—

(i) The application of physical force, with or without the use of any device, for the purpose of restraining the free movement of a student's or eligible young child's body.

(ii) The term does not include briefly holding, without force, a student or eligible young child to calm or comfort him, guiding a student or eligible young child to an appropriate activity, or holding a student's or eligible young child's hand to safely escort her from one area to another.

(iii) The term does not include hand-over-hand assistance with feeding or task completion and techniques prescribed by a qualified medical professional for reasons of safety or for therapeutic or medical treatment, as agreed to by the student's or eligible young child's parents and specified in the IEP. Devices used for physical or occupational therapy, seatbelts in wheelchairs or on toilets used for balance and safety, safety harnesses in buses, and functional positioning devices are examples of mechanical restraints which are excluded from this definition, and governed by subsection (d).

(c) Restraints to control acute or episodic aggressive or self-injurious behavior may be used only when the student is acting in a manner as to be a clear and present danger to himself, to other students or to employees, and only when less restrictive measures and techniques have proven to be or are less effective.

(1) The use of restraints to control the aggressive behavior of an individual student or eligible young child shall cause the school entity to notify the parent of the use of restraint and shall cause a meeting of the IEP team within 10 school days of the inappropriate behavior causing the use of restraints, unless the parent, after written notice, agrees in writing to waive the meeting. At this meeting, the IEP team shall consider whether the student or eligible young child needs a functional behavioral assessment, reevaluation, a new or revised positive behavior support plan, or a change of placement to address the inappropriate behavior.

(2) The use of restraints may only be included in a student's or eligible young child's IEP when the following conditions apply:

(i) The restraint is utilized with specific component elements of positive behavior support.

(ii) The restraint is used in conjunction with the teaching of socially acceptable alternative skills to replace problem behavior.

(iii) Staff are authorized to use the procedure and have received the staff training required.

(iv) There is a plan in place for eliminating the use of restraint through the application of positive behavior support.

(3) The use of prone restraints is prohibited in educational programs. Prone restraints are those in which a student or eligible young child is held face down on the floor.

(4) The use of restraints may not be included in the IEP for the convenience of staff, as a substitute for an educational program, or employed as punishment.

(5) School entities shall maintain and report data on the use of restraints as prescribed by the Secretary. The report shall be reviewed during cyclical compliance monitoring conducted by the Department.

(d) Mechanical restraints, which are used to control involuntary movement or lack of muscular control of students when due to organic causes or conditions, may be employed only when specified by an IEP and as determined by a medical professional qualified to make the determination, and as agreed to by the student's parents. Mechanical restraints shall prevent a student from injuring himself or others or promote normative body positioning and physical functioning.

(e) The following aversive techniques of handling behavior are considered inappropriate and may not be used by agencies in educational programs:

(1) Corporal punishment.

(2) Punishment for a manifestation of a student's disability.

(3) Locked rooms, locked boxes or other structures or spaces from which the student cannot readily exit.

(4) Noxious substances.

(5) Deprivation of basic human rights, such as withholding meals, water or fresh air.

(6) Suspensions constituting a pattern under § 14.143(a) (relating to disciplinary placement).

(7) Treatment of a demeaning nature.

(8) Electric shock.

(f) School entities have the primary responsibility for ensuring that positive behavior support programs are in accordance with this chapter, including the training of personnel for the use of specific procedures, methods and techniques, and for having a written policy and procedures on the use of positive behavior support techniques and obtaining parental consent prior to the use of restraints or intrusive procedures as provided in subsection (c).

(g) In accordance with their plans, agencies may convene a review, including the use of human rights committees, to oversee the use of restrictive or intrusive procedures or restraints.

(h) Subsequent to a referral to law enforcement, for students with disabilities who have positive behavior support plans, an updated functional behavior assessment and positive behavior support plan shall be required.

Alternative Placements

STATUTES

1317.2. Possession of Weapons Prohibited.

(e) Nothing in this section shall be construed as limiting the authority or duty of a school or area vocational-technical school to make an alternative assignment or provide alternative educational services during the period of expulsion.

(e.1) A school district receiving a student who transfers from a public or private school during a period of expulsion for an act or offense involving a weapon may assign that student to an alternative assignment or provide alternative education services, provided that the assignment may not exceed the period of expulsion.

1333. Penalties for Violation of Compulsory Attendance Requirements.

(b) (1) If the parent, guardian or person in parental relation is not convicted of a summary offense because he or she took every reasonable step to insure attendance of the child at school, a child of compulsory school age who has attained the age of thirteen (13) years and fails to comply with the provisions of this act regarding compulsory attendance or who is habitually truant from school without justification commits a summary offense and except as provided in clause (4) shall, upon conviction, be sentenced to pay a fine not exceeding three hundred dollars ($300) for each offense for the benefit of the school district in which such offending child resides or shall be assigned to an adjudication alternative program pursuant to 42 Pa.C.S. § 1520 (relating to adjudication alternative program).

(2) For any child who has attained the age of thirteen (13) years who fails to pay the fine under clause (1) or to comply with the adjudication alternative program, the district justice may allege the child to be dependent under 42 Pa.C.S. § 6303(a)(1) (relating to scope of chapter). The failure by the child to pay a fine or comply with the adjudication alternative program shall not constitute a delinquent act under 42 Pa.C.S. Ch. 63 (relating to juvenile matters).

(3) Upon a summary conviction or assignment to an adjudication alternative program, the district justice may suspend, in whole or in part, a sentence or an adjudication alternative program in which a child who has attained the age of thirteen (13) years must pay or comply with the adjudication alternative program: Provided, That the child no longer is habitually truant from school without justification.

(4) Any child who has not attained the age of thirteen (13) years who fails to comply with the compulsory attendance provisions of this act and is habitually truant shall be referred by the school district for services or possible disposition as a dependent child as defined under 42 Pa.C.S. § 6302 (relating to definitions). Any child who has attained the age of thirteen (13) years who fails to comply with the compulsory attendance provisions of this act and is habitually truant may, in lieu of a prosecution under clause (1), be referred by the school district for services or possible disposition as a dependent child as defined under 42 Pa.C.S. § 6302.

1901-C. Definitions.

For purposes of this article, the following terms shall have the following meanings:

(1) "Alternative education program" or "program." Any applicant's program applying for funds under this article, which program is implemented by a school district, an area vocational-technical school, a group of school districts or an intermediate unit, which removes disruptive students from regular school programs in order to provide those students with a sound educational course of study and counseling designed to modify disruptive behavior and return the students to a regular school curriculum. Notwithstanding section 1502, alternative education programs may operate outside the normal school day of the applicant district, including Saturdays. School districts and private alternative education institutions operating pursuant to the provisions of Article XIX-E shall adopt a policy for periodic review of those students placed in their respective alternative education program for disruptive students. This review shall occur, at a minimum, at the end of every semester the student is in the program or more frequently at the district's or private alternative education institution's discretion. The purpose of this review is to determine whether or not the student is ready to return to the regular school curriculum. Programs may include services for students returning from placements or who are on probation resulting from being adjudicated delinquent in a proceeding under 42 Pa.C.S. Ch. 63 (relating to juvenile matters) or who have been judged to have committed a crime under an adult criminal proceeding.

1902-C. Applications.

Applicants shall submit applications at the time, in the manner and containing or accompanied by such information as the department may prescribe but, in any case, shall document the following:

(1) The program is developed in consultation with the faculty and administrative staff of the school and parents and members of the community.

(2) That the applicants have established policies to identify those students who are eligible for placement in the program and that the placement of such students will comply with the informal hearing procedures set forth in 22 Pa. Code § 12.8(c) (relating to hearings). Notice of the hearing should precede placement in the program. Where the student's presence poses a continuing danger to persons or property or an ongoing threat of disrupting the academic process, the student may be immediately removed from the regular education curriculum with notice and a hearing to follow as soon as practicable.

(3) That school personnel assigned to the alternative education program for which funding is sought under this article possess a Level I or Level II Pennsylvania certificate as provided for in 22 Pa. Code Ch. 49 (relating to certification of professional personnel).

(4) The program provides participating students with a course of instruction which recognizes their special needs, prepares them for successful return to a regular school curriculum and/or completion of the requirements for graduation.

(5) The program is used only when other established methods of discipline have been utilized and have failed unless the seriousness of the student's behavior warrants immediate placement.

(6) A determination of the scope, type and severity of student disruption and a survey of community and school resources available to the applicant for the remediation of student disruption.

(7) A description of the educational program to be provided. The program may modify the requirements established in sections 1327, 1501 and 1504 insofar as they are related to the number of days or hours of instruction. The application shall describe how the student will make normal academic progress and meet requirements for graduation.

(8) An applicant applying for funds under this section that contracts with a private alternative education institution under Article XIX-E shall be exempt from the application requirements in clauses (1), (3) and (6). ((8) added Nov. 23, 1999, P.L.529, No.48)

(9) Where the applicant is a charter school that provides an alternative education program within or to a chartering school district or school districts as the central mission of its charter, written support for the application from the chartering school district.

1901-E. Definitions.

For purposes of this article, the following terms shall have the following meanings:

"Private alternative education institution." An institution operated by an individual or a for-profit or not-for-profit entity to provide alternative education programs as defined in section 1901-C(1).

"School entity." A school district, joint school, charter school, area vocational-technical school, combination of school districts or intermediate unit.

19-1902-E. Contracts with private alternative education institutions.

(1) A school entity may contract with a private alternative education institution.

(2) A contract under this section shall specify the policies established by the school entity to identify those students who are eligible for assignment to the institution and assure that the placement of a student will comply with the informal hearing procedures set forth in 22 Pa. Code § 12.8(c) (relating to hearings). Notice of the hearing should precede placement in the institution. Where the student's presence poses a continuing danger to persons or property or an ongoing threat of disrupting the academic process, the student may be immediately removed from the regular education curriculum with notice and a hearing to follow as soon as practicable.

(3) A private alternative education institution shall:

(i) Be exempt from statutory requirements established in this act and from regulations of the State Board of Education and standards of the Secretary of Education, except the following: sections 111, 325, 326, 327, 431, 436, 437, 443, 518, 527, 736, 737, 738, 739, 740, 741, 753, 755, 771, 809, 810, 1112(a), 1303(a), 1317, 1317.1, 1317.2, 1327, 1332, 1361, 1366, 1501, 1513, 1517, 1518, 1546 and 1547 of this act; Articles XIII-A and XIV of this act; 22 Pa. Code Chs. 4 (relating to academic standards and assessment); 11 (relating to pupil attendance) and 14 (relating to special education services and programs); act of July 17, 1961 (P.L. 776, No. 341), known as the "Pennsylvania Fair Educational Opportunities Act"; and regulations promulgated pursuant to this article.

(ii) Comply with all Federal and State laws and constitutional provisions prohibiting discrimination on the basis of disability, race, creed, color, gender, national origin, religion or ancestry and shall provide for enrollment and hiring in a nondiscriminatory manner.

(iii) Be nonsectarian in all operations and shall not provide any religious instruction, nor shall it display religious objects and symbols on the premises of the institution.

(iv) Be subject to any additional requirements established through regulation.

(v) Submit an application to the Department of Education as prescribed by the Department of Education.

(4) A private alternative education institution shall submit an annual report to the Department of Education containing information required by the Department of Education.

1903-E. Approval by Department of Education.

(a) A private alternative education institution may not operate in this Commonwealth unless it is approved by the Department of Education.

(b) The Department of Education shall be responsible for evaluating a private alternative education institution's initial application to operate in this Commonwealth, and each private alternative education institution operating in this Commonwealth shall be reevaluated for approval every three years.

(c) The Department of Education may issue guidelines for the operation of a private alternative education institution.

21-2134. Placement of certain adjudicated students.

(a) No student returning from placement as a result of being adjudicated delinquent under 42 Pa.C.S. Ch. 63 (relating to juvenile matters) or who has been adjudged to have committed a crime under an adult criminal proceeding shall be returned directly to the regular classroom.

(b) Prior to returning such student to the regular classroom, the school district shall:

(1) Place the student in a transition center operated by the school district for a period not to exceed four (4) weeks.

(2) Develop a transition plan for the student that includes academic goals, identifies school and community services appropriate to the needs of the student and establishes terms and conditions the student must meet prior to returning to the regular classroom.

(c) The transition plan developed under subsection (b)(2) may provide for the student's direct return to a regular classroom where the underlying offense did not involve any of the following:

(i) Possession of a weapon.

(ii) Possession, use or sale of controlled substances as defined in the act of April 14, 1972 (P.L. 233, No. 64), known as "The Controlled Substance, Drug, Device and Cosmetic Act."

(iii) Possession, use or sale of alcohol or tobacco by any person on school property.

(iv) An act of violence as defined in section 1310-A(h)

(d) In the case of a student whose transition plan does not include immediate return to the regular classroom, the student shall be placed in one of the following as provided for in the student's transition plan:

(1) An alternative education program as defined in Article XIX-C

(2) A private alternative education institution as defined in Article XIX-E

(3) A general education development program.

(4) A program operating after the traditional school day.

(e) (1) Prior to the release of a student subject to this section from a residential or day treatment placement as a result of being adjudicated delinquent under 42 Pa.C.S. Ch. 63 (relating to juvenile matters) or returning from incarceration as a result of having been adjudged to have committed a crime under an adult criminal proceeding, the court shall provide to the person designated in charge of the school district's transition center the information required in the school notification provision under 42 Pa.C.S. § 6341(b.1) (relating to adjudication).

(2) The information shall be updated by the court with information pertaining to treatment reports and supervision plans or any other information deemed necessary by the transition plan and assure appropriate placement of the student.

Disciplinary Approaches Addressing Specific Infractions and Conditions

Firearms (as required by the Guns-Free Schools Act)

STATUTES

912 Possession of weapon on school property.

(a) Definition. --Notwithstanding the definition of "weapon" in section 907 (relating to possessing instruments of crime), "weapon" for purposes of this section shall include but not be limited to any knife, cutting instrument, cutting tool, nun- chuck stick, firearm, shotgun, rifle and any other tool, instrument or implement capable of inflicting serious bodily injury.

(b) Offense defined. --A person commits a misdemeanor of the first degree if he possesses a weapon in the buildings of, on the grounds of, or in any conveyance providing transportation to or from any elementary or secondary publicly-funded educational institution, any elementary or secondary private school licensed by the Department of Education or any elementary or secondary parochial school.

(c) Defense. --It shall be a defense that the weapon is possessed and used in conjunction with a lawful supervised school activity or course or is possessed for other lawful purpose.

1317.2. Possession of Weapons Prohibited.

(a) Except as otherwise provided in this section, a school district or area vocational-technical school shall expel, for a period of not less than one year, any student who is determined to have brought onto or is in possession of a weapon on any school property, any school-sponsored activity or any public conveyance providing transportation to a school or school-sponsored activity.

(b) Every school district and area vocational-technical school shall develop a written policy regarding expulsions for possession of a weapon as required under this section. Expulsions shall be conducted pursuant to all applicable regulations.

(c) The superintendent of a school district or an administrative director of an area vocational-technical school may recommend modifications of such expulsion requirements for a student on a case-by-case basis. The superintendent or other chief administrative officer of a school entity shall, in the case of an exceptional student, take all steps necessary to comply with the Individuals with Disabilities Education Act (Public Law 91-230, 20 U.S.C. § 1400 et seq.).

(d) The provisions of this section shall not apply to the following:

(1) a weapon being used as part of a program approved by a school by an individual who is participating in the program; or

(2) a weapon that is unloaded and is possessed by an individual while traversing school property for the purpose of obtaining access to public or private lands used for lawful hunting, if the entry on school premises is authorized by school authorities.

(e) Nothing in this section shall be construed as limiting the authority or duty of a school or area vocational-technical school to make an alternative assignment or provide alternative educational services during the period of expulsion.

(e.1) A school district receiving a student who transfers from a public or private school during a period of expulsion for an act or offense involving a weapon may assign that student to an alternative assignment or provide alternative education services, provided that the assignment may not exceed the period of expulsion.

(f) All school districts and area vocational-technical schools shall report all incidents involving possession of a weapon prohibited by this section as follows:

(1) The school superintendent or chief administrator shall report the discovery of any weapon prohibited by this section to local law enforcement officials.

(2) The school superintendent or chief administrator shall report to the Department of Education all incidents relating to expulsions for possession of a weapon on school grounds, school-sponsored activities or public conveyances providing transportation to a school or school-sponsored activity. Reports shall include all information as required under section 1303-A.

(g) As used in this section, the term "weapon" shall include, but not be limited to, any knife, cutting instrument, cutting tool, nunchaku, firearm, shotgun, rifle and any other tool, instrument or implement capable of inflicting serious bodily injury.

Other weapons

STATUTES

1317.2. Possession of Weapons Prohibited.

(a) Except as otherwise provided in this section, a school district or area vocational-technical school shall expel, for a period of not less than one year, any student who is determined to have brought onto or is in possession of a weapon on any school property, any school-sponsored activity or any public conveyance providing transportation to a school or school-sponsored activity.

(b) Every school district and area vocational-technical school shall develop a written policy regarding expulsions for possession of a weapon as required under this section. Expulsions shall be conducted pursuant to all applicable regulations.

(c) The superintendent of a school district or an administrative director of an area vocational-technical school may recommend modifications of such expulsion requirements for a student on a case-by-case basis. The superintendent or other chief administrative officer of a school entity shall, in the case of an exceptional student, take all steps necessary to comply with the Individuals with Disabilities Education Act (Public Law 91-230, 20 U.S.C. § 1400 et seq.).

(d) The provisions of this section shall not apply to the following:

(1) a weapon being used as part of a program approved by a school by an individual who is participating in the program; or

(2) a weapon that is unloaded and is possessed by an individual while traversing school property for the purpose of obtaining access to public or private lands used for lawful hunting, if the entry on school premises is authorized by school authorities.

(e) Nothing in this section shall be construed as limiting the authority or duty of a school or area vocational-technical school to make an alternative assignment or provide alternative educational services during the period of expulsion.

(e.1) A school district receiving a student who transfers from a public or private school during a period of expulsion for an act or offense involving a weapon may assign that student to an alternative assignment or provide alternative education services, provided that the assignment may not exceed the period of expulsion.

(f) All school districts and area vocational-technical schools shall report all incidents involving possession of a weapon prohibited by this section as follows:

(1) The school superintendent or chief administrator shall report the discovery of any weapon prohibited by this section to local law enforcement officials.

(2) The school superintendent or chief administrator shall report to the Department of Education all incidents relating to expulsions for possession of a weapon on school grounds, school-sponsored activities or public conveyances providing transportation to a school or school-sponsored activity. Reports shall include all information as required under section 1303-A.

(g) As used in this section, the term "weapon" shall include, but not be limited to, any knife, cutting instrument, cutting tool, nunchaku, firearm, shotgun, rifle and any other tool, instrument or implement capable of inflicting serious bodily injury.

Students with chronic disciplinary issues

No relevant statutes found.

Attendance and truancy

STATUTES

1327. Compulsory School Attendance.

(a) Except as hereinafter provided, every child of compulsory school age having a legal residence in this Commonwealth, as provided in this article, and every migratory child of compulsory school age, is required to attend a day school in which the subjects and activities prescribed by the standards of the State Board of Education are taught in the English language. In lieu of such school attendance, any child fifteen years of age with the approval of the district superintendent and the approval of the Secretary of Education, and any child sixteen years of age with the approval of the district superintendent of schools, may enroll as a day student in a private trade school or in a private business school licensed by the Department of Education, or in a trade or business school, or department operated by a local school district or districts. Such modified program offered in a public school must meet the standards prescribed by the State Board of Education or the State Board for Vocational Education. Except as hereinafter provided, every parent, guardian, or other person having control or charge of any child or children of compulsory school age is required to send such child or children to a day school in which the subjects and activities prescribed by the standards of the State Board of Education are taught in the English language. Such parent, guardian, or other person having control or charge of any child or children, fifteen or sixteen years of age, in accordance with the provisions of this act, may send such child or children to a private trade school or private business school licensed by the Department of Education, or to a trade or business school, or department operated by a local school district or districts. Such modified program offered in a public school must meet the standards prescribed by the State Board of Education or the State Board for Vocational Education. Such child or children shall attend such school continuously through the entire term, during which the public schools in their respective districts shall be in session, or in cases of children of migrant laborers during the time the schools are in session in the districts in which such children are temporarily domiciled[…]

(b) A child enrolled in a day school which is operated by a bona fide church or other religious body, and the parent, guardian or other person having control or charge of any such child or children of compulsory school age shall be deemed to have met the requirements of this section if that school provides a minimum of one hundred eighty (180) days of instruction or nine hundred (900) hours of instruction per year at the elementary level or nine hundred ninety (990) hours per year of instruction at the secondary level and:

(1) At the elementary school level, the following courses are taught: English, to include spelling, reading and writing; arithmetic; science; geography; history of the United States and Pennsylvania; civics;

safety education, including regular and continuous instruction in the dangers and prevention of fires; health and physiology; physical education; music; and art.

(2) At the secondary school level, the following courses are offered: English, to include language, literature, speech and composition; science, to include biology and chemistry; geography; social studies, to include civics, economics, world history, history of the United States and Pennsylvania; a foreign language; mathematics, to include general mathematics and statistics, algebra and geometry; art; music; physical education; health and physiology; and safety education, including regular and continuous instruction in the dangers and prevention of fires.

The requirements contained in sections 1511 and 1605 of this act shall not apply to such schools. The notarized affidavit of the principal of any such school, filed with the Department of Education and setting forth that such subjects are offered in the English language in such school, whether it is a nonprofit organization, and that such school is otherwise in compliance with the provisions of this act, shall be satisfactory and sufficient evidence thereof. It is the policy of the Commonwealth to preserve the primary right and the obligation of the parent or parents, or person or persons in loco parentis to a child, to choose the education and training for such child. Nothing contained in this act shall empower the Commonwealth, any of its officers, agencies or subdivisions to approve the course content, faculty, staff or disciplinary requirements of any religious school referred to in this section without the consent of said school.

(c) A child enrolled in a day or boarding school accredited by an accrediting association which is approved by the State Board of Education, and the parent, guardian or other person having designated control or charge of any child or children of compulsory school age shall be deemed to have met the requirements of subsection (a).

(d) Instruction to children of compulsory school age provided in a home education program, as provided for in section 1327.1 of this act, shall be considered as complying with the provisions of this section, except that any student who has been identified pursuant to the provisions of the Education of the Handicapped Act (Public Law 91-230, 20 U.S.C. § 1401 et seq.) as needing special education services, excluding those students identified as gifted and/or talented, shall be in compliance with the requirements of compulsory attendance by participating in a home education program, as defined in section 1327.1, when the program addresses the specific needs of the exceptional student and is approved by a teacher with a valid certificate from the Commonwealth to teach special education or a licensed clinical or certified school psychologist, and written notification of such approval is submitted with the notarized affidavit required under section 1327.1(b). The supervisor of a home education program may request that the school district or intermediate unit of residence provide services that address the specific needs of the exceptional student in the home education program. When the provision of services is agreed to by both the supervisor and the school district or intermediate unit, all services shall be provided in the public schools or in a private school licensed to provide such programs and services.

1333. Penalties for Violation of Compulsory Attendance Requirements.

(a) (1) Every parent, guardian, or person in parental relation, having control or charge of any child or children of compulsory school age, who shall fail to comply with the provisions of this act regarding compulsory attendance, shall on summary conviction thereof, be sentenced to pay a fine, for the benefit of the school district in which such offending person resides, not exceeding three hundred dollars ($300) and to pay court costs or be sentenced to complete a parenting education program offered and operated by a local school district, medical institution or other community resources, and, in default of the payment of such fine and costs or completion of the parenting program by the person so offending, shall be sentenced to the county jail for a period not exceeding five (5) days. Any person sentenced to pay any such fine may appeal to the court of common pleas of the proper county, upon entering into a recognizance, with one or more proper sureties, in double the amount of penalty and costs. Before any proceedings are instituted against any parent, guardian, or person in parental relation, for failure to

comply with the provisions of this act, the district superintendent, attendance officer, or secretary of the board of school directors, shall give the offending person three (3) days' written notice of such violation. If, after such notice has been given, the provisions of this act regarding compulsory attendance are again violated by the persons so notified, at any time during the term of compulsory attendance, such person, so again offending, shall be liable under the provisions of this section without further notice.

(2) The child and every parent, guardian or person in parental relation must appear at a hearing established by the district justice. If the parent, guardian or person in parental relation charged with a summary offense under this subsection shows that he or she took every reasonable step to insure attendance of the child at school, he or she shall not be convicted of the summary offense.

(3) Upon a summary conviction, the district justice may suspend, in whole or in part, a sentence in which a parent, guardian or person in parental relation is summoned to pay as required under this section: Provided, That the child no longer is habitually truant from school without justification.

(4) In lieu of or in addition to any other sentence imposed under this section, the district justice may order the parent, guardian or person in parental relation to perform community service in the school district in which the offending child resides for a period not to exceed six (6) months.

(b) (1) If the parent, guardian or person in parental relation is not convicted of a summary offense because he or she took every reasonable step to insure attendance of the child at school, a child of compulsory school age who has attained the age of thirteen (13) years and fails to comply with the provisions of this act regarding compulsory attendance or who is habitually truant from school without justification commits a summary offense and except as provided in clause (4) shall, upon conviction, be sentenced to pay a fine not exceeding three hundred dollars ($300) for each offense for the benefit of the school district in which such offending child resides or shall be assigned to an adjudication alternative program pursuant to 42 Pa.C.S. § 1520 (relating to adjudication alternative program).

(2) For any child who has attained the age of thirteen (13) years who fails to pay the fine under clause (1) or to comply with the adjudication alternative program, the district justice may allege the child to be dependent under 42 Pa.C.S. § 6303(a)(1) (relating to scope of chapter). The failure by the child to pay a fine or comply with the adjudication alternative program shall not constitute a delinquent act under 42 Pa.C.S. Ch. 63 (relating to juvenile matters).

(3) Upon a summary conviction or assignment to an adjudication alternative program, the district justice may suspend, in whole or in part, a sentence or an adjudication alternative program in which a child who has attained the age of thirteen (13) years must pay or comply with the adjudication alternative program: Provided, That the child no longer is habitually truant from school without justification.

(4) Any child who has not attained the age of thirteen (13) years who fails to comply with the compulsory attendance provisions of this act and is habitually truant shall be referred by the school district for services or possible disposition as a dependent child as defined under 42 Pa.C.S. § 6302 (relating to definitions). Any child who has attained the age of thirteen (13) years who fails to comply with the compulsory attendance provisions of this act and is habitually truant may, in lieu of a prosecution under clause (1), be referred by the school district for services or possible disposition as a dependent child as defined under 42 Pa.C.S. § 6302.

(5) The following words, when used in this subsection, shall have the following meaning, except where the context clearly indicates or requires a different meaning:

"Community resources" shall mean those agencies and services for children and youth provided by the juvenile court, the county, the Department of Health, the Department of Public Welfare and other public or private institutions.

"District justice" shall mean such court as the court of common pleas shall direct in counties not having district justices.

"Habitually truant" shall mean absence for more than three (3) school days or their equivalent following the first notice of truancy given under section 1354. A person may be habitually truant after such notice.

"Offense" shall mean each citation which goes before a district justice or court of common pleas.

"Person in parental relation" shall not include any county agency or person acting as an agent of the county agency in the jurisdiction of a dependent child defined under 42 Pa.C.S. § 6302 (relating to definitions).

(c) If a child is convicted for a violation of this section, the court, including a court not of record, shall send to the Department of Transportation a certified record of the conviction or other disposition on a form prescribed by the department.

(d) Nothing in this section shall be construed to apply to a parent, guardian or person in parental relation whose child or children are in a home education program under section 1327.1.

1338.2. Antitruancy Programs.

The Department of Education shall formulate recommendations for the General Assembly concerning the establishment and funding of effective community-based antitruancy pilot programs. In formulating these recommendations, the Department of Education shall seek advice and counsel from educators, parents, students, district attorneys, law enforcement representatives, attendance officers, social service agencies experienced in providing services to truant children, counselors, judges, probation officers and representatives from the Pennsylvania Commission on Crime and Delinquency and the Juvenile Court Judges' Commission.

1343. Arrest of Children Failing to Attend School.

When an attendance officer or a State, municipal, port authority, transit authority , housing authority or school police officer arrests or apprehends any child who fails to attend school as required by the provisions of this act, he shall promptly notify the parents, guardian, or person in parental relation to such child, if such person can be found in the district, and unless requested by such parent, guardian, or person in parental relation to place said child in a school other than public school, he shall place said child in the public school in which the child is, or should be, enrolled.

ADMINISTRATIVE CODE

12.1. Free education and attendance.

(a) All persons residing in this Commonwealth between the ages of 6 and 21 years are entitled to a free and full education in the Commonwealth's public schools.

(b) Parents or guardians of all children between the ages of 8 and 17 are required by the compulsory attendance law to ensure that their children attend an approved educational institution, unless legally excused. Students who have not graduated may not be asked to leave school merely because they have reached 17 years of age if they are fulfilling their responsibilities as students. A student may not be excluded from the public schools or from extracurricular activities because:

(1) The student is married.

(2) The student is pregnant.

(3) The student has a disability as identified by Chapter 15 (relating to protected handicapped students).

(4) The student is an eligble student identified under Chapter 14 (relating to special education services and programs).

Substance use

STATUTES

1303-A. Reporting.

(a) The office shall conduct a one-time survey of all school entities to determine the number of incidents involving acts of violence on school property and all cases involving possession of a weapon by any person on school property which occurred within the last five (5) years. The survey shall be based on the best available information provided by school entities.

(b) Each chief school administrator shall report to the office by July 31 of each year all new incidents involving acts of violence, possession of a weapon or possession, use or sale of controlled substances as defined in the act of April 14, 1972 (P.L.233, No.64), known as "The Controlled Substance, Drug, Device and Cosmetic Act," or possession, use or sale of alcohol or tobacco by any person on school property. The incidents to be reported to the office shall include all incidents involving conduct that constitutes a criminal offense listed under paragraphs (4.1) and (4.2). Reports on a form to be developed and provided by the office shall include:

(1) Age or grade of student.

(2) Name and address of school.

(3) Circumstances surrounding the incident, including, but not limited to, type of weapon, controlled substance, alcohol or tobacco, the date, time and location of the incident, if a person other than a student is involved in the incident and any relationship to the school entity.

(3.1) Race of student.

(3.2) Whether the student has an Individualized Education Plan under the Individuals with Disabilities Education Act (Public Law 91-230, 20 U.S.C. § 1400 et seq.), and if so, the type of disability.

(4) Sanction imposed by the school.

(4.1) A list of criminal offenses…

(ii) The possession, use or sale of a controlled substance or drug paraphernalia as defined in "The Controlled Substance, Drug, Device and Cosmetic Act."…

15-1547. Alcohol, chemical and tobacco abuse program.

(a) Beginning with school year 1991-1992 and each year thereafter, each public school student shall receive mandatory instruction in alcohol, chemical and tobacco abuse in every year in every grade from kindergarten through grade twelve. The instruction shall be integrated within the health course of study required in accordance with the State Board of Education regulations. In grades where health is offered, instruction may also be integrated into other appropriate courses of study. In grades where health is not offered, instruction shall be integrated into an appropriate curriculum requirement as listed in 22 Pa. Code § 5.4(b).

(1) This instruction:

(i) Shall be age appropriate.

(ii) Shall be sequential in method of study.

(iii) Shall discourage the use of alcohol, tobacco and controlled substances.

(iv) Shall communicate that the use of illicit drugs and the improper use of legally obtained drugs is wrong.

(2) School districts may utilize any appropriate public or private materials, personnel and other resources in developing and implementing this program of instruction. The Department of Health, Office

of Drug and Alcohol Programs, shall make available information about appropriate curriculum materials upon request of a school district. In developing its alcohol, chemical and tobacco abuse instructional program, each school district shall consult with the single county authority designated by the Department of Health to provide drug and alcohol services in the school district's area.

(b) Each school district is hereby authorized to develop and offer programs relating to alcohol, chemical and tobacco abuse for parents of students enrolled in the public schools. If a school district does develop such programs, they shall be developed in consultation with the single county authority designated by the Department of Health to provide drug and alcohol services in the school district's area. Such programs shall be offered at no cost to parents.

(c) The Secretary of Education, in consultation with the Secretary of Health, shall develop curriculum guidelines for instruction on alcohol, chemical and tobacco abuse and the laws governing their use and misuse. These guidelines shall encourage the inclusion of the following elements where appropriate in the instruction:

(1) Detailed factual information regarding the physiological, psychological, sociological and legal aspects of substance abuse.

(2) Detailed information regarding the availability of help and assistance for students and their families with alcohol, chemical and tobacco dependency problems.

(3) The goals of quality education as set forth in 22 Pa. Code § 5.13(f).

(4) Skills needed to evaluate advertisements for and media portrayals of alcohol, chemical and tobacco products.

(5) Detailed instruction on the need for and the role of lawful authority and law-abiding behavior, including interaction with members of the legal and justice community.

(d) Beginning with the 1991-1992 school year and each year thereafter, the Secretary of Education, in consultation with the Secretary of Health, shall make available, to all school districts and intermediate units, in-service training programs based upon the instruction requirements established in subsection (a) and the curriculum guidelines established in subsection (c). The programs shall provide preparation for the teaching of mandated instruction in alcohol, chemical and tobacco abuse. The in-service programs may utilize the single county authorities designated by the Department of Health or such other institutions, agencies or persons as the Secretary of Education deems appropriate.

(e) Beginning with the 1991-1992 school year, each school district shall provide, as part of its in-service training, programs on alcohol, drugs, tobacco and dangerous controlled substances for all instructors whose teaching responsibilities include courses of study in which mandated instruction concerning alcohol, chemical and tobacco abuse is integrated. To comply with this requirement, a school district may utilize the programs made available by the Department of Education or use other alternative programs.

(f) The governing board of each intermediate unit in which a nonpublic school is located shall have the authority and the duty to loan to all students attending nonpublic schools within the intermediate unit all educational materials developed by either the Department of Education or the Department of Health, pursuant to this act for the instruction of public school students on the nature and effects of drugs, alcohol, tobacco and dangerous controlled substances. Local school boards need not expend funds which are not provided by either the Federal or State Government for drug education programs for the use or loan of these materials. A nonpublic school may utilize the in-service training programs made available by the Department of Education through the intermediate unit.

(g) On or before June 1, 1991, the Secretary of Education shall recommend to the General Assembly a plan to require and assist each school district to establish and maintain a program to provide appropriate counseling and support services to students who experience problems related to the use of drugs, alcohol and dangerous controlled substances.

(h) On or before June 1, 1992, the Secretary of Education shall report to the General Assembly concerning the 1991-1992 school year activities of the Department of Education pertaining to the provisions of this section and concerning proposed 1992-1993 school year activities of the Department of Education pertaining to this section.

Bullying, harassment, or hazing

STATUTES

1303.1-A. Policy Relating to Bullying.

(a) No later than January 1, 2009, each school entity shall adopt a policy or amend its existing policy relating to bullying and incorporate the policy into the school entity's code of student conduct required under 22 Pa. Code § 12.3(c) (relating to school rules). The policy shall delineate disciplinary consequences for bullying and may provide for prevention, intervention and education programs, provided that no school entity shall be required to establish a new policy under this section if one currently exists and reasonably fulfills the requirements of this section. The policy shall identify the appropriate school staff person to receive reports of incidents of alleged bullying.

(b) Each school entity shall make the policy available on its publicly accessible Internet website, if available, and in every classroom. Each school entity shall post the policy at a prominent location within each school building where such notices are usually posted. Each school entity shall ensure that the policy and procedures for reporting bullying incidents are reviewed with students within ninety (90) days after their adoption and thereafter at least once each school year.

(c) Each school entity shall review its policy every three (3) years and annually provide the office with a copy of its policy relating to bullying, including information related to the development and implementation of any bullying prevention, intervention and education programs. The information required under this subsection shall be attached to or made part of the annual report required under section 1303-A(b).

(d) In its policy relating to bullying adopted or maintained under subsection (a), a school entity shall not be prohibited from defining bullying in such a way as to encompass acts that occur outside a school setting if those acts meet the requirements contained in subsection (e)(1), (3) and (4). If a school entity reports acts of bullying to the office in accordance with section 1303-A(b), it shall report all incidents that qualify as bullying under the entity's adopted definition of that term.

(e) For purposes of this article, "bullying" shall mean an intentional electronic, written, verbal or physical act, or a series of acts:

(1) directed at another student or students;

(2) which occurs in a school setting;

(3) that is severe, persistent or pervasive; and

(4) that has the effect of doing any of the following:

(i) substantially interfering with a student's education;

(ii) creating a threatening environment; or

(iii) substantially disrupting the orderly operation of the school; and

"school setting" shall mean in the school, on school grounds, in school vehicles, at a designated bus stop or at any activity sponsored, supervised or sanctioned by the school.

Other special infractions or conditions

STATUTES

1317.1. Possession of Telephone Pagers Prohibited.

(a) The possession by students of telephone paging devices, commonly referred to as beepers, shall be prohibited on school grounds, at school sponsored activities and on buses or other vehicles provided by the school district.

(b) The prohibition contained in subsection (a) shall not apply in the following cases, provided that the school authorities approve of the presence of the beeper in each case:

(1) A student who is a member of a volunteer fire company, ambulance or rescue squad.

(2) A student who has a need for a beeper due to the medical condition of an immediate family member.

Prevention and Behavioral Interventions (Non-Punitive)

Prevention

STATUTES

1302-A. Office for Safe Schools.

(c) In addition to the powers and duties set forth under subsection (b), the office is authorized to make targeted grants to school entities to fund programs which address school violence, including:

(1) Conflict resolution or dispute management, including restorative justice strategies.

(1.1) School-wide positive behavior support that includes primary or universal, secondary and tertiary supports and interventions in school entities.

(1.2) School-based diversion programs.

(2) Peer helpers programs.

(3) Risk assessment, safety-related, violence prevention curricula, including, but not limited to, dating violence curricula and restorative justice strategies.

(4) Classroom management.

(5) Student codes of conduct.

(6) Training to undertake a districtwide assessment of risk factors that increase the likelihood of problem behaviors among students.

(7) Development and implementation of research-based violence prevention programs that address risk factors to reduce incidents of problem behaviors among students including, but not limited to, bullying.

(8) Comprehensive, districtwide school safety and violence prevention plans.

(9) Security planning, purchase of security-related technology which may include metal detectors, protective lighting, surveillance equipment, special emergency communications equipment, electronic locksets, deadbolts and theft control devices and training in the use of security-related technology. Security planning and purchase of security-related technology shall be based on safety needs identified by the school entity's board of directors.

(10) Institution of student, staff and visitor identification systems, including criminal background check software.

(11) Establishment or enhancement of school security personnel, including school resource officers.

(12) Provision of specialized staff and student training programs, including training for Student Assistance Program team members in elementary, middle and high schools in the referral of students at risk of violent behavior to appropriate community-based services, including mental health services.

(13) Alternative education programs provided for in Article XIX-C.

(14) Counseling services for students enrolled in alternative education programs.

(15) An Internet web-based system for the management of student discipline, including misconduct and criminal offenses.

(16) Staff training programs in the use of positive behavior supports, de-escalation techniques and appropriate responses to student behavior that may require immediate intervention.

1303.1-A. Policy Relating to Bullying.

(a) No later than January 1, 2009, each school entity shall adopt a policy or amend its existing policy relating to bullying and incorporate the policy into the school entity's code of student conduct required under 22 Pa. Code § 12.3(c) (relating to school rules). The policy shall delineate disciplinary consequences for bullying and may provide for prevention, intervention and education programs, provided that no school entity shall be required to establish a new policy under this section if one currently exists and reasonably fulfills the requirements of this section. The policy shall identify the appropriate school staff person to receive reports of incidents of alleged bullying.

15-1547. Alcohol, chemical and tobacco abuse program.

(a) Beginning with school year 1991-1992 and each year thereafter, each public school student shall receive mandatory instruction in alcohol, chemical and tobacco abuse in every year in every grade from kindergarten through grade twelve. The instruction shall be integrated within the health course of study required in accordance with the State Board of Education regulations. In grades where health is offered, instruction may also be integrated into other appropriate courses of study. In grades where health is not offered, instruction shall be integrated into an appropriate curriculum requirement as listed in 22 Pa. Code § 5.4(b).

(1) This instruction:

(i) Shall be age appropriate.

(ii) Shall be sequential in method of study

(iii) Shall discourage the use of alcohol, tobacco and controlled substances.

(iv) Shall communicate that the use of illicit drugs and the improper use of legally obtained drugs is wrong.

(2) School districts may utilize any appropriate public or private materials, personnel and other resources in developing and implementing this program of instruction. The Department of Health, Office of Drug and Alcohol Programs, shall make available information about appropriate curriculum materials upon request of a school district. In developing its alcohol, chemical and tobacco abuse instructional program, each school district shall consult with the single county authority designated by the Department of Health to provide drug and alcohol services in the school district's area

(b) Each school district is hereby authorized to develop and offer programs relating to alcohol, chemical and tobacco abuse for parents of students enrolled in the public schools. If a school district does develop such programs, they shall be developed in consultation with the single county authority designated by the Department of Health to provide drug and alcohol services in the school district's area. Such programs shall be offered at no cost to parents.

(c) The Secretary of Education, in consultation with the Secretary of Health, shall develop curriculum guidelines for instruction on alcohol, chemical and tobacco abuse and the laws governing their use and misuse. These guidelines shall encourage the inclusion of the following elements where appropriate in the instruction:

(1) Detailed factual information regarding the physiological, psychological, sociological and legal aspects of substance abuse.

(2) Detailed information regarding the availability of help and assistance for students and their families with alcohol, chemical and tobacco dependency problems.

(3) The goals of quality education as set forth in 22 Pa. Code § 5.13(f).

(4) Skills needed to evaluate advertisements for and media portrayals of alcohol, chemical and tobacco products.

(5) Detailed instruction on the need for and the role of lawful authority and law-abiding behavior, including interaction with members of the legal and justice community

(f) The governing board of each intermediate unit in which a nonpublic school is located shall have the authority and the duty to loan to all students attending nonpublic schools within the intermediate unit all educational materials developed by either the Department of Education or the Department of Health, pursuant to this act for the instruction of public school students on the nature and effects of drugs, alcohol, tobacco and dangerous controlled substances. Local school boards need not expend funds which are not provided by either the Federal or State Government for drug education programs for the use or loan of these materials. A nonpublic school may utilize the in-service training programs made available by the Department of Education through the intermediate unit.

Behavioral interventions and student support services

STATUTES

1302-A. Office for Safe Schools.

(c) In addition to the powers and duties set forth under subsection (b), the office is authorized to make targeted grants to school entities to fund programs which address school violence, including:

(1) Conflict resolution or dispute management, including restorative justice strategies.

(1.1) School-wide positive behavior support that includes primary or universal, secondary and tertiary supports and interventions in school entities.

(1.2) School-based diversion programs.

(2) Peer helpers programs.

(3) Risk assessment, safety-related, violence prevention curricula, including, but not limited to, dating violence curricula and restorative justice strategies.

(4) Classroom management.

(5) Student codes of conduct.

(6) Training to undertake a districtwide assessment of risk factors that increase the likelihood of problem behaviors among students.

(7) Development and implementation of research-based violence prevention programs that address risk factors to reduce incidents of problem behaviors among students including, but not limited to, bullying.

(8) Comprehensive, districtwide school safety and violence prevention plans.

(9) Security planning, purchase of security-related technology which may include metal detectors, protective lighting, surveillance equipment, special emergency communications equipment, electronic locksets, deadbolts and theft control devices and training in the use of security-related technology. Security planning and purchase of security-related technology shall be based on safety needs identified by the school entity's board of directors.

(10) Institution of student, staff and visitor identification systems, including criminal background check software.

(11) Establishment or enhancement of school security personnel, including school resource officers.

(12) Provision of specialized staff and student training programs, including training for Student Assistance Program team members in elementary, middle and high schools in the referral of students at risk of violent behavior to appropriate community-based services, including mental health services.

(13) Alternative education programs provided for in Article XIX-C.

(14) Counseling services for students enrolled in alternative education programs.

(15) An Internet web-based system for the management of student discipline, including misconduct and criminal offenses.

(16) Staff training programs in the use of positive behavior supports, de-escalation techniques and appropriate responses to student behavior that may require immediate intervention.

§ 13-1310-A. Safe schools advocate in school districts of the first class

(c) The safe schools advocate shall, on behalf of victims of acts of violence on school property, victims of conduct that would constitute an act of violence and victims of students who have committed two or more infractions as set forth in subsection (b)(9):

(1) provide assistance and advice, including information on support services provided by victim assistance offices of the appropriate district attorney and through local community-based victim service agencies;

(2) provide information to the parent or guardian of the student victim regarding the disciplinary process and any action ultimately taken against the student accused of committing the act of violence;

(3) in cases involving the possession or use of a weapon, advise the parent or guardian of the victim whether the school district properly exercised its duty under section 1317.2;

(4) in cases where the advocate has received a request by the parent or guardian of the victim, to attend formal disciplinary proceedings;

(5) with the consent of the parent or guardian of the victim, present information in the disciplinary proceeding, which may include oral or written presentations, including testimony by the victim or the parent or guardian of the victim, regarding the impact on the victim and the victim's family and the appropriate disciplinary action and which may include direct or cross-examination of witnesses;

(6) where the perpetrator of an act of violence is returning to school after placement under a consent decree, adjudication of delinquency or conviction of a criminal offense, assist the parent or guardian of the victim in providing input to the school district and the appropriate juvenile or criminal justice authority to ensure the victim's safety on school property;

(7) in cases where the district has failed to report the act of violence to the appropriate police department as required by the memorandum of understanding, to report such act of violence directly; and

(8) provide information and make recommendations to the office of the district attorney regarding the impact of the act of violence on the victim and the victim's family.

(d) Upon discovery of the commission of an act of violence upon a student, the school district of the first class shall immediately notify the victim's parent or guardian of the safe schools advocate. The form of this notice shall be developed by the advocate and provided to the school district. This form shall include the address and telephone number of the advocate and a brief description of the purposes and functions of the safe schools advocate. The principal of each school within the school district shall post a notice not less than 8 1/2 by 11 inches entitled "Safe Schools Advocate" at a prominent location within each school building, where such notices are usually posted. The form of this notice shall also be developed by the advocate and provided to the school district.

(e) It shall be the duty of each school administrator in a school district of the first class to cooperate with the safe schools advocate to implement this section and to provide the advocate, upon request, with all available information authorized by State law. In regard to individual cases of acts of violence, only information permitted to be shared under subsection (f) shall be disclosed.

(f) The advocate and all employees and agents of the safe schools advocate shall be subject to and bound by section 444 of the General Education Provisions Act (Public Law 90-247, 20 U.S.C. § 1232g) and 34 CFR Pt. 99 (relating to family educational rights and privacy).

(g) This section shall not apply to the extent that it would conflict with the requirements of the Individuals with Disabilities Education Act (Public Law 91-230, 20 U.S.C. § 1400 et seq.) or other applicable Federal statute or regulation.

(h) As used in this section:

"Act of violence" shall mean the possession of a weapon on school property or an offense, including the attempt, solicitation or conspiracy to commit the offense, under any of the following provisions of 18 Pa.C.S. (relating to crimes and offenses):

(1) Section 2501 (relating to criminal homicide).

(2) Section 2702 (relating to aggravated assault).

(3) Section 3121 (relating to rape).

(4) Section 3122.1 (relating to statutory sexual assault).

(5) Section 3123 (relating to involuntary deviate sexual intercourse).

(6) Section 3124.1 (relating to sexual assault).

(7) Section 3125 (relating to aggravated indecent assault).

(8) Section 3126 (relating to indecent assault).

(9) Section 3301 (relating to arson and related offenses)

(10) Section 3701 (relating to robbery).

(11) Section 3702 (relating to robbery of motor vehicle).

"School district" shall mean school district of the first class.

(i) At least eighty per centum (80%) of all appropriations for the Office of Safe Schools Advocate in fiscal year 2006-2007 shall be expended by June 30, 2007, and the remaining balance of the appropriation shall be committed or encumbered by June 30, 2007.

15-1547. Alcohol, chemical and tobacco abuse program.

(g) On or before June 1, 1991, the Secretary of Education shall recommend to the General Assembly a plan to require and assist each school district to establish and maintain a program to provide appropriate counseling and support services to students who experience problems related to the use of drugs, alcohol and dangerous controlled substances.

ADMINISTRATIVE CODE

§ 10.23. Response and handling of a student with a disability.

(a) A school entity shall provide to each local police department having jurisdiction over property of the school entity a copy of its procedures on behavior support services (see § 14.104 (relating to special education plans)) by September 30, 2012. Thereafter, a school entity shall provide to each local police department a copy of its procedures on behavior support services each time the procedures are revised by the school entity.

(b) A school entity shall invite representatives of each local police department having jurisdiction over property of the school entity to participate in trainings in the use of positive behavior supports, de-escalation techniques and appropriate responses to student behavior that may require immediate intervention, as provided by the school entity's special education plan (see § 14.104) and the school entity's positive behavior support program (see § § 14.133 and 711.46 (relating to positive behavior support)).

(c) When a student with a disability commits an incident listed in section 1303-A(b)(4.1) or (4.2) of the Safe Schools Act (24 P. S. § 13-1303-A(b)(4.1) and (4.2)), the school entity shall respond in a manner

that is consistent with the training provided in accordance with the school entity's special education plan (see § 14.104) and, if applicable, with the procedures, methods and techniques defined in the student's behavior support plan (see § § 14.133 and 711.46).

(d) When a protected handicapped student commits an incident listed in section 1303-A(b)(4.1) or (4.2) of the Safe Schools Act, the school entity, including a charter school, shall respond in a manner that is consistent with the student's service agreement (see § § 15.2 and 15.7 (relating to definitions; and service agreement)).

(e) For a student with a disability who has a positive behavior support plan, upon notification to a local police department that a student with a disability has committed an incident listed in section 1303-A(b)(4.1) or (4.2) of the Safe Schools Act, a school entity shall act in accordance with § 14.133(h) or § 711.46(h).

(f) For a protected handicapped student whose service agreement includes a positive behavior support plan, upon notification to a local police department that a protected handicapped student has committed an incident listed in section 1303-A(b)(4.1) or (4.2) of the Safe Schools Act, a school entity, including a charter school, shall act in accordance with § 15.3 (relating to general).

(g) For a student with a disability who does not have a positive behavior support plan, upon notification to a local police department that a student with a disability has committed an incident listed in section 1303-A(b)(4.1) or (4.2) of the Safe Schools Act, the school entity shall convene the student's IEP team. At this meeting, the IEP team shall consider whether a positive behavior support plan should be developed to address the student's behavior.

(h) For a protected handicapped student whose service agreement does not include a positive behavior support plan, upon notification to a local police department that a protected handicapped student has committed an incident listed in section 1303-A(b)(4.1) or (4.2) of the Safe Schools Act, the school entity, including a charter school, in consultation with the student's parents, shall consider whether a positive behavior support plan should be developed as part of the service agreement to address the student's behavior.

§ 14.133. Positive behavior support.

(a) Positive, rather than negative, measures must form the basis of behavior support programs to ensure that all students and eligible young children shall be free from demeaning treatment, the use of aversive techniques and the unreasonable use of restraints. Behavior support programs must include research based practices and techniques to develop and maintain skills that will enhance an individual student's or eligible young child's opportunity for learning and self-fulfillment. Behavior support programs and plans must be based on a functional assessment of behavior and utilize positive behavior techniques. When an intervention is needed to address problem behavior, the types of intervention chosen for a particular student or eligible young child shall be the least intrusive necessary. The use of restraints is considered a measure of last resort, only to be used after other less restrictive measures, including de-escalation techniques, in accord with subsection (c)(2).

(b) Notwithstanding the requirements incorporated by reference in 34 CFR 300.34, 300.324 and 300.530 (relating to related services; development, review, and revision of IEP; and authority of school personnel), with regard to a child's behavior, the following words and terms, when used in this section, have the following meanings, unless the context clearly indicates otherwise:

Aversive techniques—Deliberate activities designed to establish a negative association with a specific behavior.

Behavior support—The development, change and maintenance of selected behaviors through the systematic application of behavior change techniques.

Positive behavior support plans—A plan for students with disabilities and eligible young children who require specific intervention to address behavior that interferes with learning. A positive behavior support plan shall be developed by the IEP team, be based on a functional behavior assessment, and become part of the individual eligible young child's or student's IEP. These plans must include methods that utilize positive reinforcement and other positive techniques to shape a student's or eligible young child's behavior, ranging from the use of positive verbal statements as a reward for good behavior to specific tangible rewards.

Professional development

STATUTES

1302-A. Office for Safe Schools.

(a) There is hereby established in the Department of Education an Office for Safe Schools.

(b) The office shall have the power and duty to implement the following:

(3) To provide direct training to school employees, parents, law enforcement officials and communities on effective measures to prevent and combat school violence.

(c) In addition to the powers and duties set forth under subsection (b), the office is authorized to make targeted grants to school entities to fund programs which address school violence, including:

(12) Provision of specialized staff and student training programs, including training for Student Assistance Program team members in elementary, middle and high schools in the referral of students at risk of violent behavior to appropriate community-based services, including mental health services.

(16) Staff training programs in the use of positive behavior supports, de-escalation techniques and appropriate responses to student behavior that may require immediate intervention.

15-1547. Alcohol, chemical and tobacco abuse program.

(d) Beginning with the 1991-1992 school year and each year thereafter, the Secretary of Education, in consultation with the Secretary of Health, shall make available, to all school districts and intermediate units, in-service training programs based upon the instruction requirements established in subsection (a) and the curriculum guidelines established in subsection (c). The programs shall provide preparation for the teaching of mandated instruction in alcohol, chemical and tobacco abuse. The in-service programs may utilize the single county authorities designated by the Department of Health or such other institutions, agencies or persons as the Secretary of Education deems appropriate.

(e) Beginning with the 1991-1992 school year, each school district shall provide, as part of its in-service training, programs on alcohol, drugs, tobacco and dangerous controlled substances for all instructors whose teaching responsibilities include courses of study in which mandated instruction concerning alcohol, chemical and tobacco abuse is integrated. To comply with this requirement, a school district may utilize the programs made available by the Department of Education or use other alternative programs.

Monitoring and Accountability

Formal incident reporting of conduct violations

STATUTES

778 School police officers.

(a.1) Any school district which employs a school police officer under this section shall report annually to the Department of Education, Office of Safe Schools, the following information regarding school police officers receiving training as required under 53 Pa.C.S. Ch. 21 Subch. D.

(1) The identity of the school district and the number of school police officers it employs.

(2) The municipalities comprising the school district.

(3) The date and type of training provided to each school police officer.

1302-A. Office for Safe Schools.

(b) The office shall have the power and duty to implement the following:

(2.1) To direct all school entities to submit annual school violence statistics and reports to the office no later than July 31 of each year.

(5) To develop forms to be used by school entities and police departments for reporting incidents involving acts of violence and possession of weapons on school property. The forms shall be reviewed on a biennial basis and revised when necessary.

(7) To publish and post on the Department of Education's Internet website a School Safety Annual Report no later than November 1 of each calendar year outlining all incidents required to be reported under section 1303-A and any school district that failed to submit a report under section 1303-A.

1303-A. Reporting.

(a) The office shall conduct a one-time survey of all school entities to determine the number of incidents involving acts of violence on school property and all cases involving possession of a weapon by any person on school property which occurred within the last five (5) years. The survey shall be based on the best available information provided by school entities.

(b) Each chief school administrator shall report to the office by July 31 of each year all new incidents involving acts of violence, possession of a weapon or possession, use or sale of controlled substances as defined in the act of April 14, 1972 (P.L.233, No.64), known as "The Controlled Substance, Drug, Device and Cosmetic Act," or possession, use or sale of alcohol or tobacco by any person on school property. The incidents to be reported to the office shall include all incidents involving conduct that constitutes a criminal offense listed under paragraphs (4.1) and (4.2). Reports on a form to be developed and provided by the office shall include:

(1) Age or grade of student.

(2) Name and address of school.

(3) Circumstances surrounding the incident, including, but not limited to, type of weapon, controlled substance, alcohol or tobacco, the date, time and location of the incident, if a person other than a student is involved in the incident and any relationship to the school entity.

(3.1) Race of student.

(3.2) Whether the student has an Individualized Education Plan under the Individuals with Disabilities Education Act (Public Law 91-230, 20 U.S.C. § 1400 et seq.), and if so, the type of disability.

(4) Sanction imposed by the school.

(4.1) A list of criminal offenses which shall, at a minimum, include:

(i) The following offenses under 18 Pa.C.S. (relating to crimes and offenses):

Section 908 (relating to prohibited offensive weapons).

Section 912 (relating to possession of weapon on school property).

Chapter 25 (relating to criminal homicide).

Section 2702 (relating to aggravated assault).

Section 2709.1 (relating to stalking).

Section 2901 (relating to kidnapping).

Section 2902 (relating to unlawful restraint).

Section 3121 (relating to rape).

Section 3122.1 (relating to statutory sexual assault).

Section 3123 (relating to involuntary deviate sexual intercourse).

Section 3124.1 (relating to sexual assault).

Section 3124.2 (relating to institutional sexual assault).

Section 3125 (relating to aggravated indecent assault).

Section 3126 (relating to indecent assault).

Section 3301 (relating to arson and related offenses).

Section 3307 (relating to institutional vandalism) when the penalty is a felony of the third degree.

Section 3502 (relating to burglary).

Section 3503(a) and (b)(1)(v) (relating to criminal trespass).

Section 5501 (relating to riot).

Section 6110.1 (relating to possession of firearm by minor).

(ii) The possession, use or sale of a controlled substance or drug paraphernalia as defined in "The Controlled Substance, Drug, Device and Cosmetic Act."

(iii) Attempts, solicitation or conspiracy to commit any of the offenses listed in subclauses (i) and (ii).

(iv) An offense for which registration is required under 42 Pa.C.S. § 9795.1 (relating to registration).

(4.2) The following offenses under 18 Pa.C.S., and any attempt, solicitation or conspiracy to commit any of these offenses:

Section 2701 (relating to simple assault).

Section 2705 (relating to recklessly endangering another person).

Section 2706 (relating to terroristic threats).

Section 2709 (relating to harassment).

Section 3127 (relating to indecent exposure).

Section 3307 (relating to institutional vandalism) when the penalty is a misdemeanor of the second degree.

Section 3503(b)(1)(i), (ii), (iii) and (iv), (b.1) and (b.2) (relating to criminal trespass).

Chapter 39 (relating to theft and related offenses).

Section 5502 (relating to failure of disorderly persons to disperse upon official order).

Section 5503 (relating to disorderly conduct).

Section 6305 (relating to sale of tobacco).

Section 6306.1 (relating to use of tobacco in schools prohibited).

Section 6308 (relating to purchase, consumption, possession or transportation of liquor or malt or brewed beverages).

(5) Notification of law enforcement.

(6) Remedial programs involved.

(7) Parental involvement required.

(8) Arrests, convictions and adjudications, if known.

(b.1) Prior to submitting the report required under subsection (b), each chief school administrator and each police department having jurisdiction over school property of the school entity shall do all of the following:

(1) No later than thirty (30) days prior to the deadline for submitting the report to the office required under subsection (b), the chief school administrator shall submit the report to the police department with jurisdiction over the relevant school property. The police department shall review the report and compare the data regarding criminal offenses and notification of law enforcement to determine whether the report accurately reflects police incident data.

(2) No later than fifteen (15) days prior to the deadline for the chief school administrator to submit the report required under subsection (b), the police department shall notify the chief school administrator, in writing, whether the report accurately reflects police incident data. Where the police department determines that the report accurately reflects police incident data, the chief of police shall sign the report. Where the police department determines that the report does not accurately reflect police incident data, the police department shall indicate any discrepancies between the report and police incident data.

(3) Prior to submitting the report required under subsection (b), the chief school administrator and the police department shall attempt to resolve discrepancies between the report and police incident data. Where a discrepancy remains unresolved, the police department shall notify the chief school administrator and the office in writing.

(4) Where a police department fails to take action as required under paragraph (2) or (3), the chief school administrator shall submit the report required under subsection (b) and indicate that the police department failed to take action as required under paragraph (2) or (3).

(c) Each chief school administrator shall form an advisory committee composed of relevant school staff, including, but not limited to, principals, security personnel, school resource officers, guidance counselors and special education administrators, to assist in the development of a memorandum of understanding pursuant to this section. In consultation with the advisory committee, each chief school administrator shall enter into a memorandum of understanding with police departments having jurisdiction over school property of the school entity. Each chief school administrator shall submit a copy of the memorandum of understanding to the office by June 30, 2011, and biennially update and re-execute a memorandum of understanding with local law enforcement and file such memorandum with the office on a biennial basis. The memorandum of understanding shall be signed by the chief school administrator, the chief of police of the police department with jurisdiction over the relevant school property and principals of each school building of the school entity. The memorandum of understanding shall comply with the regulations promulgated by the State Board of Education under section 1302.1-A and shall also include:

(1) The procedure for police department review of the annual report required under subsection (b) prior to the chief school administrator filing the report required under subsection (b) with the office. ((1) amended June 30, 2011, P.L.112, No.24)

(2) A procedure for the resolution of school violence data discrepancies in the report prior to filing the report required under subsection (b) with the office.

(3) Additional matters pertaining to crime prevention agreed to between the chief school administrator and the police department.

(d) Pursuant to section 615 of the Individuals with Disabilities Education Act (Public Law 91-230, 20 U.S.C. § 1415(k)(6)), nothing in section 1302.1-A or this section shall be construed to prohibit a school entity from reporting a crime committed by a child with a disability to appropriate authorities or to prevent State law enforcement and judicial authorities from exercising their responsibilities with regard to the application of Federal and State law to crimes committed by a child with a disability.

(e) (1) Notwithstanding any provision of law to the contrary, the Department of Education may initiate disciplinary action before the Professional Standards and Practices Commission pursuant to the act of December 12, 1973 (P.L.397, No.141), known as the "Professional Educator Discipline Act," against a chief school administrator or principal of a school entity who intentionally fails to submit the report as required under subsection (b) or enter into the memorandum of understanding with the police department with jurisdiction over the relevant school property, report an incident involving an act of violence, possession of a weapon or an offense listed under subsection (b)(4.1) that occurs on school property to a police department or submit a copy of the memorandum of understanding to the office as required under subsection (c) or who intentionally falsifies a report submitted as required under this section.

(2) In addition to any other disciplinary actions set forth in the "Professional Educator Discipline Act," a chief school administrator or principal of a school entity who intentionally fails to submit the report as required under subsection (b) or enter into the memorandum of understanding with the police department with jurisdiction over the relevant school property, report an incident involving an act of violence, possession of a weapon or an offense cited under subsection (b)(4.1) that occurs on school property to a police department or submit a copy of the memorandum of understanding to the office as required under subsection (c) or who intentionally falsifies a report submitted as required under this section shall be subject to prosecution for violation of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities). The following civil penalties may be imposed by the Professional Standards and Practices Commission for violations of this article:

(i) for a first violation, $2,500;

(ii) for a second violation, $3,500; or

(iii) for a third or subsequent violation, $5,000.

Any penalty imposed under this paragraph shall be paid to the Department of Education and used for the support of the office.

1317.2. Possession of Weapons Prohibited.

(f) All school districts and area vocational-technical schools shall report all incidents involving possession of a weapon prohibited by this section as follows:

(1) The school superintendent or chief administrator shall report the discovery of any weapon prohibited by this section to local law enforcement officials.

(2) The school superintendent or chief administrator shall report to the Department of Education all incidents relating to expulsions for possession of a weapon on school grounds, school-sponsored

activities or public conveyances providing transportation to a school or school-sponsored activity. Reports shall include all information as required under section 1303-A.

Parental notification

STATUTES

§ 13-1310-A. Safe schools advocate in school districts of the first class.

(d) Upon discovery of the commission of an act of violence upon a student, the school district of the first class shall immediately notify the victim's parent or guardian of the safe schools advocate. The form of this notice shall be developed by the advocate and provided to the school district. This form shall include the address and telephone number of the advocate and a brief description of the purposes and functions of the safe schools advocate. The principal of each school within the school district shall post a notice not less than 8 1/2 by 11 inches entitled "Safe Schools Advocate" at a prominent location within each school building, where such notices are usually posted. The form of this notice shall also be developed by the advocate and provided to the school district.

1343. Arrest of Children Failing to Attend School.

When an attendance officer or a State, municipal, port authority, transit authority , housing authority or school police officer arrests or apprehends any child who fails to attend school as required by the provisions of this act, he shall promptly notify the parents, guardian, or person in parental relation to such child, if such person can be found in the district, and unless requested by such parent, guardian, or person in parental relation to place said child in a school other than public school, he shall place said child in the public school in which the child is, or should be, enrolled.

ADMINISTRATIVE CODE

§ 10.25. Notification to parents/guardians.

(a) A school entity shall immediately notify, as soon as practicable, the parent or guardian of a victim or suspect directly involved in an incident listed in section 1303-A(b)(4.1) or (4.2) of the Safe Schools Act (24 P. S. § 13-1303-A(b)(4.1) and (4.2)). In making the notification, the school entity shall inform the parent or guardian as to whether the local police department having jurisdiction over property of the school entity has been, or may be, notified of the incident.

(b) A school entity shall document attempts made to reach the parent or guardian of a victim or suspect directly involved in an incident listed in section 1303-A(b)(4.1) or (4.2) of the Safe Schools Act.

§ 12.6. Exclusions from school.

(a) The governing board shall define and publish the types of offenses that would lead to exclusion from school. Exclusions affecting certain students with disabilities shall be governed by § 14.143 (relating to disciplinary placements) and 34 CFR 300.519—300.529 (relating to discipline procedures).

(iii) The parents or guardians and the superintendent of the district shall be notified immediately in writing when the student is suspended.

(iv) When the suspension exceeds 3 school days, the student and parent shall be given the opportunity for an informal hearing consistent with the requirements in § 12.8(c) (relating to hearings).

§ 12.7. Exclusion from classes -- in-school suspension.

(a) A student may not receive an in-school suspension unless the student has been informed of the reasons for the suspension and has been given an opportunity to respond before the suspension becomes effective.

(b) Communication to the parents or guardian shall follow the suspension action taken by the school.

(c) When the in-school suspension exceeds 10 consecutive school days, an informal hearing with the principal shall be offered to the student and the student's parent or guardian prior to the 11th school day in accordance with the procedures in § 12.8 (relating to hearings).

§ 14.133. Positive behavior support.

(1) The use of restraints to control the aggressive behavior of an individual student or eligible young child shall cause the school entity to notify the parent of the use of restraint and shall cause a meeting of the IEP team within 10 school days of the inappropriate behavior causing the use of restraints, unless the parent, after written notice, agrees in writing to waive the meeting. At this meeting, the IEP team shall consider whether the student or eligible young child needs a functional behavioral assessment, reevaluation, a new or revised positive behavior support plan, or a change of placement to address the inappropriate behavior.

Reporting and referrals between schools and law enforcement

STATUTES

1303-A. Reporting.

(b) Each chief school administrator shall report to the office by July 31 of each year all new incidents involving acts of violence, possession of a weapon or possession, use or sale of controlled substances as defined in the act of April 14, 1972 (P.L.233, No.64), known as "The Controlled Substance, Drug, Device and Cosmetic Act," or possession, use or sale of alcohol or tobacco by any person on school property. The incidents to be reported to the office shall include all incidents involving conduct that constitutes a criminal offense listed under paragraphs (4.1) and (4.2). Reports on a form to be developed and provided by the office shall include:

(5) Notification of law enforcement.

(8) Arrests, convictions and adjudications, if known.

(b.1) Prior to submitting the report required under subsection (b), each chief school administrator and each police department having jurisdiction over school property of the school entity shall do all of the following:

(1) No later than thirty (30) days prior to the deadline for submitting the report to the office required under subsection (b), the chief school administrator shall submit the report to the police department with jurisdiction over the relevant school property. The police department shall review the report and compare the data regarding criminal offenses and notification of law enforcement to determine whether the report accurately reflects police incident data.

(2) No later than fifteen (15) days prior to the deadline for the chief school administrator to submit the report required under subsection (b), the police department shall notify the chief school administrator, in writing, whether the report accurately reflects police incident data. Where the police department determines that the report accurately reflects police incident data, the chief of police shall sign the report. Where the police department determines that the report does not accurately reflect police incident data, the police department shall indicate any discrepancies between the report and police incident data.

(3) Prior to submitting the report required under subsection (b), the chief school administrator and the police department shall attempt to resolve discrepancies between the report and police incident data. Where a discrepancy remains unresolved, the police department shall notify the chief school administrator and the office in writing.

(4) Where a police department fails to take action as required under paragraph (2) or (3), the chief school administrator shall submit the report required under subsection (b) and indicate that the police department failed to take action as required under paragraph (2) or (3).

(d) Pursuant to section 615 of the Individuals with Disabilities Education Act (Public Law 91-230, 20 U.S.C. § 1415(k)(6)), nothing in section 1302.1-A or this section shall be construed to prohibit a school entity from reporting a crime committed by a child with a disability to appropriate authorities or to prevent State law enforcement and judicial authorities from exercising their responsibilities with regard to the application of Federal and State law to crimes committed by a child with a disability.

ADMINISTRATIVE CODE

§ 10.21. Immediate notification.

(a) The chief school administrator, or a designee, shall immediately notify the local police department when an offense listed in section 1303-A(b)(4.1) of the Safe Schools Act (24 P. S. § 13-1303-A(b)(4.1)) occurs on school property, at a school sponsored activity or on a conveyance as described in the Safe Schools Act, such as a school bus, providing transportation to or from a school or school sponsored activity.

(b) Notification shall be made to the local police department by the most expeditious means practicable.

(c) As part of its notification of the incident to the local police department, the chief school administrator or a designee shall provide as much of the information in this subsection as is available at the time of notification. The gathering of information should not unnecessarily delay notification.

(1) Whether the incident is in-progress or has concluded.

(2) Nature of the incident.

(3) Exact location of the incident.

(4) Number of persons involved in the incident.

(5) Names and ages of the individuals involved.

(6) Weapons involved in the incident.

(7) Whether the weapons have been secured and the custodian of the weapons.

(8) Injuries.

(9) Whether emergency medical services or the fire department was notified.

(10) Identity of the school contact person.

(11) Identity of the witnesses.

(12) Whether the incident involves a student with a disability, the type of disability and its impact on the student's behavior.

(13) Other information as is known to the school entity and believed to be relevant to the incident.

(d) In responding to students who commit an incident listed in section 1303-A(b)(4.1) of the Safe Schools Act, a school entity may consider the propriety of utilizing available school-based programs, such as school-wide positive behavior supports, to address the student's behavior and shall notify the local police department of the student's placement in the program. This subsection does not limit law enforcement's discretion.

§ 10.22. Discretionary notification.

(a) The chief school administrator, or a designee, may notify the local police department having jurisdiction when an offense listed in section 1303-A(b)(4.2) of the Safe Schools Act (24 P. S. § 13-1303-A(b)(4.2)) occurs on school property, at a school sponsored activity or on a conveyance as described in the Safe Schools Act, such as a school bus, providing transportation to or from a school or school sponsored activity.

(b) In determining whether to notify the local police department of an incident described in subsection (a), the chief school administrator, or a designee, may consider the following factors:

(1) The seriousness of the situation.

(2) The school's ability to defuse or resolve the situation.

(3) The child's intent.

(4) The child's age.

(5) Whether the student has a disability, the type of disability and its impact on the student's behavior.

(6) Other factors believed to be relevant.

(c) In making a determination whether to notify law enforcement when an offense listed in section 1303-A(b)(4.2) of the Safe Schools Act occurs on school property, at a school sponsored activity or on a conveyance as described in the Safe Schools Act, such as a school bus, providing transportation to or from a school or school sponsored activity, and to the extent that it has authority, a school entity may consider addressing the student's behavior through the use of available school-based diversion programs and available school-wide positive behavior supports.

(d) Upon notification of the incident to the local police department, the chief school administrator or a designee shall provide as much of the information in this subsection as is available at the time of notification. The gathering of information should not unnecessarily delay notification.

(1) Whether the incident is in-progress or has concluded.

(2) Nature of the incident.

(3) Exact location of the incident.

(4) Number of persons involved in the incident.

(5) Names and ages of the individuals involved.

(6) Weapons involved in the incident.

(7) Whether the weapons have been secured and the custodian of the weapons.

(8) Injuries.

(9) Whether emergency medical services or the fire department was notified.

(10) Identity of the school contact person.

(11) Identity of the witnesses.

(12) Whether the incident involves a student with a disability, the type of disability and its impact on the student's behavior.

(13) Other information known to the school entity and believed to be relevant to the incident

§ 10.23. Response and handling of a student with a disability.

(a) A school entity shall provide to each local police department having jurisdiction over property of the school entity a copy of its procedures on behavior support services (see § 14.104 (relating to special education plans)) by September 30, 2012. Thereafter, a school entity shall provide to each local police

department a copy of its procedures on behavior support services each time the procedures are revised by the school entity.

(b) A school entity shall invite representatives of each local police department having jurisdiction over property of the school entity to participate in trainings in the use of positive behavior supports, de-escalation techniques and appropriate responses to student behavior that may require immediate intervention, as provided by the school entity's special education plan (see § 14.104) and the school entity's positive behavior support program (see § § 14.133 and 711.46 (relating to positive behavior support)).

(c) When a student with a disability commits an incident listed in section 1303-A(b)(4.1) or (4.2) of the Safe Schools Act (24 P. S. § 13-1303-A(b)(4.1) and (4.2)), the school entity shall respond in a manner that is consistent with the training provided in accordance with the school entity's special education plan (see § 14.104) and, if applicable, with the procedures, methods and techniques defined in the student's behavior support plan (see § § 14.133 and 711.46).

(d) When a protected handicapped student commits an incident listed in section 1303-A(b)(4.1) or (4.2) of the Safe Schools Act, the school entity, including a charter school, shall respond in a manner that is consistent with the student's service agreement (see § § 15.2 and 15.7 (relating to definitions; and service agreement)).

(e) For a student with a disability who has a positive behavior support plan, upon notification to a local police department that a student with a disability has committed an incident listed in section 1303-A(b)(4.1) or (4.2) of the Safe Schools Act, a school entity shall act in accordance with § 14.133(h) or § 711.46(h).

(f) For a protected handicapped student whose service agreement includes a positive behavior support plan, upon notification to a local police department that a protected handicapped student has committed an incident listed in section 1303-A(b)(4.1) or (4.2) of the Safe Schools Act, a school entity, including a charter school, shall act in accordance with § 15.3 (relating to general).

(g) For a student with a disability who does not have a positive behavior support plan, upon notification to a local police department that a student with a disability has committed an incident listed in section 1303-A(b)(4.1) or (4.2) of the Safe Schools Act, the school entity shall convene the student's IEP team. At this meeting, the IEP team shall consider whether a positive behavior support plan should be developed to address the student's behavior.

(h) For a protected handicapped student whose service agreement does not include a positive behavior support plan, upon notification to a local police department that a protected handicapped student has committed an incident listed in section 1303-A(b)(4.1) or (4.2) of the Safe Schools Act, the school entity, including a charter school, in consultation with the student's parents, shall consider whether a positive behavior support plan should be developed as part of the service agreement to address the student's behavior.

§ 14.133. Positive behavior support.

(h) Subsequent to a referral to law enforcement, for students with disabilities who have positive behavior support plans, an updated functional behavior assessment and positive behavior support plan shall be required.

Disclosure of school records

STATUTES

1305-A. Transfer of Records.

Whenever a pupil transfers to another school entity or nonpublic school, a certified copy of the student's disciplinary record shall be transmitted to the school entity or nonpublic school to which the pupil has transferred. The school entity or nonpublic school to which the student has transferred should request the record. The sending school entity or nonpublic school shall have ten (10) days from receipt of the request to supply a certified copy of the student's disciplinary record. The requirements of this section apply as well to transfers between schools within the same school entity. (1305-A amended July 9, 2008, P.L.846, No.61)

1306-A. Availability of Records.

A student's disciplinary record, as well as records maintained under section 1307-A, shall be available for inspection to the student and his parent, guardian or other person having control or charge of the student, to school officials and to State and local law enforcement officials as provided by law. Permission of the parent, guardian or other person having control or charge of the student shall not be required for transfer of the individual's student record to another school entity within this Commonwealth or in another state in which the student seeks enrollment or is enrolled. (1306-A added June 30, 1995, P.L.220, No.26)

1307-A. Maintenance of Records.

All school entities and private schools within this Commonwealth shall maintain updated records of all incidents of violence, incidents involving possession of a weapon and convictions or adjudications of delinquency for acts committed on school property by students enrolled therein on both a district-wide and school-by-school basis. Records maintained under this section shall be contained in a format developed by the Pennsylvania State Police in cooperation with the office within ninety (90) days of the effective date of this section. A statistical summary of these records shall be made accessible to the public for examination by the public during regular business hours. ((1307-A added June 30, 1995, P.L.220, No.26)

§ 13-1310-A. Safe schools advocate in school districts of the first class.

(e) It shall be the duty of each school administrator in a school district of the first class to cooperate with the safe schools advocate to implement this section and to provide the advocate, upon request, with all available information authorized by State law. In regard to individual cases of acts of violence, only information permitted to be shared under subsection (f) shall be disclosed.

Data collection, review, and reporting of disciplinary policies and actions

STATUTES

1302-A. Office for Safe Schools.

(a) There is hereby established in the Department of Education an Office for Safe Schools.

(b) The office shall have the power and duty to implement the following:

(2) To collect, develop and disseminate information, policies, strategies and other information to assist in the development of programs to impact school violence.

(5) To develop forms to be used by school entities and police departments for reporting incidents involving acts of violence and possession of weapons on school property. The forms shall be reviewed on a biennial basis and revised when necessary.

(7) To publish and post on the Department of Education's Internet website a School Safety Annual Report no later than November 1 of each calendar year outlining all incidents required to be reported under section 1303-A and any school district that failed to submit a report under section 1303-A.

(b.1) The office shall process and tabulate the data on an annual basis to assist school administrators and law enforcement officials in their duties under this article.

1303.1-A. Policy Relating to Bullying.

(b) Each school entity shall make the policy available on its publicly accessible Internet website, if available, and in every classroom. Each school entity shall post the policy at a prominent location within each school building where such notices are usually posted. Each school entity shall ensure that the policy and procedures for reporting bullying incidents are reviewed with students within ninety (90) days after their adoption and thereafter at least once each school year.

(c) Each school entity shall review its policy every three (3) years and annually provide the office with a copy of its policy relating to bullying, including information related to the development and implementation of any bullying prevention, intervention and education programs. The information required under this subsection shall be attached to or made part of the annual report required under section 1303-A(b).

1308-A. Report.

The Secretary of Education shall survey all school districts and nonpublic schools to determine the extent to which additional costs have been incurred in implementing administrative and reporting requirements established for public and nonpublic schools in section 1317.2 and in sections 1304-A through 1307-A. The Secretary of Education shall issue a report to the chairman and the minority chairman of the Appropriations Committee and the Education Committee of the Senate and the Appropriations Committee and Education Committee of the House of Representatives by April 1, 1996, concerning the extent to which additional costs have been incurred by school districts and nonpublic schools.

(a) The Executive Director of the Pennsylvania Commission on Crime and Delinquency shall establish, within the commission, a safe schools advocate for each school district of the first class. The advocate shall not be subject to the act of August 5, 1941 (P.L. 752, No. 286), known as the "Civil Service Act." The advocate shall establish and maintain an office within the school district.

(b) The safe schools advocate shall have the power and its duties shall be:

(1) To monitor the school district's compliance with this article, including:

(i) the school district's reporting to the office of incidents involving acts of violence, possession of a weapon or possession, use or sale of controlled substances as defined in the act of April 14, 1972 (P.L. 233, No. 64), known as "The Controlled Substance, Drug, Device and Cosmetic Act," or possession, use or sale of alcohol or tobacco by any person on school property;

(ii) obtaining copies of the school district's reports to the office and reviewing and analyzing them;

(iii) the school district's compliance with the procedures set forth in the memorandum of understanding with the appropriate police department regarding incidents involving acts of violence and possession of weapons; and

(iv) obtaining documentation, on a weekly basis during those times when school is in session, of all written or verbal contacts by school district personnel with the appropriate police department consistent with the requirements of the memorandum of understanding.

(2) To monitor the school district's compliance with the mandatory expulsion requirements of section 1317.2

(3) To receive inquiries from school staff and parents or guardians of students who are victims of acts of violence on school property.

(4) To establish a protocol, in consultation with the Juvenile Court Judges' Commission, to assure timely receipt by the school district of information regarding students who have been adjudicated delinquent pursuant to 42 Pa.C.S. § 6341(b.1) (relating to adjudication) and to monitor the school district's use of that information to ensure that victims of acts of violence by a student are protected.

(5) To establish a program to assure extensive and continuing public awareness of information regarding the role of the advocate on behalf of victims of acts of violence on school property, which may include the mailing of information to the parents or guardians of students in the school district or other forms of communication.

(6) To review and analyze Federal and State statutes which may be an impediment to school safety and the imposition of discipline for the commission of acts of violence on school property and to prepare, by April 30, 2001, and as necessary from time to time thereafter, reports making recommendations for changes to the statutes which would promote school safety and facilitate effective and expedient disciplinary action. The reports shall be submitted to the secretary and the Executive Director of the Pennsylvania Commission on Crime and Delinquency.

(7) To review and analyze court decisions applicable to the school district's disciplinary process and procedures, to make recommendations to the school district regarding any negative impact these decisions have upon the effective maintenance of school safety and to make recommendations relating to the existing provisions of consent decrees.

(8) To prepare an annual report regarding the activities of the advocate during the prior fiscal year and any recommendations for remedial legislation, regulations or school district administrative reforms, which shall be submitted to the school district superintendent, the secretary, the Executive Director of the Pennsylvania Commission on Crime and Delinquency, the chairperson of the Education Committee of the Senate and the chairperson of the Education Committee of the House of Representatives by August 15 of each year.

(9) To monitor infractions of the school district's code of conduct to identify students whose conduct would constitute an offense under 18 Pa.C.S. § 2701 (relating to simple assault).

19-1902-E. Contracts with private alternative education institutions.

(4) A private alternative education institution shall submit an annual report to the Department of Education containing information required by the Department of Education.

ADMINISTRATIVE CODE

§ 14.133. Positive behavior support.

(5) School entities shall maintain and report data on the use of restraints as prescribed by the Secretary. The report shall be reviewed during cyclical compliance monitoring conducted by the Department

School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers

Authority and power to implement school arrest

STATUTES

778 School police officers.

(a) Any school district may apply to any judge of the court of common pleas of the county within which the school district is situated to appoint such person or persons as the board of directors of the school district may designate to act as school police officer for said school district. The judge, upon such application, may appoint such person, or so many of them as he may deem proper, to be such school police officer and shall note the fact of such appointment to be entered upon the records of the court. The judge may, at the request of the school district, grant the school police officer the power to arrest as provided in subsection (c)(2), the authority to issue citations for summary offenses or the authority to detain students until the arrival of local law enforcement, or any combination thereof.

(a.1) Any school district which employs a school police officer under this section shall report annually to the Department of Education, Office of Safe Schools, the following information regarding school police officers receiving training as required under 53 Pa.C.S. Ch. 21 Subch. D.

(1) The identity of the school district and the number of school police officers it employs.

(2) The municipalities comprising the school district.

(3) The date and type of training provided to each school police officer.

(b) Every school police officer so appointed shall, before entering upon the duties of his office, take and subscribe to the oath required by the seventh article of the Constitution, before an alderman or justice of the peace or prothonotary. Such oath shall be filed by the justice of the peace, alderman, or prothonotary among his papers, and a note made upon his docket of the fact of the oath having been taken.

(b.1) Every school police officer who has been granted powers under subsection (c)(2) [or], (3) or [has been authorized to carry a firearm must, before entering upon the duties of his office, successfully complete training as set forth in 53 Pa.C.S. Ch. 21 Subch. D.

(c) Such school police officer so appointed shall severally possess and exercise all the following powers and duties:

(1) To enforce good order in school buildings, on school buses and on school grounds in their respective school districts. For purposes of this clause, the term "school bus" shall include vehicles leased by the school district to transport students and vehicles of mass transit used by students to go to and from school when the school police officer is responding to a report of an incident involving a breach of good order or violation of law.

(2) If authorized by the court, to exercise the same powers as are now or may hereafter be exercised under authority of law or ordinance by the police of the municipality wherein the school property is located.

(3) If authorized by the court, to issue summary citations or to detain individuals until local law enforcement is notified.

(4) If authorized by the court, to carry a firearm.

(d) Such school police officer shall, when on duty, severally wear a metallic shield or badge with the words “School Police,” and the name of the district for which appointed. Such shield shall always be worn in plain view when on duty except when employed as detective.

(e) The compensation of such school police officers shall be paid by the school district for which the school police officers are respectively appointed, as may be agreed upon between the board of school directors and the school police officer.

(f) School districts and municipalities may enter into cooperative police service agreements pursuant to 42 Pa.C.S. § 8953(e) (relating to Statewide municipal police jurisdiction) to authorize the exercise of concurrent jurisdiction with local law enforcement within the municipality where the school or school district is located or within the municipality in which a school event or activity will take place.

(g) When acting within the scope of this section, school police officers shall, at all times, be employees of the school district and shall be entitled to all of the rights and benefits accruing therefrom.

(h) Nothing in this section shall be construed to preclude a school district from employing other security personnel as the school district deems necessary.

Certification or training

No relevant statutes found.

MOUs, authorization and/or funding

STATUTES

778 School police officers.

(e) The compensation of such school police officers shall be paid by the school district for which the school police officers are respectively appointed, as may be agreed upon between the board of school directors and the school police officer.

1302-A. Office for Safe Schools.

(6) To verify that each school entity has a biennially updated and reexecuted memorandum of understanding with local law enforcement and has filed such memorandum with the office on a biennial basis.

1303-A. Reporting.

(c) Each chief school administrator shall form an advisory committee composed of relevant school staff, including, but not limited to, principals, security personnel, school resource officers, guidance counselors and special education administrators, to assist in the development of a memorandum of understanding pursuant to this section. In consultation with the advisory committee, each chief school administrator shall enter into a memorandum of understanding with police departments having jurisdiction over school property of the school entity. Each chief school administrator shall submit a copy of the memorandum of understanding to the office by June 30, 2011, and biennially update and re-execute a memorandum of understanding with local law enforcement and file such memorandum with the office on a biennial basis. The memorandum of understanding shall be signed by the chief school administrator, the chief of police of the police department with jurisdiction over the relevant school property and principals of each school building of the school entity. The memorandum of understanding shall comply with the regulations promulgated by the State Board of Education under section 1302.1-A and shall also include:

(1) The procedure for police department review of the annual report required under subsection (b) prior to the chief school administrator filing the report required under subsection (b) with the office. ((1) amended June 30, 2011, P.L.112, No.24)

(2) A procedure for the resolution of school violence data discrepancies in the report prior to filing the report required under subsection (b) with the office.

(3) Additional matters pertaining to crime prevention agreed to between the chief school administrator and the police department.

(d) Pursuant to section 615 of the Individuals with Disabilities Education Act (Public Law 91-230, 20 U.S.C. § 1415(k)(6)), nothing in section 1302.1-A or this section shall be construed to prohibit a school entity from reporting a crime committed by a child with a disability to appropriate authorities or to prevent State law enforcement and judicial authorities from exercising their responsibilities with regard to the application of Federal and State law to crimes committed by a child with a disability.

ADMINISTRATIVE CODE

§ 10.11. Memorandum of understanding.

(a) Each chief school administrator shall execute and update, on a biennial basis, a memorandum of understanding with each local police department having jurisdiction over school property of the school entity.

(b) A memorandum of understanding between a school entity and a local police department, including its development and implementation, must meet the requirements of section 1303-A(c) of the Safe Schools Act (24 P. S. § 13-1303-A(c)).

(c) In developing a memorandum of understanding to execute with a local police department, a school entity shall consult and consider the model memorandum of understanding promulgated by the Board in Appendix A (relating to model memorandum of understanding).

(d) On a biennial basis, a school entity shall file with the Department's Office for Safe Schools a memorandum of understanding with each local police department having jurisdiction over property of the school entity. As part of its filing with the Department, a school entity shall identify substantive differences between the memorandum of understanding adopted by the school entity and the model memorandum of understanding and provide a statement of reasons for the differences.

(e) The Board, on a biennial basis, will review and, as necessary, revise its model memorandum of understanding in Appendix A. As part of its biennial review, the Board will consider the memoranda of understanding filed by school entities with the Department's Office for Safe Schools and statements explaining school entities' reasons for adopting memoranda of understanding having substantive differences with the model memorandum of understanding.

State Education Agency Support

State model policies and implementation support

No relevant statutes found.

Funding appropriations

STATUTES

617. Intergovernmental Agreements for School Security and Safety.

The board of school directors of a school district may enter into agreements with other political subdivisions to provide for the safety and security of the school. The board of school directors may use school funds to share costs with municipalities and counties for such expenses as benefits and salaries of school resource officers and probation officers. Such officers are not required to be employees of the school district and may be employees of other political subdivisions. (617 added June 30, 2012, P.L.684, No.82)

1302-A. Office for Safe Schools.

(c) In addition to the powers and duties set forth under subsection (b), the office is authorized to make targeted grants to school entities to fund programs which address school violence […]

(d) (1) Targeted grants shall be allocated through a competitive grant review process established by the office. School entities must satisfy the requirements of this section and section 1303-A to be eligible for grants. The application for a targeted grant shall include:

(i) the purpose for which the targeted grant shall be utilized;

(ii) information indicating need for the targeted grant, including, but not limited to, school violence statistics;

(iii) an estimated budget;

(iv) methods for measuring outcomes; and

(v) any other criteria as the office may require.

(2) The office shall:

(i) Give priority in grant funding to a school entity designated as a persistently dangerous school as defined in 22 Pa. Code § 403.2 (relating to definitions).

(ii) Give priority in grant funding to school entities with the greatest need to establish safety and order.

(iii) To the greatest extent possible, ensure that grant funding is geographically dispersed to school entities throughout this Commonwealth.

(3) The office shall provide all targeted grant agreements to the Department of Education's comptroller for review and approval prior to awarding the grant. The school entity shall provide the office with full and complete access to all records relating to the performance of the grant, and shall submit, at such time and in such form as may be prescribed, truthful and accurate information that the office may require. The office shall conduct a thorough annual evaluation of each program for which a grant under this section is made. The office shall seek repayment of funds if it determines that funds were not utilized for the original stated purpose.

Other/Uncategorized

Professional immunity or liability

1303-A. Reporting.

(e) (1) Notwithstanding any provision of law to the contrary, the Department of Education may initiate disciplinary action before the Professional Standards and Practices Commission pursuant to the act of December 12, 1973 (P.L.397, No.141), known as the "Professional Educator Discipline Act," against a chief school administrator or principal of a school entity who intentionally fails to submit the report as required under subsection (b) or enter into the memorandum of understanding with the police department with jurisdiction over the relevant school property, report an incident involving an act of violence, possession of a weapon or an offense listed under subsection (b)(4.1) that occurs on school property to a police department or submit a copy of the memorandum of understanding to the office as required under subsection (c) or who intentionally falsifies a report submitted as required under this section.

(2) In addition to any other disciplinary actions set forth in the "Professional Educator Discipline Act," a chief school administrator or principal of a school entity who intentionally fails to submit the report as required under subsection (b) or enter into the memorandum of understanding with the police department with jurisdiction over the relevant school property, report an incident involving an act of violence, possession of a weapon or an offense cited under subsection (b)(4.1) that occurs on school property to a police department or submit a copy of the memorandum of understanding to the office as required under subsection (c) or who intentionally falsifies a report submitted as required under this section shall be subject to prosecution for violation of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities). The following civil penalties may be imposed by the Professional Standards and Practices Commission for violations of this article:

(i) for a first violation, $2,500;

(ii) for a second violation, $3,500; or

(iii) for a third or subsequent violation, $5,000.

Any penalty imposed under this paragraph shall be paid to the Department of Education and used for the support of the office.

Community input or involvement

STATUTES

§ 10.23. Response and handling of a student with a disability.

(b) A school entity shall invite representatives of each local police department having jurisdiction over property of the school entity to participate in trainings in the use of positive behavior supports, de-escalation techniques and appropriate responses to student behavior that may require immediate intervention, as provided by the school entity's special education plan (see § 14.104) and the school entity's positive behavior support program (see § § 14.133 and 711.46 (relating to positive behavior support)).

1338.2. Antitruancy Programs.

The Department of Education shall formulate recommendations for the General Assembly concerning the establishment and funding of effective community-based antitruancy pilot programs. In formulating these

recommendations, the Department of Education shall seek advice and counsel from educators, parents, students, district attorneys, law enforcement representatives, attendance officers, social service agencies experienced in providing services to truant children, counselors, judges, probation officers and representatives from the Pennsylvania Commission on Crime and Delinquency and the Juvenile Court Judges' Commission.

15-1547. Alcohol, chemical and tobacco abuse program.

(f) […] A nonpublic school may utilize the in-service training programs made available by the Department of Education through the intermediate unit.

1902-C. Applications.

Applicants shall submit applications at the time, in the manner and containing or accompanied by such information as the department may prescribe but, in any case, shall document the following:

(1) The program is developed in consultation with the faculty and administrative staff of the school and parents and members of the community.

(6) A determination of the scope, type and severity of student disruption and a survey of community and school resources available to the applicant for the remediation of student disruption.

1903-D. Powers and Duties of Community Education Council.

(a) Community education councils shall identify, implement and oversee new or innovative efforts to provide access to postsecondary education opportunities in educationally underserved communities within this Commonwealth.

(b) Postsecondary educational opportunities may include, but are not limited to, any of the following:

(1) Programs, courses or classes leading to professional, vocational or occupational certification or licensure, an associate degree, a bachelor's degree or a master's degree.

(2) GED preparation.

(3) Skill development or skill enhancement for the community work force.

(4) Customized job training for community employers.

(c) Community education councils shall also assist in the provision of resources and serve as a vehicle for employment opportunities which meet the community's current and future economic development needs.

Other/uncategorized

ADMINISTRATIVE CODE

§ 12.2. Student responsibilities.

(a) Student responsibilities include regular school attendance, conscientious effort in classroom work and homework, and conformance to school rules and regulations. Most of all, students are responsible to share with the administration and faculty a responsibility to develop a climate within the school that is conducive to wholesome learning and living.

(b) No student has the right to interfere with the education of fellow students. It is the responsibility of each student to respect the rights of teachers, students, administrators and all others who are involved in the educational process.

(c) Students should express their ideas and opinions in a respectful manner.

(d) It is the responsibility of the students to conform to the following:

(1) Be aware of all rules and regulations for student behavior and conduct themselves in accordance with them. Students should assume that, until a rule is waived, altered or repealed in writing, it is in effect.

(2) Volunteer information in matters relating to the health, safety and welfare of the school community and the protection of school property.

(3) Dress and groom to meet standards of safety and health, and not to cause substantial disruption to the educational processes.

(4) Assist the school staff in operating a safe school for the students enrolled therein.

(5) Comply with Commonwealth and local laws.

(6) Exercise proper care when using public facilities and equipment.

(7) Attend school daily and be on time at all classes and other school functions.

(8) Make up work when absent from school.

(9) Pursue and attempt to complete satisfactorily the courses of study prescribed by local school authorities.

(10) Report accurately in student media.

(11) Not use obscene language in student media or on school premises.

§ 403.6. Unsafe school choice option.

(a) Requirement of the NCLB. The Department adopts these standards as required by the Unsafe School Choice Option provision of section 9532 of the NCLB (Section 9532) (20 U.S.C.A. § 7912).

(b) Definition. For purposes of this section, ‘‘local educational agency’’ or ‘‘LEA’’ means a school district, an area vocational-technical school, an intermediate unit or a charter school.

(c) Student opportunity to transfer.

(1) Victim of a violent criminal offense.

(i) Except as provided as follows, a student who becomes a victim of a violent criminal offense while in or on the grounds of the public elementary or secondary school that the student attends, shall be offered the opportunity to transfer to a safe public school within the LEA, including a charter school.

(ii) For a student victim to be entitled to transfer to another school under this chapter, the violent criminal offense first must be reported to law enforcement authorities by the student, the student’s parent or guardian, or school officials.

(iii) A student victim (or the student’s parent or guardian) may apply to the LEA to transfer to another school within 30 calendar days after the incident is reported to school authorities.

(2) Student who attends a persistently dangerous school.

(i) Except as provided as follows, a student who attends a persistently dangerous school shall be offered the opportunity to transfer to a safe public school within the LEA, including a charter school.

(ii) A student who attends a persistently dangerous school may apply to transfer at any time while the school maintains that designation.

(d) Responsibilities of LEAs.

(1) Toward victims of violent criminal offenses.

(i) Within 10 calendar days of receiving notice of the violent criminal offense, the LEA shall notify the student victim that the student has the right to transfer to a safe public elementary or secondary school within the LEA, including a public charter school.

(ii) The notification and offer to transfer shall state that no student is required to transfer to another school.

(iii) Upon receipt of an application to transfer, the LEA shall transfer the student as soon as possible, and shall transfer the student within 10 calendar days after receiving the application.

(iv) When considering a student's request to transfer to another school, the LEA shall take into account the particular needs of the student and the parent.

(v) To the extent possible, the LEA shall allow the student to transfer to a school that is making adequate yearly progress, and one that is not identified as being in school improvement, corrective action or restructuring.

(vi) A charter school only has to accept a student who meets its admission criteria if space is available.

(vii) If there is not another safe school within the LEA to which students may transfer, the LEA is encouraged, but not required, to establish an agreement with a neighboring LEA to accept the transfer of students.

(2) Toward students who attend a persistently dangerous school.

(i) Under the act of June 30, 1995 (P. L. 220, No. 26) know as the Pennsylvania's Safe Schools Act, all school entities as defined by the act shall report to the Department incidents involving acts of violence; possession of a weapon; or the possession, use, or sale of a controlled substance, alcohol or tobacco by any person on school property or at school-sponsored events or on school transportation to and from school or school-sponsored activities.

(ii) Within 10 school days of receiving notification by the Department, an LEA shall notify the parent or legal guardian of each student who attends the school that the Department has identified the school as persistently dangerous.

(iii) The LEA shall offer the students who attend the school the opportunity to transfer to a safe public school, including a charter school, within the LEA.

(iv) The notification and offer to transfer shall state that no student is required to transfer to another school.

(v) Upon receipt of an application to transfer, the LEA shall transfer the student within 30 calendar days.

(vi) When considering a student's request to transfer to another school, the LEA shall take into account the particular needs of the student and the parent.

(vii) To the extent possible, the LEA shall allow the student to transfer to a school that is making adequate yearly progress, and one that is not identified as being in school improvement, corrective action or restructuring.

(viii) A charter school only has to accept a student who meets its admission criteria if space is available.

(ix) If there is not another safe school within the LEA to which students may transfer, the LEA is encouraged, but not required, to establish an agreement with a neighboring LEA to accept the transfer of students.

(x) The LEA shall submit a corrective action plan to the Department within 30 calendar days of receiving notification that a school has been identified as persistently dangerous.

(xi) The LEA shall receive approval from the Department for its corrective action plan and shall implement all steps contained in its corrective action plan within the time periods specified in that plan.

(xii) After the Department has notified an LEA that a school is no longer identified as a persistently dangerous school, the LEA is encouraged to permit students who transferred to complete their education at their new school. LEAs may not require students to return to their original school if the students are enrolled in a charter school.

(e) Responsibilities of Department.

(1) The Department will identify those schools that meet or exceed the criteria for a persistently dangerous school by analyzing the Annual Report on School Violence and Weapons Possession (PDE-360). In identifying persistently dangerous schools, the Department will use the most recent data available to it from the reporting LEA, and will take all reasonable steps to verify that the data is valid and reliable.

(2) After review and verification of PDE-360 data, the Department will promptly inform an LEA when any of its schools meets the definition of persistently dangerous school.

(3) The Department will provide technical assistance to the LEA in developing a corrective action plan. The Department will review proposed corrective action plans submitted by LEAs and approve suitable corrective action plans.

(4) After approval of the corrective action plan, the Department will conduct a site visit to each persistently dangerous school to assess the school's progress in implementing the plan. If no significant improvement is observed, the Department may require the LEA to submit a revised corrective action plan for that school.

(5) The Department will reassess a school's designation as persistently dangerous at the end of the school year during which its corrective action plan is completed.

(6) During the reassessment described in this section, the Department will remove the designation if the school no longer meets the definition of persistently dangerous school.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by Pennsylvania provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
Website		
Pennsylvania Department of Education - Office for Safe Schools	Office for Safe Schools coordinates school safety and security programs, collection of the annual school violence statistics, coordination of antiviolence efforts, and development of policies and strategies to combat school violence.	http://www.portal.state.pa.us/portal/server.pt/community/office_of_elementary_secondary_education/7209/office_of_safe_schools/1152067
Center for Safe Schools	The Center for Safe Schools is committed to serving as a statewide clearinghouse for schools, law enforcement, parents and others on school safety and youth violence prevention.	http://www.safeschools.info/
Documents		
No relevant resources found		
Other Resources		
No relevant resources found		

Puerto Rico Compilación de Código Disciplinario

Preparado: 12 de Septiembre 2013

Introducción

Esta compilación presenta las estatuas de la disciplina escolar, los reglamentos de la disciplina escolar y, cuando sea posible, enlaces a sitios web patrocinados por el estado o recursos relacionados con la disciplina escolar y la conducta estudiantil. Las leyes y los reglamentos de disciplina presentados están categorizados por tipo de disciplina específica, según un marco organizativo que ha sido desarrollado por El Centro Nacional para Entornos de Aprendizaje Seguro y de Apoyo ("National Center for Safe and Supportive Learning Environments" o "NCSSLE"). Por ejemplo, una categoría principal incluye todas las leyes estatales o los reglamentos que imponen sanciones disciplinarias específicas (como suspensión) para ofensas específicas (como la posesión de drogas en la escuela). Las leyes y los reglamentos de la disciplina escolar fueron compilados a través de búsquedas exhaustivas de los sitios web legislativos estatales. Estas búsquedas identificaron todas las leyes y los reglamentos pertinentes en cada categoría específica. Los representantes de las agencias estáteles de educación de cada estado revisaron los materiales compilados.

Las categorías de disciplina no son mutuamente excluyentes. Las estatuas y reglamentos a menudo aparecen a través de diferentes categorías. Para los estados con leyes más extensas cubriendo una amplitud de áreas tópicas, las secciones relevantes fueron excluidas del texto más grande y incluidos en la categoría disciplinaria apropiada. Las leyes estatales aparecen primero dentro de cada categoría, seguidas por los reglamentos estatales. Las leyes estatales están ordenadas por número de capítulo y sección. Todas las estatuas y los reglamentos mencionados dentro de las categorías de la compilación también aparecen en la sección de fuentes citadas del documento. Esta sección enumera las estatuas por capítulo y por número y título de cada sección. Incluye también hipervínculos activos con sitios web apoyados o mantenidos por las legislaturas estatales, cuando sean disponibles. Otros enlaces a sitios web o recursos patrocinados por el estado son proporcionados al final de este documento.

Notas y Descargos de Responsabilidad

A lo mejor de nuestro conocimiento, esta Compilación de Código Disciplinario es completa y actual a partir de mayo de 2013, con la excepción de las leyes estatales relacionadas con recursión y restricción, que son completas y actuales a partir de diciembre de 2012. Los lectores también deben observar que la información contenida en este documento fue compilada de fuentes estatales individuales que son creados por cada estado y que se mantienen y actualizan con diferentes frecuencias. Los lectores deben consultar la fuente de información proporcionada por cada estado con el fin de comprobar actualizaciones a las leyes y regulaciones de este estado o para llevar a cabo investigaciones adicionales.

Para más información, incluyendo las definiciones de las categorías políticas diferentes, por favor refiéranse al Compendio de Leyes y Reglamentos Disciplinarios que aparece en sitio web del Centro.

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Safe Supportive Learning
Engagement | Safety | Environment

Índice

Códigos de Puerto Rico Citados **1**

Disposiciones Generales **2**

Autoridad para desarrollar y establecer normas de conducta 2
Alcance 3
Comunicación de la política 4

Enfoques disciplinarios en la escuela **5**

Uso de la disciplina progresiva 5
Autoridad del profesor para remover a estudiantes de las aulas 5
Alternativas a la suspensión 5
Uso del castigo corporal 6
Uso de registros de estudiantes y casilleros 6
Otros métodos disciplinarios en la escuela 6

Disciplina Fuera de la Escuela y Excluyente: Suspensión, Expulsión, Restricción y Aislamiento, y Ubicaciones Alternativas **7**

Motivos de suspensión o expulsión posible 7
Motivos de suspensión o expulsión obligatoria 8
Limitaciones, condiciones y exclusiones para el uso de la suspensión y expulsión 8
Procedimientos administrativos relacionados a la suspensión y expulsión 8
Suspensión en la escuela 8
Regreso a la escuela después de ser removido 9
Uso de restricción y aislamiento 9
Ubicaciones alternativas 9

Enfoques Disciplinarios de Infracciones y Condiciones Específicos **10**

Armas de fuego (requisito de la Ley contra Las Armas en Las Escuelas) 10
Otras armas 10
Estudiantes con problemas crónicos de disciplina 11
Asistencia y absentismo escolar 11
Uso de sustancias controladas 11
Acoso e intimidación 11
Otras infracciones o condiciones especiales 13

Prevención e Intervenciones de Comportamiento (no punitiva) **14**

Prevención 14
Intervenciones conductuales y servicios de apoyo al estudiante 14
Desarrollo profesional 15

Monitoreo y Rendición de Cuentas **16**

Notificación formal de violaciones de conducta 16
Notificación a los Padres 17
Comunicación entre las escuelas y la policía 17
Divulgación de los registros de la escuela 17
Recolección de datos, análisis y presentación de las políticas y medidas disciplinarias 17

Oficiales de Recursos Escolares y Oficiales de Absentismo/Asistencia Escolar 18
Autoridad y poder para implementar la detención escolar 18
Certificación o formación..... 18
Memorándum de entendimiento, autorización, y/o financiación 18
Apoyo de la Agencia de Educación del Estado 19
Modelos de políticas del estado y apoyo a la ejecución 19
Créditos de financiación 19
Otros/Sin Categoría 20
Inmunidad o responsabilidad profesional 20
Participación de la comunidad 20
Otros/Sin categoría 20
Los Sitios Web Patrocinados por el Estado y Públicamente Disponibles, y Otros Recursos Sobre La Disciplina Escolar 22

Códigos de Puerto Rico Citados

Estatuas de Puerto Rico

Sistema de Educación Púbica de Puerto Rico. (2004). Reglamento General de Estudiantes. Publicado en http://www.de.gobierno.pr/reglamento-de-estudiantes.

Acto No. 149 de 1999, Sección 3.08, modificado y promulgado el 30 de Junio, 2009. El Estudiante: Ambiente Escolar. Publicado en http://www.stopbullying.gov/laws/puerto-rico.html.

Código Administrativo de Puerto Rico

No procede.

Disposiciones Generales

Autoridad para desarrollar y establecer normas de conducta

ESTATUAS

Artículo IX, B Seguridad Escolar

1. Se designará una Comisión de Apoyo en el Nivel Central, un Concilio de Apoyo en los distritos escolares, y un Comité de Seguridad Escolar en las escuelas, según aparece en el Manual para el Apoyo de la Seguridad Escolar.

2. La misión principal de éstos será implantar un plan efectivo de prevención para la promoción de ambientes seguros conducentes al aprendizaje. De ser solicitados por la comunidad escolar, se deberán ofrecer seminarios, talleres y otras actividades relacionadas a la prevención y a los procesos legales que se llevan a cabo para la toma de decisiones de casos disciplinarios.

3. El Director Escolar será responsable de recomendar un Comité de Seguridad Escolar compuesto por el personal de ayuda al estudiante, un (1) encargado de un estudiante, maestros voluntarios hasta un máximo de tres (3), el personal de seguridad y un (1) estudiante. Este comité trabajará con el Consejo Escolar.

4. El Comité de Seguridad será presidido por el Director Escolar, quien convocará a reunión cuando sea necesario.

5. El Comité de Seguridad Escolar ayudará en labores de prevención y orden, a tenor con las disposiciones que a estos fines establezca el Departamento de Educación.

Sección 3.08. - El Estudiante: Ambiente de la Escuela –

El Secretario promulgará un Reglamento de Estudiantes para el Sistema de Educación Pública. Los Consejos Escolares, por su parte, adoptarán reglamentos complementarios para sus escuelas. Estos reglamentos, precisarán los derechos y obligaciones de los estudiantes, las normas de comportamiento en las escuelas, además establecerán las sanciones que correspondan por su infracción. Tanto el reglamento que promulgue el Secretario, como los que adopten los Consejos Escolares, reconocerán el derecho de los estudiantes a su seguridad personal, libre de hostigamiento e intimidación ('bullying'); a estudiar en un ambiente sano; a su intimidad y dignidad personal; a promover la formación de organizaciones estudiantiles; a una evaluación justa de su trabajo académico; a que se custodien debidamente los documentos relacionados con su historial académico y su vida estudiantil; a seleccionar su oficio o profesión libremente; a recibir servicios de orientación vocacional y otros servicios especializados; a una educación que les permita proseguir estudios superiores o les proporcione acceso al mercado de trabajo dentro y fuera de Puerto Rico; y a organizar y participar en las actividades de sus escuelas.

Las regulaciones también reconocerán la obligación de los estudiantes a asistir a la escuela; a cumplir con los trabajos escolares; a ayudar a sus compañeros; a respetar la integridad física y moral de sus maestros y compañeros; a prestar servicios a su escuela y la comunidad en caso de emergencia; y a respetar el derecho de los otros estudiantes a estudiar.

Sección 3.08a - El Estudiante: Ambiente Escolar – política pública para prevenir el hostigamiento e intimidación de los estudiantes

El Secretario promulgará dentro del Reglamento de Estudiantes para el Sistema de Educación Pública, una política pública enérgica en torno a la prohibición y la prevención de actos de hostigamiento e

intimidación a estudiantes (‘bullying), dentro de la propiedad o predios de las escuelas o áreas circundantes a éstas, en actividades auspiciadas por las escuelas y en los autobuses escolares.

El Reglamento de Estudiantes para el Sistema de Educación Pública incluirá dentro de su texto, la siguiente definición sobre el acto, de hostigar e intimidar (‘bullying’). Este acto será definido como cualquier acción realizada intencionalmente, mediante cualquier gesto, ya sea verbal, escrito o físico, que tenga el efecto de atemorizar a los estudiantes e interfiera con la educación de éstos, sus oportunidades escolares y su desempeño en el salón de clases.

Para este Acto, en términos generales, este acto debe ser continuo para que sea considerado acoso e intimidación. Aun así, un solo evento se puede considerar acoso e intimidación según su severidad, como provisto por el Secretario según la regulación y adoptado por los comités escolares, tras consultación con los padres de asociaciones estudiantiles.

Todo lo anteriormente expuesto, será ponderado dentro de la perspectiva de lo que una persona razonable entendería, sería una situación nociva o de riesgo para los estudiantes o sus propiedades. En lo que respecta la conducta del abusador, se examinará dentro de la perspectiva anteriormente aludida. Las autoridades concernidas considerarán, dentro de este marco conceptual, la severidad, persistencia o constancia de sus acciones, así como la consecuencia de éstas, al crear un ambiente hostil e intimidante para el o los estudiantes perjudicados.

Asimismo, dentro de la Reglamentación antes aludida, se establecerá: la prohibición de los actos de hostigamiento e intimidación (‘bullying’); lo que constituye el acto o conducta de hostigamiento e intimidación (‘bullying’); los métodos para reportar los incidentes de hostigamiento e intimidación; el proceso que se dispondrá para dilucidar estos casos; y las consecuencias que tendrán los estudiantes que infrinjan estas normas.

El Secretario, a través del personal autorizado, le hará llegar a todos los estudiantes del Sistema de Educación Pública copia de este reglamento y del código de conducta de los estudiantes. Se autoriza al Secretario, a tener disponibles estos documentos para toda escuela privada en Puerto Rico, que interese establecer dicha política pública dentro de su institución educativa.

Mientras, los Consejos Escolares, en coordinación con las asociaciones de padres de los estudiantes, adoptarán los reglamentos complementarios para implantar en sus escuelas, la política pública establecida por el Secretario, relativa al hostigamiento e intimidación de los estudiantes (‘bullying’).

Sección 3.08b. - El Estudiante: Ambiente Escolar – Establecimiento de un Código de Conducta para los Estudiantes

El Secretario adoptará, dentro del Reglamento de Estudiantes para el Sistema de Educación Pública, un código de conducta para sus estudiantes, que sea cónsono con las normas, reglas y a la política pública establecida en el Artículo 3.08a. de esta Ley.

Alcance

ESTATUAS

Artículo IX, C. Orden Institucional

1. Los miembros de la comunidad escolar y los oficiales del orden público serán responsables del orden institucional en los predios escolares, en cien (100) metros a su alrededor y en actividades patrocinadas por la escuela, según lo establece este Reglamento. Procurarán establecer las mejores relaciones en la escuela y realizarán el máximo esfuerzo para lograr un ambiente propicio para el desarrollo de hábitos de responsabilidad, cooperación y una buena disciplina escolar.

Comunicación de la política

ESTATUAS

Artículo X. Responsabilidad de la Comunidad Escolar

B. Al comienzo de cada año escolar, el estudiante y su encargado en el caso de estudiantes menores de veintiún (21) años de edad, no emancipados, firmarán un documento mediante el cual se comprometerán a cumplir con las normas establecidas en el presente Reglamento. En el caso de estudiantes mayores de edad lo firmará el propio estudiante.

Sección 3.08a - El Estudiante: Ambiente Escolar – política pública para prevenir el hostigamiento e intimidación de los estudiantes

El Secretario, a través del personal autorizado, le hará llegar a todos los estudiantes del Sistema de Educación Pública copia de este reglamento y del código de conducta de los estudiantes. Se autoriza al Secretario, a tener disponibles estos documentos para toda escuela privada en Puerto Rico, que interese establecer dicha política pública dentro de su institución educativa.

Enfoques disciplinarios en la escuela

Uso de la disciplina progresiva

ESTATUAS

Artículo IX, A. Conceptos

5. En el proceso educativo se preferirá la persuasión, estimulo y motivación positiva antes de acudir al proceso disciplinario.

6. El proceso disciplinario debe ser gradual, preventivo, de rehabilitación, reeducativo, justo y razonable; respetando los derechos de toda la comunidad escolar. Además, con el fin de ayudar al estudiante primeramente se debe buscar el origen de las faltas menos graves que infringen las leyes, reglamentos, normas y directrices, previniendo así tener que atender en el futuro situaciones de mayor gravedad.

Artículo IX, D. Uso de la Mediación para Resolver a Conflictos

a. El propósito de este método es alentar el desarrollo y uso de la mediación como mecanismo para la solución de conflictos como una alternativa al procedimiento disciplinario.

b. Este es un proceso de intervención, no adjudicativo, en el cual un mediador o mediadora ayudará a las partes en conflicto a lograr un acuerdo que les resulte mutuamente aceptable.

c. En la mediación, las partes tienen la potestad de decidir si se someten o no al proceso, por lo que el mismo será voluntario.

Autoridad del profesor para remover a estudiantes de las aulas

No hay leyes pertinentes.

Alternativas a la suspensión

ESTATUAS

Artículo IX, A. Conceptos

5. En el proceso educativo se preferirá la persuasión, estimulo y motivación positiva antes de acudir al proceso disciplinario.

Artículo IX, G. Infracciones y Medidas Correctivas Disciplinarias

4. Los planes correctivos y las condiciones especiales

d. El Secretario o su representante autorizado podrá requerir como condición para que un estudiante no sea suspendido, trasladado o expulsado luego de la aplicación del procedimiento para las quejas formales, el ingresar al estudiante a un proceso de rehabilitación donde reciba tratamiento de psicólogos, trabajadores sociales, consejeros o cualquier otra persona o entidad que le pueda ayudar en su proceso de rehabilitación.

Uso del castigo corporal

ESTATUAS

Artículo IX, G. Infracciones y Medidas Correctivas Disciplinarias

1. Conceptos

d. El castigo corporal queda terminantemente prohibido. Sólo se justificará el uso de fuerza razonable cuando la misma sea indispensable para evitar daño corporal a otros o al mismo estudiante ofensor o para evitar daños a la propiedad. En estos casos será necesario llamar a la policía, guardia municipal, guardia escolar, oficial de seguridad u otro oficial del orden público para que proceda a instar los cargos que correspondan.

Uso de registros de estudiantes y casilleros

No hay leyes pertinentes.

Otros métodos disciplinarios en la escuela

No hay leyes pertinentes.

Disciplina Fuera de la Escuela y Excluyente: Suspensión, Expulsión, Restricción y Aislamiento, y Ubicaciones Alternativas

Motivos de suspensión o expulsión posible

ESTATUAS

Artículo IX, F. Normas y Procedimientos para al Radicación de Querellas e Imposición de Medidas Correctivas

2. b. 1) Conceptos

a. Este proceso sólo podrá ser utilizado por el Director Escolar cuando:

(1) tenga conocimiento de que la actuación del estudiante constituye Falta Clase II ó Clase III de conformidad con la Ley de Menores, *supra*; o en caso de que el alumno pueda ser juzgado como adulto o esté envuelto en un acto que sea constitutivo de delito criminal grave; o

(2) cuando el Director Escolar tenga motivos fundados para entender que un estudiante pueda causar daño real o inminente a algún otro estudiante o a otras personas o a la propiedad relacionada a la escuela.

Artículo IX, G. Infracciones y Medidas Correctivas Disciplinarias

3. a. Medidas correctivas o disciplinarias del Procedimiento de las Quejas Informales

El Director Escolar tendrá facultad para imponer las siguientes medidas correctivas o disciplinarias:

5) Suspensión de uno (1) a quince (15) días lectivos.

3.b. Medidas correctivas o disciplinarias del Procedimiento de las Quejas Formales

El Secretario de Educación, o su representante autorizado, tendrán facultad para imponer todas las medidas correctivas o disciplinarias para las cuales está autorizado el Director Escolar, más las que se describen a continuación:

4) Expulsión - separación permanente del Sistema de Educación Pública.

5. a. 3. Faltas Contra el Orden Institucional

a. *Impedir o limitar que otros estudiantes realicen su tarea* - incurrirá en violación a esta falta, todo aquel estudiante que con su acción obstaculice o no permita que otro estudiante realice la labor escolar que le ha sido requerida.

c. *Reto a la Autoridad* – incurrirá en violación a esta falta, todo aquel estudiante que desobedezca una directriz u orden directa y con fines lícitos que le haya sido emitida por una persona con autoridad para ello.

j. Motín – se incurrirá en violación a esta falta cuando dos o más estudiantes, obrando juntos y sin autorización en ley, hagan uso de fuerza y violencia que perturbe la paz institucional o amenacen con emplear fuerza o violencia, acompañada de la aptitud para realizarla en el acto.

5. a. 5. Faltas contra la Integridad Corporal

a. *Agresión* - incurrirá en violación a esta falta todo aquel estudiante que empleare fuerza o violencia contra otra persona para causarle daño.

b. *Mutilación*- incurrirá en violación a esta falta todo aquel estudiante que ilegal y maliciosamente le priva, le inutiliza o le desfigura a una persona un miembro de su cuerpo.

Motivos de suspensión o expulsión obligatoria

No hay leyes pertinentes.

Limitaciones, condiciones y exclusiones para el uso de la suspensión y expulsión

ESTATUAS

Artículo IX, G. Infracciones y Medidas Correctivas Disciplinarias

2. Las Medidas Provisionales que podrán ser utilizadas previo a la imposición de las medidas disciplinarias

a. Suspensión Sumaria: El Director Escolar podrá hacer uso de esta medida cuando estén presentes las circunstancias que dan base para la radicación de las quejas formales. En cuyo caso se deberá cumplir estrictamente con las disposiciones que señala el presente Artículo en la sección sobre el procedimiento de las quejas formales.

3. Medidas Correctivas o Disciplinarias

b. El Secretario de Educación, o su representante autorizado, tendrán facultad para imponer todas las medidas correctivas o disciplinarias para las cuales está autorizado el Director Escolar, más las que se describen a continuación:

1) Suspensión por un término mayor de quince (15) días lectivos.

2) Suspensión condicionada hasta que el estudiante cumpla con las obligaciones contraídas, según las circunstancias asarle impuestas por el Secretario.

3) Traslado permanente a otra escuela, o distrito o alternativo escolar.

4) Expulsión - separación permanente del Sistema de Educación Pública.

De mediar circunstancias agravantes se podrá aumentar a suspensión por término definido.

Procedimientos administrativos relacionados a la suspensión y expulsión

ESTATUAS

Artículo IX, F. Normas y Procedimientos para al Radicación de Querellas e Imposición de Medidas Correctivas

2. b. 1) Conceptos

b. Antes de hacer efectiva cualquier decisión, el Director Escolar deberá comunicarse inmediatamente con la División Legal del Departamento de Educación en Nivel Central para realizar una consulta en torno a la radicación de la queja formal.

2. b. 2) Procedimiento para las Quejas Formales

b. El Director Escolar previa gestión razonable de comunicarse con el estudiante y su encargado lo suspenderá sumariamente por escrito. No obstante lo anterior, el Director Escolar será responsable de proveerle alternativas educativas para que el estudiante no se atrase en el proceso de aprendizaje.

Suspensión en la escuela

No hay leyes pertinentes.

Regreso a la escuela después de ser removido

No hay leyes pertinentes.

Uso de restricción y aislamiento

No hay leyes pertinentes.

Ubicaciones alternativas

ESTATUAS

Artículo IX, G. Infracciones y Medidas Correctivas Disciplinarias

2. Las Medidas Provisionales que podrán ser utilizadas previo a la imposición de las medidas disciplinarias

b. *Traslado Preventivo de un grupo a otro dentro de la misma escuela*: El Director Escolar podrá hacer uso de este recurso por un corto período de tiempo, cuando se considere un peligro inminente la permanencia del estudiante con su grupo, iniciando de inmediato el procedimiento ordinario de las quejas informales que se describe en la Sección F del presente Artículo.

Enfoques Disciplinarios de Infracciones y Condiciones Específicos

Armas de fuego (requisito de la Ley contra Las Armas en Las Escuelas)

ESTATUAS

Artículo IX, G. Infracciones y Medidas Correctivas Disciplinarias

5.a.3) Faltas contra el Orden Institucional.

i) *Alteración a la Paz* – incurrirá en violación de esta falta todo aquel estudiante que voluntariamente realizare cualquiera de los siguientes actos:

(3) portar, sacar, mostrar, o exhibir algún arma blanca, de fuego, u objeto destinado para atacar o defenderse que pudiera causar daños a otras personas o a la propiedad escolar. Será un agravante si se hace en actitud violenta, colérica o amenazante; o

(4) usare o amenazare con algún arma blanca, de fuego, u objeto destinado para atacar o defenderse que pudiera causar daños a otras personas o a la propiedad escolar en alguna riña o pelea. Será un agravante si se hiciere en actitud violenta, colérica o amenazadora […] De encontrarse incurso en la comisión de esta falta se le podrá imponer una suspensión por un término no mayor de seis (6) a diez (10) días lectivos. De mediar circunstancias atenuantes, la sanción podrá ser reducida a una suspensión por un término de uno (1) a cinco (5) días. De mediar circunstancias agravantes, la sanción podrá ser aumentada a suspensión por un término de once (11) a quince (15) días lectivos.

l) Poseer, introducir, transportar, vender, intercambiar, regalar o distribuir armas blancas, de fuego, sustancias, equipos u objetos destinados para atacar o defenderse que pudiera causar daños – incurrirá en violación a esta falta todo aquel estudiante que posea, introduzca, transporte, venda, intercambie, regale o distribuya armas blancas, de fuego, sustancias, equipos u objetos destinados para atacar o defenderse, entre los que se incluye, pero sin limitarse a pistolas de “pellets”, pistolas de “gotcha”, manoplas, cadenas o collares exagerados tipo pirámide, en los predios escolares, a cien metros alrededor de la escuela, en actividades escolares, en cualquier dependencia del Departamento de Educación o en los medios de transportación provistos por el Departamento de Educación.

Otras armas

ESTATUAS

Artículo IX, G Infracciones y Medidas Correctivas Disciplinarias

5. a. 3) Faltas contra el Orden Institucional

i. (4) usare o amenazare con algún arma blanca, de fuego, u objeto destinado para atacar o defenderse que pudiera causar daños a otras personas o a la propiedad escolar en alguna riña o pelea. Será un agravante si se hiciere en actitud violenta, colérica o amenazadora.

De encontrarse incurso en la comisión de esta falta se le podrá imponer una suspensión por un término no mayor de seis (6) a diez (10) días lectivos. De mediar circunstancias atenuantes, la sanción podrá ser reducida a una suspensión por un término de uno (1) a cinco (5) días. De mediar circunstancias agravantes, la sanción podrá ser aumentada a suspensión por un término de once (11) a quince (15) días lectivos.

Estudiantes con problemas crónicos de disciplina

No hay leyes pertinentes.

Asistencia y absentismo escolar

ESTATUAS

Artículo IX, G. Infracciones y Medidas Correctivas Disciplinarias

5. a. 1) Faltas contra los Deberes y Obligaciones de los Estudiantes

a) *Patrón de Ausencias Injustificadas* –se considerará incurso en esta falta todo aquel estudiante que no se presente a la escuela o a alguna actividad escolar sin razón justificada por escrito de su encargado. Se considerará un agravante si se incurre en la comisión de esta falta en más de tres ocasiones consecutivas durante el año escolar. De encontrarse incurso en la comisión de esta falta se le podrá imponer una amonestación escrita. De mediar circunstancias atenuantes, la sanción podrá ser reducida a una amonestación verbal. De mediar circunstancias agravantes, la sanción podrá ser aumentada a suspensión por término definido.

Uso de sustancias controladas

ESTATUAS

Articulo IV. Deberes y Obligaciones del Estudiante

I. Normas

6. Se prohibirá al estudiante poseer, portar, utilizar o llevar consigo armas blancas, de fuego, explosivos, objetos punzantes, cualquier objeto destinado a atacar o defenderse, entre los que se incluye, pero sin limitarse a pistolas de “gotcha”, pistolas de “pellets”, manoplas, cadenas o collares de tamaño exagerado tipo pirámide, drogas, bebidas embriagantes, cigarrillos, pipa, picadura de pipa, tabaco, “casettes” o discos compactos con contenido obsceno o cualquier objeto o sustancia prohibida o ilegal dentro de los predios escolares. Deberá estar consciente de que si existen motivos fundados para creer que él o algún otro estudiante lleva consigo alguna de éstas, se le podrá registrar siguiendo lo establecido en la Artículo IX, Sección E.

Acoso e intimidación

ESTATUAS

Sección 3.08. - El Estudiante: Ambiente de la Escuela –

El Secretario promulgará un Reglamento de Estudiantes para el Sistema de Educación Pública. Los Consejos Escolares, por su parte, adoptarán reglamentos complementarios para sus escuelas. Estos reglamentos, precisarán los derechos y obligaciones de los estudiantes, las normas de comportamiento en las escuelas, además establecerán las sanciones que correspondan por su infracción. Tanto el reglamento que promulgue el Secretario, como los que adopten los Consejos Escolares, reconocerán el derecho de los estudiantes a su seguridad personal, libre de hostigamiento e intimidación (‘bullying’); a estudiar en un ambiente sano; a su intimidad y dignidad personal; a promover la formación de organizaciones estudiantiles; a una evaluación justa de su trabajo académico; a que se custodien debidamente los documentos relacionados con su historial académico y su vida estudiantil; a seleccionar su oficio o profesión libremente; a recibir servicios de orientación vocacional y otros servicios

especializados; a una educación que les permita proseguir estudios superiores o les proporcione acceso al mercado de trabajo dentro y fuera de Puerto Rico; y a organizar y participar en las actividades de sus escuelas.

Las regulaciones también reconocerán la obligación de los estudiantes a asistir a la escuela; a cumplir con los trabajos escolares; a ayudar a sus compañeros; a respetar la integridad física y moral de sus maestros y compañeros; a prestar servicios a su escuela y la comunidad en caso de emergencia; y a respetar el derecho de los otros estudiantes a estudiar.

Sección 3.08a - El Estudiante: Ambiente Escolar – política pública para prevenir el hostigamiento e intimidación de los estudiantes

El Secretario promulgará dentro del Reglamento de Estudiantes para el Sistema de Educación Pública, una política pública enérgica en torno a la prohibición y la prevención de actos de hostigamiento e intimidación a estudiantes ('bullying), dentro de la propiedad o predios de las escuelas o áreas circundantes a éstas, en actividades auspiciadas por las escuelas y en los autobuses escolares.

El Reglamento de Estudiantes para el Sistema de Educación Pública incluirá dentro de su texto, la siguiente definición sobre el acto, de hostigar e intimidar ('bullying'). Este acto será definido como cualquier acción realizada intencionalmente, mediante cualquier gesto, ya sea verbal, escrito o físico, que tenga el efecto de atemorizar a los estudiantes e interfiera con la educación de éstos, sus oportunidades escolares y su desempeño en el salón de clases.

Para este Acto, en términos generales, este acto debe ser continuo para que sea considerado acoso e intimidación. Aun así, un solo evento se puede considerar acoso e intimidación según su severidad, como provisto por el Secretario según la regulación y adoptado por los comités escolares, tras consultación con los padres de asociaciones estudiantiles.

Todo lo anteriormente expuesto, será ponderado dentro de la perspectiva de lo que una persona razonable entendería, sería una situación nociva o de riesgo para los estudiantes o sus propiedades. En lo que respecta la conducta del abusador, se examinará dentro de la perspectiva anteriormente aludida. Las autoridades concernidas considerarán, dentro de este marco conceptual, la severidad, persistencia o constancia de sus acciones, así como la consecuencia de éstas, al crear un ambiente hostigante e intimidante para el o los estudiantes perjudicados.

Asimismo, dentro de la Reglamentación antes aludida, se establecerá: la prohibición de los actos de hostigamiento e intimidación ('bullying'); lo que constituye el acto o conducta de hostigamiento e intimidación ('bullying'); los métodos para reportar los incidentes de hostigamiento e intimidación; el proceso que se dispondrá para dilucidar estos casos; y las consecuencias que tendrán los estudiantes que infrinjan estas normas.

El Secretario, a través del personal autorizado, le hará llegar a todos los estudiantes del Sistema de Educación Pública copia de este reglamento y del código de conducta de los estudiantes. Se autoriza al Secretario, a tener disponibles estos documentos para toda escuela privada en Puerto Rico, que interese establecer dicha política pública dentro de su institución educativa.

Mientras, los Consejos Escolares, en coordinación con las asociaciones de padres de los estudiantes, adoptarán los reglamentos complementarios para implantar en sus escuelas, la política pública establecida por el Secretario, relativa al hostigamiento e intimidación de los estudiantes ('bullying').

Sección 3.08b. - El Estudiante: Ambiente Escolar – Establecimiento de un Código de Conducta para los Estudiantes

El Secretario adoptará, dentro del Reglamento de Estudiantes para el Sistema de Educación Pública, un código de conducta para sus estudiantes, que sea cónsono con las normas, reglas y a la política pública establecida en el Artículo 3.08a. de esta Ley.

Artículo 3.08c.-El Estudiante: Ambiente de la Escuela - presentación de informes sobre incidentes de hostigamiento e intimidación.

Según los procesos dispuestos y adoptados por el Secretario en coordinación con los Consejos Escolares, en el Reglamento de Estudiantes para el Sistema de Educación Pública, todo estudiante, personal o voluntario de las escuelas públicas que someta un informe realizado de buena fe, que contenga algún relato sobre la incidencia de hostigamiento e intimidación, a alguno de los estudiantes, por parte de un abusador ("bully"), estará protegido de cualquier acción en daños o represalia que surja como consecuencia de reportar dicho incidente.

Artículo 3.08d.- El Estudiante: Ambiente de la Escuela - programas, actividades, talleres capacitación, orientación y consejería sobre el hostigamiento e intimidación ('bullying') entre los estudiantes.

El Secretario, en coordinación con los Directores Escolares y los Consejos Escolares, proveerá a los empleados y estudiantes de las escuelas públicas la oportunidad de participar en programas, actividades y talleres de capacitación, diseñados y desarrollados para adquirir conocimiento y herramientas sobre la política pública, establecida en el Artículo 3.08a. de esta Ley, sobre el hostigamiento e intimidación entre estudiantes o el personal escolar. De la misma manera, los trabajadores sociales y los consejeros escolares tendrán la responsabilidad de orientar a los estudiantes en torno al problema del hostigamiento e intimidación y ofrecerán consejería tanto a las víctimas de esta conducta, como a los abusadores ('bullies').

Artículo 3.08e.-El Estudiante: Ambiente de la Escuela - remisión anual de informe de incidentes a la Asamblea Legislativa

El Secretario remitirá a la Asamblea Legislativa de Puerto Rico anualmente, no más tarde del 1ro de julio de cada año, un informe sobre los incidentes, si alguno, de hostigamiento e intimidación dentro del sistema de educación pública y las acciones que fueron tomadas en dichos incidentes.

Otras infracciones o condiciones especiales

No hay leyes pertinentes.

Prevención e Intervenciones de Comportamiento (no punitiva)

Prevención

ESTATUAS

Artículo IX, A. Conceptos

6. El proceso disciplinario debe ser gradual, preventivo, rehabilitación, reeducativo; justo y razonable; respetando los derechos de toda la comunidad escolar.

7. En los grados primarios se establecerán y enfatizarán normas y reglas comunes de sana disciplina y autocontrol para mejorar el comportamiento escolar de los estudiantes en el nivel secundario. Estas normas y reglas serán a tono con las etapas de desarrollo del estudiante. Los Trabajadores Sociales Escolares y los Consejeros Escolares colaborarán con los maestros para que este proceso se ejecute efectivamente.

Artículo IX, C. Orden Institucional

1. Los miembros de la comunidad escolar y los oficiales del orden público […] procurarán establecer las mejores relaciones en la escuela y realizarán el máximo esfuerzo para lograr un ambiente propicio para el desarrollo de hábitos de responsabilidad, cooperación y una buena disciplina escolar.

Artículo 3.08d.- El Estudiante: Ambiente de la Escuela - programas, actividades, talleres capacitación, orientación y consejería sobre el hostigamiento e intimidación ('bullying') entre los estudiantes.

El Secretario, en coordinación con los Directores Escolares y los Consejos Escolares, proveerá a los empleados y estudiantes de las escuelas públicas la oportunidad de participar en programas, actividades y talleres de capacitación, diseñados y desarrollados para adquirir conocimiento y herramientas sobre la política pública, establecida en el Artículo 3.08a. de esta Ley, sobre el hostigamiento e intimidación entre estudiantes o el personal escolar. De la misma manera, los trabajadores sociales y los consejeros escolares tendrán la responsabilidad de orientar a los estudiantes en torno al problema del hostigamiento e intimidación y ofrecerán consejería tanto a las víctimas de esta conducta, como a los abusadores ('bullies').

Los trabajadores sociales y los consejeros escolares también asimismo serán responsables de orientar a los estudiantes sobre el problema de acodo e intimidación y proveerán consejería a víctimas de esta conducta y los que la llevan a cabo.

Intervenciones conductuales y servicios de apoyo al estudiante

ESTATUAS

Artículo IX, C. Orden Institucional

3. El maestro será responsable del orden institucional y de propiciar la Buena disciplina de los estudiantes. Referirá la situación disciplinaria al Director Escolar, con todas las evidencias de las intervenciones, luego que haya agotado todos los recursos a su disposición tales como, pero sin limitarse a: entrevistas con el alumno, con el encargado, con el equipo interdisciplinario o haber referido al estudiante al maestro de salón hogar, al Trabajador Social Escolar o al Consejero Escolar.

Desarrollo profesional

ESTATUAS

Artículo 3.08d.- El Estudiante: Ambiente de la Escuela - programas, actividades, talleres capacitación, orientación y consejería sobre el hostigamiento e intimidación ('bullying') entre los estudiantes.

El Secretario, en coordinación con los Directores Escolares y los Consejos Escolares, proveerá a los empleados y estudiantes de las escuelas públicas la oportunidad de participar en programas, actividades y talleres de capacitación, diseñados y desarrollados para adquirir conocimiento y herramientas sobre la política pública, establecida en el Artículo 3.08a. de esta Ley, sobre el hostigamiento e intimidación entre estudiantes o el personal escolar. De la misma manera, los trabajadores sociales y los consejeros escolares tendrán la responsabilidad de orientar a los estudiantes en torno al problema del hostigamiento e intimidación y ofrecerán consejería tanto a las víctimas de esta conducta, como a los abusadores ('bullies').

Monitoreo y Rendición de Cuentas

Notificación formal de violaciones de conducta

ESTATUAS

Artículo IX, C. Orden Institucional

2. Todo miembro de la Comunidad Escolar deberá informar al Director Escolar cualquier detalle de la actuación de algún estudiante o persona relacionada a la escuela, que conlleve una posible violación a la ley, reglamento, normas o directrices escolares, ya sea por conocimiento propio de los hechos o por información obtenida. Esto aplica además, a los predios escolares, cien (100) metros a su alrededor o en actividades patrocinadas por la escuela, en cualquier dependencia del Departamento de Educación y en los medios de transportación provistos por el Departamento de Educación.

3. El maestro será responsable del orden institucional y de propiciar la Buena disciplina de los estudiantes. Referirá la situación disciplinaria al Director Escolar, con todas las evidencias de las intervenciones, luego que haya agotado todos los recursos a su disposición tales como, pero sin limitarse

a: entrevistas con el alumno, con el encargado, con el equipo interdisciplinario o haber referido al estudiante al maestro de salón hogar, al Trabajador Social Escolar o al Consejero Escolar. Luego de haber evaluado la situación disciplinaria, el Director Escolar determinará aquellos casos que a su juicio requieran su intervención inmediata o la del Comité de Seguridad.

Artículo F. Normas y Procedimientos para al Radicación de Querellas e Imposición de Medidas Correctivas

1. Conceptos:

a. Se considerará una queja, cualquier reclamación en la que se alegue que un estudiante del Sistema de Educación Pública ha violentado las normas y/o deberes que se le imponen a través de las Leyes, Reglamentos y Carta Circulares del Departamento de Educación Pública de Puerto Rico.

b. Tendrán legitimación activa para presentar una queja, cualquier persona con conocimiento de los hechos que se le imputan al estudiante.

c. Las quejas que se atenderán a través del procedimiento dispuesto en el presente Artículo se clasificarán en quejas informales y formales. Las quejas informales serán atendidas en la escuela por el Director Escolar. Las quejas formales por su parte, serán dirimidas a través de una vista evidenciaría, que estará presidida por un Oficial Examinador designado por el Secretario, cuyo proceso se llevará a cabo en la División Legal del Departamento de Educación.

d. Los procedimientos disciplinarios a aplicarse a los estudiantes de educación especial se regirán por las disposiciones establecidas por el Manual de Procedimientos de Educación Especial.

e. Sólo se podrá disciplinar a un estudiante perteneciente al Programa de Educación Especial a través del procedimiento dispuesto en el presente Reglamento, si el Comité de Programación y Ubicación (COMPU) ha determinado, a tenor con el proceso dispuesto en el Manual de Procedimientos de Educación Especial, que la conducta del estudiante no está relacionada con su condición.

f. Se entenderá como un abandono de la queja el hecho de que las partes afectadas demuestren que no tienen interés en el proceso.

Notificación a los Padres

ESTATUAS

Artículo IX, F. Normas y Procedimientos para al Radicación de Querellas e Imposición de Medidas Correctivas

2. B. 2. Procedimiento para las Quejas Formales

b. El Director Escolar previa gestión razonable de comunicarse con el estudiante y su encargado lo suspenderá sumariamente por escrito..

Comunicación entre las escuelas y la policía

ESTATUAS

Artículo IX, F. Normas y Procedimientos para al Radicación de Querellas e Imposición de Medidas Correctivas

2. B. 2. Procedimiento para las Quejas Formales

a. El Director Escolar informará a la policía a través del Cuartel disponible más cercano tan pronto le sea posible, de los actos, testigos y personas envueltas en la falta o delito criminal.

Divulgación de los registros de la escuela

No hay leyes pertinentes.

Recolección de datos, análisis y presentación de las políticas y medidas disciplinarias

ESTATUAS

Artículo 3.08e.-El Estudiante: Ambiente de la Escuela - remisión anual de informe de incidentes a la Asamblea Legislativa

El Secretario remitirá a la Asamblea Legislativa de Puerto Rico anualmente, no más tarde del 1ro de julio de cada año, un informe sobre los incidentes, si alguno, de hostigamiento e intimidación dentro del sistema de educación pública y las acciones que fueron tomadas en dichos incidentes.

Oficiales de Recursos Escolares y Oficiales de Absentismo/Asistencia Escolar

Autoridad y poder para implementar la detención escolar

ESTATUAS

Artículo IX, G. Infracciones y Medidas Correctivas o Disciplinarias

1. Conceptos

d. Se prohíbe el uso del castigo corporal. La fuerza razonable solo se justifica cuando es esencial para evitar daño físico a otras personas o al propio alumno, así como para evitar daños a la propiedad estudiante. En estos casos, tendrá que llamar a la policía, un policía, un oficial de seguridad escolar, u otro funcionario público así puede proceder a realizar los cargos correspondientes.

Certificación o formación

No hay leyes pertinentes.

Memorándum de entendimiento, autorización, y/o financiación

No hay leyes pertinentes.

Apoyo de la Agencia de Educación del Estado

Modelos de políticas del estado y apoyo a la ejecución

ESTATUAS

Artículo IX, B. Seguridad Escolar

1. Se designará una Comisión de Apoyo en el Nivel Central, un Concilio de Apoyo en los distritos escolares, y un Comité de Seguridad Escolar en las escuelas, según aparece en el Manual para el Apoyo de la Seguridad Escolar.

Créditos de financiación

No hay leyes pertinentes.

Otros/Sin Categoría

Inmunidad o responsabilidad profesional

ESTATUAS

Artículo 3.08c.-El Estudiante: Ambiente de la Escuela - presentación de informes sobre incidentes de hostigamiento e intimidación.

Según los procesos dispuestos y adoptados por el Secretario en coordinación con los Consejos Escolares, en el Reglamento de Estudiantes para el Sistema de Educación Pública, todo estudiante, personal o voluntario de las escuelas públicas que someta un informe realizado de buena fe, que contenga algún relato sobre la incidencia de hostigamiento e intimidación, a alguno de los estudiantes, por parte de un abusador ("bully"), estará protegido de cualquier acción en daños o represalia que surja como consecuencia de reportar dicho incidente.

Participación de la comunidad

No hay leyes pertinentes.

Otros/Sin categoría

ESTATUAS

Artículo IX, G Infracciones y Medidas Correctivas o Disciplinarias

5.a.2) Faltas contra la propiedad

a) Uso indebido de la propiedad del Departamento de Educación – incurrirá en violación a esta falta todo aquel estudiante que utilice un bien perteneciente al Departamento de Educación de una forma distinta a la que el mismo está destinado… De mediar circunstancias agravantes, se podrá aumentar a suspensión por término definido.

b) Mutilar o alterar cualquier documento oficial de la escuela incurrirá en violación de esta falta todo aquel estudiante que voluntariamente, entre otras cosas: altere, corte, desgarre, queme, borre, manche o ensucie algún documento oficial de la escuela, pero sin destruirlo totalmente... De mediar circunstancias agravantes, se podrá aumentar a suspensión por término definido y se le podrá ordenar el reponer, reparar, restituir o pagar de ser posible y necesario el documento que dañe.

c) Uso indebido de Internet en la escuela- incurrirá en violación a esta falta todo aquel estudiante que utilice Internet en la escuela con el propósito de:

(1) alterar, dañar o destruir el equipo tecnológico o los archivos de la computadora; o

(2) acceder, imprimir o enviar material con contenido obsceno, inmoral, amenazante o racista; o para el cual no está autorizado; o

(3) hacer uso del logo oficial de la Escuela o del Departamento de Educación sin autorización en comunicaciones electrónicas…De mediar circunstancias agravantes, la sanción se aumentará a suspensión por un término de seis (6) a quince (15) días lectivos y se le podrá ordenar el reponer, reparar, restituir o pagar cualquier bien mueble que dañe o destruya.

d) Apropiación ilegal de bienes de otros o del Departamento de Educación – incurrirá en esta falta, todo estudiante que ilegalmente sustrajere bienes muebles, pertenecientes al Departamento de Educación, a otras personas de la comunidad escolar o visitantes.

e) Vandalismo – incurrirá en violación de esta falta todo aquel estudiante que intencionalmente cause grave daño a la propiedad del Departamento de Educación o de cualquier persona en la escuela o en actividades auspiciadas por la escuela o al medio de transporte escolar

5.a. 4) Faltas contra el Honor y la Honestidad

a) Difamación – incurrirá en violación a esta falta todo aquel estudiante que maliciosamente a través de cualquier medio, o de cualquier modo, públicamente deshonrare, o desacreditare, o imputare la comisión de un hecho constitutivo de delito o impugnare la honradez, integridad, virtud o buena fama de cualquier persona.

b) Cometer actos engañosos o fraudulentos en perjuicio de los intereses del proceso educativo – incurrirá en violación de esta falta todo aquel estudiante que voluntariamente:

(1) obtenga notas, grados académicos y otros documentos oficiales valiéndose de simulaciones falsas, engañosas o fraudulentas; o

(2) que hurte o copie o plagie contestaciones o trabajos de otros estudiantes; o

(3) que se haga pasar por otra persona mediante treta o engaño; o

(4) que induzca a otro a que tome un examen o prueba oral o escrita en su nombre.

c) Observar conducta inmoral – incurrirá en violación de esta falta aquel estudiante que voluntariamente realice actos, gestos, prácticas o que ostente símbolos que resulten ser hostiles al bienestar del público en general y contrarios a la moral, la armonía o el orden de la escuela; no se limita a cuestiones sexuales, pues puede incluir aquella conducta que conflige con la rectitud o que es indicativa de corrupción, indecencia, depravación; de actitud licenciosa o aquella conducta deliberada, flagrante y desvergonzada indicativa de indiferencia moral hacia la opinión de los miembros respetables de una comunidad; o la actitud desconsiderada con respecto al orden o al bienestar público.

Los Sitios Web Patrocinados por el Estado y Públicamente Disponibles, y Otros Recursos Sobre La Disciplina Escolar

Los entornos seguros y de apoyo usan las políticas y las prácticas disciplinarias que ayudan a los estudiantes se quedan fuera del sistema de justicia y también garantizan la participación y el éxito para todos los estudiantes. Estos recursos son proporcionados por Puerto Rico y proporcionan contexto adicional a las regulaciones de la política de estado. En algunos casos, estos recursos pueden apoyar los esfuerzos de los lectores para proporcionar un entorno escolar disciplinario positivo.

Título	Descripción	Dirección del sitio web (si es aplicable)
Sitios Web		
No hay recursos pertinentes		
Documentos		
No hay recursos pertinentes		
Otros Recursos		
No hay recursos pertinentes		

Puerto Rico Compilation of School Discipline Laws and Regulations

Prepared: August 12, 2013

Introduction

This compilation presents school discipline-related state statutes, school discipline-related regulations, and, where available, links to state-sponsored websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSLE). For example, one major category encompasses all state laws or regulations mandating specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of state legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in each state.

Discipline categories were not mutually exclusive. Statutes and regulations often appeared across multiple categories. For states with more extensive statutes covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. State laws, ordered by chapter and section number, appear first within each category followed by state regulations. All statutes and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists statutes by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to state-sponsored websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of May 2013, with the exception of the state laws related to seclusion and restraint, which are complete and current as of December 2012. Readers should also note that the information in this document was compiled from individual state sources that are created by each state and which are maintained and updated with varying frequencies. Readers should consult the source information provided for each state directly in order to check for updates to this state's laws and regulations or conduct further research.

For further information, including definitions of the different policy categories, please refer to the Discipline Laws and Regulations Compendium posted on the Center's website.

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Safe Supportive Learning
Engagement | Safety | Environment

Table of Contents

Puerto Rico State Codes Cited **1**

General Provisions **2**

Authority to develop and establish rules of conduct 2
Scope 3
Communication of policy 3

In-School Discipline **5**

Use of multi-tiered discipline approaches 5
Teacher authority to remove students from classrooms 5
Alternatives to suspension 5
Use of corporal punishment 6
Use of student and locker searches 6
Other in-school disciplinary approaches 6

Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements **7**

Grounds for possible suspension or expulsion 7
Grounds for mandatory suspension or expulsion 7
Limitations, conditions or exclusions for use of suspension and expulsion 8
Administrative procedures related to suspension and expulsion 8
In-school suspension 8
Return to school following removal 8
Use of restraint and seclusion 8
Alternative placements 9

Disciplinary Approaches Addressing Specific Infractions and Conditions **10**

Firearms (as required by the Guns-Free Schools Act) 10
Other weapons 10
Students with chronic disciplinary issues 11
Attendance and truancy 11
Substance use 11
Bullying, harassment, or hazing 11
Other special infractions or conditions 13

Prevention and Behavioral Interventions (Non-Punitive) **14**

Prevention 14
Behavioral interventions and student support services 14
Professional development 15

Monitoring and Accountability **16**

Formal incident reporting of conduct violations 16
Parental notification 17
Reporting and referrals between schools and law enforcement 17
Disclosure of school records 17
Data collection, review, and reporting of disciplinary policies and actions 17

School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers 18
Authority and power to implement school arrest 18
Certification or training 18
MOUs, authorization, and/or funding 18
State Education Agency Support 19
State model policies and implementation support 19
Funding appropriations 19
Other/Uncategorized 20
Professional immunity or liability 20
Community input or involvement 20
Other/Uncategorized 20
State-Sponsored, Publicly Available Websites or Other Resources on School Discipline 22

Puerto Rico State Codes Cited

Puerto Rico Revised Statutes

Puerto Rico Department of Education. (2004). General Regulations for Students of the Puerto Rico Public School System. Puerto Rico Government. Retrieved from http://www.de.gobierno.pr/reglamento-de-estudiantes.

Act No. 149 of 1999, Section 3.08, as amended and enacted June 30, 2009. The Student: School Environment. Retrieved from: http://www.stopbullying.gov/laws/puerto-rico.html.

Puerto Rico Administrative Code

No relevant regulations found.

General Provisions

Authority to develop and establish rules of conduct

STATUTES

Article IX, B School Safety

1. A committee will be appointed to support the Central level, a Council Support in school districts, and a School Safety Committee in schools, as stated in the Manual for School Safety Support.

2. The primary mission of these committees will be to implement an effective prevention plan to promote a safe environment conducive to learning. If requested by the school community the committees will offer seminars, workshops and other activities related to the prevention and processes, and laws that are carried out for decisions of disciplinary cases.

3. The school principal is responsible for recommending a School Safety Committee composed of school staff that supports students, one (1) student guardian, volunteer teachers with a maximum of three (3), security personnel, and one (1) student. This committee will work with the School Board.

4. The School Safety Committee will be chaired by the Principal, who will call a meeting when necessary.

5. The School Safety Committee will assist in prevention efforts and order, pursuant to the provisions for the purpose established by the Department of Education.

Section 3.08. - The Student: School Environment.

The Secretary shall promulgate Student Regulations for the Public Education System. The School Boards shall also adopt complementary regulations for their schools. These regulations shall specify the rights and obligations of the students, the standards of behavior in the schools and shall establish the corresponding sanctions for their infraction. The regulations that are promulgated by the Secretary, as well as those adopted by the school boards, shall recognize the right of the students to their personal safety, free from harassment and bullying; to study in a wholesome environment; to privacy and personal dignity; to promote the development of student organizations; to a fair evaluation of their academic work; to a careful custody of the documents related to their academic history and student life; to select their trade or profession freely; to receive vocational guidance services or other specialized services; to an education that shall allow them to continue their higher education or provide access to the job market in and outside of Puerto Rico; and to organize and participate in the activities of their schools.

The regulations shall also recognize the students' obligation to attend school; to comply with their school assignments; to be honest; to help their fellow students; to respect the physical and moral integrity of their teachers and fellow students; to render services to their school and the community in case of an emergency; and to respect the other students right to study.

Section 3.08a.- The Student: School Environment. – Public policy for the prevention of harassment and bullying of students.

The Secretary shall promulgate within the Students Regulations for the Public Education System an energetic public policy on the prohibition and prevention of acts of harassment and bullying of students within the school building or grounds or areas surrounding them, in activities sponsored by schools and in school buses.

The Student Regulations for the Public Education System shall include within its text, the following definition of the act of harassing and bullying. This act shall be defined as any action carried out intentionally, by means of a gesture, whether verbal, written or physical, that has the effect of frightening

students and that interferes with their education, their academic opportunities and their performance in the classroom.

For the purposes of this Act, in general terms said act must be continuous in order for it to be considered harassment and bullying. However, a single event could be considered harassment and bullying due to the severity of the same, as provided by the Secretary through regulation and adopted by the School Boards, upon consultation with the parents of students associations.

All the above stated shall be considered within the perspective of what a reasonable person would deem to be a noxious or risky situation for students or their property. With respect to the conduct of the bully, it shall be examined within the abovementioned perspective. The pertinent authorities shall take into consideration the severity, persistence or continuity of the actions within this conceptual framework as well as the consequences thereof upon creating an environment of harassment and bullying for the affected student or students.

Likewise, within the abovementioned Regulation the following shall be established: the prohibition of harassment and bullying acts; what shall constitute the act or conduct of harassment and bullying; the methods for reporting incidents of harassment or bullying; the process to be established to process these cases; and the consequences for the students who violate these norms.

The Secretary, through the authorized personnel, shall remit a copy of these regulations and of the code of conduct for students to all students of the Public Education System. The Secretary is authorized to make these documents available to all private schools in Puerto Rico that wish to establish said public policy within their educational institution.

The School Boards, in coordination with the student's parent associations shall adopt complementary regulations to implement the public policy on harassment and bullying of students established by the Secretary in their schools.

Section 3.08b.- The Student: School Environment. – Establishment of a code of conduct for students.

The Secretary shall adopt, within the Student Regulations for the Public Education System, a code of conduct for its students, which shall be in harmony with the norms, rules and public policy established in Section 3.08a of this Act.

Scope

STATUTES

Article IX, C. Institutional Order

1. Members of the school community and public order officers will be responsible for institutional order on school grounds, within one hundred (100) meters of the school, and in activities organized by the school, as established by this regulation. They will assure the development of the best relationships in the school and will make the maximum effort to create an environment favorable to the development of responsibility, cooperation, and good school discipline.

Communication of policy

STATUTES

Article X. Responsibility of the School Community

B. At the beginning of each school year, the student and his guardian, in the case of students under twenty-one (21) years of age and not emancipated, will sign a document in which they agree to comply

with the rules laid down in this Regulation. Students over 21 years of age will sign the document themselves.

Section 3.08a.- The Student: School Environment. – Public policy for the prevention of harassment and bullying of students.

The Secretary, through the authorized personnel, shall remit a copy of these regulations and of the code of conduct for students to all students of the Public Education System. The Secretary is authorized to make these documents available to all private schools in Puerto Rico that wish to establish said public policy within their educational institution.

In-School Discipline

Use of multi-tiered discipline approaches

STATUTES

Article IX, A. Concepts

5. The educational process prefers persuasion, encouragement and positive motivation before resorting to the disciplinary process.

6. The disciplinary process must be gradual, preventive, rehabilitative, educational; fair and reasonable, respecting the rights of the whole school community. Furthermore, in order to help students,

first we must be attentive to less serious offenses that violate the laws, regulations, standards and guidelines, thereby avoiding having to address more serious situations in the future.

Article IX, D. Mediation as an Alternative Tool to Resolve Conflicts

1. Concepts

a. The purpose of this method is to encourage the development and use of mediation as a means of conflict resolution as an alternative to disciplinary proceedings.

b. This intervention is a process, not adjudicative, in which a mediator assists the parties in conflict to reach an agreement that is mutually acceptable.

c. In mediation, the parties have the power to decide whether or not to undergo the process, so it will be voluntary.

Teacher authority to remove students from classrooms

STATUTES

No relevant statutes found.

Alternatives to suspension

STATUTES

Article IX, A. Concepts

5. The educational process prefers persuasion, encouragement and positive motivation before going to the disciplinary process.

Article IX, G. Infractions and Corrective or Disciplinary Measures

4. Corrective Plans and Special Conditions

d. The Secretary or his/her authorized representative may require, as a condition for a student not to be suspended, removed or expelled after the application of a formal complaints procedure, for the student to enter a rehabilitation process where he/she receives treatment from psychologists, social workers, counselors or any other person or entity who can help in their rehabilitation process.

Use of corporal punishment

STATUTES

Article IX, G. Infractions and Corrective or Disciplinary Measures

1. Concepts

d. Corporal punishment is prohibited. Reasonable force will only be justified when it is essential to prevent bodily harm to others or to the offending student himself, as well as to avoid damages to student property. In these cases you will need to call the police, policeman, school security officer or other public official so that he may proceed to engage in corresponding charges.

Use of student and locker searches

No relevant statutes found.

Other in-school disciplinary approaches

No relevant statutes found.

Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements

Grounds for possible suspension or expulsion

STATUTES

Article IX, F. Rules and Procedures for Filing Complaints and Implementation of Corrective Actions

2. b. 1) Concepts

a) This process can only be used by the Principal when:

(1) he knows that student performance is out of compliance with Class II or Class III in accordance with the Children Act, or if the student is to be tried as an adult or is involved in an act that is establishing serious criminal offense, or

(2) when the Principal has grounds to believe that a student may be an actual or imminent harm to another student or other persons or school property.

Article IX, G. Infractions and Corrective or Disciplinary Measures

3. a) Corrective or Disciplinary Methods for Informal Complaints

The Principal shall have power to impose the following corrective or disciplinary measures:

5) Suspension of one (1) to fifteen (15) school days.

3.b) Corrective or Disciplinary Methods for Formal Complaints

The Secretary of Education, or his authorized representative, shall have power to impose any disciplinary or corrective measures for which the Principal is authorized, plus those described below:

4) Expulsion - permanent separation of the Public Education System.

5. a. 3. Misbehavior Against Institutional Order

a. *Impeding or limiting other students from completing their homework*- all students who obstruct or impede other students from doing their school work will incur this violation

c. *Challenge Authority* – a student is in violation if they disobey a directive or direct order for lawful purposes and that has been issued by a person with authority to do so.

j. Mutiny – It is a violation when two or more students working together, without legal authorization, make use of force and violence to disturb the institutional peace or threaten to use force or violence accompanied by the ability to do it.

5. a. 5. Corporal Offense

a. *Assault*- Assault - anyone who employs force or violence against another person to do harm.

b. *Mutilation* - any student who illegally and maliciously deprives or disables and disfigures a person or a body part.

Grounds for mandatory suspension or expulsion

No relevant statutes found.

Limitations, conditions or exclusions for use of suspension and expulsion

STATUTES

Article IX, G. Infractions and Corrective or Disciplinary Measures

2) Provisional Methods that May be Utilized Before Imposing Disciplinary Methods

a. Short Suspension: The Principal may use this measure when circumstances are deemed appropriate for filing grievances. In which case, it shall comply strictly with the provisions of this Article stated in the section on the formal complaints procedure.

3) Corrective or Disciplinary Methods

b. The Secretary of Education, or his authorized representative, shall have power to impose any disciplinary or corrective measures for which the Principal is authorized, plus those described below:

1) Suspension for a period longer than fifteen (15) school days.
2) Suspension conditional until the student complies with its obligations under the circumstances imposed by the Secretary.
3) Permanently transfer student to a different school, district, or alternative school.
4) Expulsion - permanent separation of the Public Education System.

For serious circumstances it may increase to a defined term suspension.

Administrative procedures related to suspension and expulsion

STATUTES

Article IX, F. Rules and Procedures for Filing Complaints and Implementation of Corrective Actions

2. b. 1) Concepts

b. Before making any decision effective, the Principal must immediately communicate with the Legal Division of the Department of Education's Central Level to make a consultation in regards to the formal complaint.

2. b. 2) Procedure for Formal Complaints

b. The Principal must communicate with the student and charge him with suspension in writing. Notwithstanding the foregoing, the Principal will be responsible for providing educational alternatives for students to not fall behind in the learning process.

In-school suspension

No relevant statutes found.

Return to school following removal

No relevant statutes found.

Use of restraint and seclusion

No relevant statutes found.

Alternative placements

STATUTES

Article IX, G. Infractions and Corrective or Disciplinary Measures

2) Provisional Methods that may be utilized before Disciplinary Measures

b. *Preventive transfer from one group to another within the same school*: The Principal may use this resource for a short period of time, when a student's stay with your group is deemed an imminent danger, immediately initiating regular procedure for informal complaints described in Section F of this Article.

Disciplinary Approaches Addressing Specific Infractions and Conditions

Firearms (as required by the Guns-Free Schools Act)

STATUTES

Article IX, G Infractions and Corrective or Disciplinary Measures

5.a.3) Offenses Against the Institutional Order .

i) *Alteration to Peace* - any student who voluntarily conducts any of the following acts:

(3) carry, remove, or display any weapon, firearm, or object intended to attack that could cause harm to others or school property. It will be aggravated if done violently, angry or threatening.

If found to have committed this offense, the student is liable to a suspension for a period not exceeding six (6) to ten (10) school days. Given extenuating circumstances, the sanction could be reduced to a suspension for a period of one (1) to five (5) days. If circumstances are aggravated, the sanction may be increased to a suspension period of eleven (11) to fifteen (15) school days.

(4) A student is in violation of the rules if they voluntarily use or threaten with a knife, fire, or object intended to attack or defend that could cause harm to others or school property. Student is deemed an aggressor if it is done in violent behavior, angry or threatening manner [...] If found to have committed this offense the student is liable for suspension of a period not exceeding six (6) to ten (10) school days. Given extenuating circumstances, the sanction could be reduced to a suspension for a period of one (1) to five (5) days. If aggravating circumstances, the sanction may be increased to suspension for a period of eleven (11) to fifteen (15) school days.

l) Possessing introducing, transporting, selling, exchanging, giving away or distributing weapons, fire, materials, equipment or articles intended to attack, for defense, or cause damage – a student guilty of this violations is one who possesses, enters, transports, sells, trades, gives away or distributes weapons, fire, materials, equipment or articles intended to attack or for defense, which includes, but not limited to guns, "pellet" guns, paintball guns, brass knuckles, exaggerated chains or necklaces on school grounds, a hundred meters around the school, school activities, at any branch of the Department of Education or the means of transportation provided by the Department of Education.

Other weapons

STATUTES

Article IX, G Infractions and Corrective or Disciplinary Measures

5.a.3) Offenses Against the Institutional Order.

i)

(4) A student is in violation of the rules if they voluntarily use or threaten with a knife, fire, or object intended to attack or defend that could cause harm to others or school property. Student is deemed an aggressor if it is done in violent behavior, angry or threatening manner

If found to have committed this offense the student is liable for suspension of a period not exceeding six (6) to ten (10) school days. Given extenuating circumstances, the sanction could be reduced to a

suspension for a period of one (1) to five (5) days. If aggravating circumstances, the sanction may be increased to suspension for a period of eleven (11) to fifteen (15) school days.

Students with chronic disciplinary issues

No relevant statutes found.

Attendance and truancy

STATUTES

Article IX, G. Infractions and Corrective or Disciplinary Measures

5. a.1) Offenses against the Duties and Responsibilities of Students

a) *Pattern-truancy* is considered when any student fails to report to school or school activities without good cause provided in writing from his guardian. It is to be considered an aggravating circumstance if it occurs more than three consecutive times during the school year. If a student is found to have committed this offense they are liable for a written reprimand. Given any extenuating circumstances, the sanction may be reduced to a verbal warning. If aggravating circumstances, the sanction may be increased to suspension defined term.

Substance use

STATUTES

Article IV. Student Duties and Obligations

I. Norms

6. It is prohibited for students to possess, transport, carry, or use knives, guns, explosives, sharp objects, any object meant to attack or defend oneself, including but not limited to “pellet” guns, paintball guns, brass knuckles, exaggerated chains or necklaces, drugs, alcoholic beverages, cigarettes, pipes, tobacco, CDs or cassettes with obscene content, or any object or substance prohibited or illegal within school grounds. The student should know that if there are grounds to believe that he or any other student is carrying any of these, he will be searched followed the establish procedure in Article IX, section E.

Bullying, harassment, or hazing

STATUTES

Section 3.08. - The Student: School Environment.

The Secretary shall promulgate Student Regulations for the Public Education System. The School Boards shall also adopt complementary regulations for their schools. These regulations shall specify the rights and obligations of the students, the standards of behavior in the schools and shall establish the corresponding sanctions for their infraction. The regulations that are promulgated by the Secretary, as well as those adopted by the school boards, shall recognize the right of the students to their personal safety, free from harassment and bullying; to study in a wholesome environment; to privacy and personal dignity; to promote the development of student organizations; to a fair evaluation of their academic work; to a careful custody of the documents related to their academic history and student life; to select their trade or profession freely; to receive vocational guidance services or other specialized services; to an

education that shall allow them to continue their higher education or provide access to the job market in and outside of Puerto Rico; and to organize and participate in the activities of their schools.

The regulations shall also recognize the students' obligation to attend school; to comply with their school assignments; to be honest; to help their fellow students; to respect the physical and moral integrity of their teachers and fellow students; to render services to their school and the community in case of an emergency; and to respect the other students right to study.

Section 3.08a.- The Student: School Environment. – Public policy for the prevention of harassment and bullying of students.

The Secretary shall promulgate within the Students Regulations for the Public Education System an energetic public policy on the prohibition and prevention of acts of harassment and bullying of students within the school building or grounds or areas surrounding them, in activities sponsored by schools and in school buses.

The Student Regulations for the Public Education System shall include within its text, the following definition of the act of harassing and bullying. This act shall be defined as any action carried out intentionally, by means of a gesture, whether verbal, written or physical, that has the effect of frightening students and that interferes with their education, their academic opportunities and their performance in the classroom.

For the purposes of this Act, in general terms said act must be continuous in order for it to be considered harassment and bullying. However, a single event could be considered harassment and bullying due to the severity of the same, as provided by the Secretary through regulation and adopted by the School Boards, upon consultation with the parents of students associations.

All the above stated shall be considered within the perspective of what a reasonable person would deem to be a noxious or risky situation for students or their property. With respect to the conduct of the bully, it shall be examined within the abovementioned perspective. The pertinent authorities shall take into consideration the severity, persistence or continuity of the actions within this conceptual framework as well as the consequences thereof upon creating an environment of harassment and bullying for the affected student or students.

Likewise, within the abovementioned Regulation the following shall be established: the prohibition of harassment and bullying acts; what shall constitute the act or conduct of harassment and bullying; the methods for reporting incidents of harassment or bullying; the process to be established to process these cases; and the consequences for the students who violate these norms.

The Secretary, through the authorized personnel, shall remit a copy of these regulations and of the code of conduct for students to all students of the Public Education System. The Secretary is authorized to make these documents available to all private schools in Puerto Rico that wish to establish said public policy within their educational institution.

The School Boards, in coordination with the student's parent associations shall adopt complementary regulations to implement the public policy on harassment and bullying of students established by the Secretary in their schools.

Section 3.08b.- The Student: School Environment. – Establishment of a code of conduct for students.

The Secretary shall adopt, within the Student Regulations for the Public Education System, a code of conduct for its students, which shall be in harmony with the norms, rules and public policy established in Section 3.08a of this Act.

Section 3.08c.- The Student: School Environment. – Presentation of reports on harassment and bullying incidents.

Pursuant to the procedures provided and adopted by the Secretary in coordination with the School Boards in the Student Regulations for the Public Education System, all students, personnel or volunteers in public schools who submit a report in good faith containing information regarding an incident involving the harassment and bullying of a student by a bully, shall be protected against any action for damages or retaliation that should arise as consequence of reporting said incident.

Section 3.08d.- The Student: School Environment. – Programs, activities, training workshops, awareness and counseling regarding harassment and bullying among students.

The Secretary, in coordination with the School Directors and the School Boards, shall provide the public school employees and students the opportunity to participate in programs, activities and training workshops designed and developed to be educated and acquire the tools for the public policy established in Section 3.08a of this Act on harassment and bullying among students or the school personnel.

The social workers and school counselors shall likewise be responsible for orienting students on the problem of harassment and bullying and shall provide counseling to victims of the conduct as well as to the bullies.

Section 3.08e- The Student: School Environment.–Annual remittance of incident report to the Legislature.

The Secretary shall remit an annual report to the Legislature on incidents involving harassment or bullying, if any, within the public education system and the actions taken with respect to the same not later than July 1 of each year."

Section 2.- The Secretary shall have a term of ninety (90) days as of the approval of this Act, to amend the Student Regulations for the Public Education System and to promulgate the code of conduct for students, in accordance with the public policy established in Section 3.08a of this Act.

Section 3.- This Act shall take effect immediately after its approval, however, the effectiveness thereof shall be enforced upon the approval by the Secretary of the Student Regulations for the Public Education System and the promulgation of the code of conduct for students , as established in Section 2 of this Act.

Other special infractions or conditions

No relevant statutes found.

Prevention and Behavioral Interventions (Non-Punitive)

Prevention

STATUTES

Article IX, A. Concepts

6. The disciplinary process should be gradual, preventive, rehabilitative, educative, fair and reasonable, respecting the rights of the whole school community.

7. The primary grades will establish and emphasize common rules and standards, wholesome discipline, and self-control to improve school behavior of students at the secondary level. These rules and regulations will be in tune with the student's developmental stages. School Social Workers and School Counselors work with teachers to effectively run the process.

Article IX, C. Institutional Order

1. Members of the school community and public order officers […] will endeavor to establish good relationships in school and will make every effort to achieve an environment conducive to the development of habits of responsibility, cooperation, and good school discipline.

Section 3.08d.- The Student: School Environment. – Programs, activities, training workshops, awareness and counseling regarding harassment and bullying among students.

The Secretary, in coordination with the School Directors and the School Boards, shall provide the public school employees and students the opportunity to participate in programs, activities and training workshops designed and developed to be educated and acquire the tools for the public policy established in Section 3.08a of this Act on harassment and bullying among students or the school personnel.

The social workers and school counselors shall likewise be responsible for orienting students on the problem of harassment and bullying and shall provide counseling to victims of the conduct as well as to the bullies.

Behavioral interventions and student support services

STATUTES

Article IX, C. Institutional Order

3. The teacher will be responsible for institutional order and fostering good student discipline. They must refer a student discipline issue to the Director of School Discipline, with evidence of interventions implemented, after it has exhausted all available resources such as, but not limited to: interviews with the student, with the guardian, with the interdisciplinary team or have referred the student to the classroom teacher, School Social Worker or School Counselor.

Professional development

STATUTES

Section 3.08d.- The Student: School Environment. – Programs, activities, training workshops, awareness and counseling regarding harassment and bullying among students.

The Secretary, in coordination with the School Directors and the School Boards, shall provide the public school employees and students the opportunity to participate in programs, activities and training workshops designed and developed to be educated and acquire the tools for the public policy established in Section 3.08a of this Act on harassment and bullying among students or the school personnel. […]

Monitoring and Accountability

Formal incident reporting of conduct violations

STATUTES

Article IX, C. Institutional Order

2. Any member of the School Community shall inform the Director of any student or school-related persons' behavior that involves a possible violation of law, rules, school rules or guidelines, either by personal knowledge of the facts or information obtained. This applies to behavior occurring on school campus, one hundred (100) feet around, school-sponsored activities, in any branch of the Department of Education, and on school transportation.

3. The teacher will be responsible for institutional climate and fostering good student discipline. They will refer discipline issues to the Director of School Discipline, with all the evidence of interventions implemented, after it has exhausted all available resources such as, but not limited to: interviews with the student, with the guardian, with the interdisciplinary team or have referred the student to the classroom teacher, School Social Worker or School Counselor. After having evaluated the disciplinary situation, the Principal will determine those cases which it considers require immediate intervention or the Safety Committee.

Article IX, F. Rules and Procedures for Filing Complaints and Implementation of Corrective Actions

1) Concepts:

a. Complaints are any claim alleging that a student of the Public Education System has violated the rules and/or duties that are imposed by the laws, regulations of the Public Education Department of Puerto Rico.

b. Anyone with knowledge of a student's violation has standing to file a complaint.

c. Complaints to be addressed through the procedure provided for in this Article shall be classified in informal and formal complaints. Informal complaints will be handled in school by the Principal. Grievances will be settled through an evidentiary hearing, chaired by an Examiner appointed by the Secretary, the process is carried out in the Legal Division of the Department of Education.

d. Disciplinary procedures applicable to special education students shall be governed by the provisions of the Manual of Procedures for Special Education.

e. You can only discipline a student belonging to the Special Education Program through the procedure provided for in this Regulation, if the Committee of Planning and Placement Team (PPT) has determined, pursuant to the process set forth in the Procedures Manual for Special Education that the student's conduct is not related to their condition.

f. To discontinue the complaint process the parties concerned must show that they have no interest in the process.

Parental notification

STATUTES

Article IX, F. Rules and Procedures for Filing Complaints and Implementation of Corrective Actions

2. B. 2) Procedures for Formal Complaints

a. The School Director must communicate with the student and his guardian regarding summarily suspending in print.

Reporting and referrals between schools and law enforcement

STATUTES

Article IX, F. Rules and Procedures for Filing Complaints and Implementation of Corrective Actions

2. B. 2) Procedures for Formal Complaints

a. The School Director will inform the police as soon as possible, of acts, witnesses and persons involved in the criminal offense or crime.

Disclosure of school records

No relevant statutes found.

Data collection, review, and reporting of disciplinary policies and actions

STATUTES

Section 3.08e- The Student: School Environment.–Annual remittance of incident report to the Legislature.

The Secretary shall remit an annual report to the Legislature on incidents involving harassment or bullying, if any, within the public education system and the actions taken with respect to the same not later than July 1 of each year."

Section 2.- The Secretary shall have a term of ninety (90) days as of the approval of this Act, to amend the Student Regulations for the Public Education System and to promulgate the code of conduct for students, in accordance with the public policy established in Section 3.08a of this Act.

Section 3.- This Act shall take effect immediately after its approval, however, the effectiveness thereof shall be enforced upon the approval by the Secretary of the Student Regulations for the Public Education System and the promulgation of the code of conduct for students , as established in Section 2 of this Act.

School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers

Authority and power to implement school arrest

STATUTES

Article IX, G. Infractions and Corrective or Disciplinary Measures

1. Concepts

d. Corporal punishment is prohibited. Reasonable force will only be justified when it is essential to prevent bodily harm to others or to the offending student himself, as well as to avoid damages to student property. In these cases you will need to call the police, policeman, school security officer or other public official so that he may proceed to engage in corresponding charges.

Certification or training

No relevant statutes found.

MOUs, authorization, and/or funding

No relevant statutes found.

State Education Agency Support

State model policies and implementation support

STATUTES

Article IX, B. School Security

1. Appoint a Commission of Support for the Central level, a Council Support in school districts, and School Safety Committee in schools, as shown in the Manual for School Safety Support.

Funding appropriations

No relevant statutes found.

Other/Uncategorized

Professional immunity or liability

STATUTES

Section 3.08c.- The Student: School Environment. – Presentation of reports on harassment and bullying incidents.

Pursuant to the procedures provided and adopted by the Secretary in coordination with the School Boards in the Student Regulations for the Public Education System, all students, personnel or volunteers in public schools who submit a report in good faith containing information regarding an incident involving the harassment and bullying of a student by a bully, shall be protected against any action for damages or retaliation that should arise as consequence of reporting said incident.

Community input or involvement

No relevant statutes found.

Other/Uncategorized

STATUTES

Article IX, G Infractions and Corrective or Disciplinary Measures

5.a.2) Offenses against Property

a) Misuse Department of Education property – a student is guilty of violation if the Department of Education property is used in a manner other than that which it is intended ... if this is an aggravating circumstance, suspensions may be applied and increased. .

b) Shredding or altering any official school document is in violation if any student voluntarily, among other things: alters, cuts, tears, burns, erases, stains or dirties any school official document, but without destroying it completely. ... In aggravating circumstances, a suspension may be increased by the defined term and he may order the replacement, repair, restoration or payment to be possible and necessary for document damage.

c) Misuse of Internet in school- student is in violation if the Internet is used at school for the purpose of:

(1) altering, damaging or destroying the technological equipment or computer files, or

(2) accessing, printing or sending obscene, profane, threatening, or racist, or which is not authorized, material, or

(3) use of the official logo of the School Education Department or unauthorized electronic communications ... in aggravating circumstances, the sanction will be increased to suspension for a period of six (6) to fifteen (15) school days and you may order them to replace, repair, restore or pay for any moveable property damaged or destroyed.

d) Illegal appropriation of property of others or the Department of Education – one is guilty if any student illegally obtains property belonging to the Department of Education, others in the school community, or visitors.

e) Vandalism - guilty of violation is any student who intentionally causes serious damage to the property of the Department of Education or of anyone at school or at school-sponsored activities or transportation to school.

5.a.4) Offenses against Honor and Honesty

a) Defamation – any student guilty of violation, by any means maliciously, or who in any way publicly defiles, or discredits, or is suspected of having committed an illegal act or disputes the honesty, integrity, virtue or reputation of any person.

b) Engaging in misleading or deceptive activity to the detriment of the educational process - guilty of this violation is any student who voluntarily:

(1) obtains grades, degrees and other official documents that are simulations using false, deceptive or fraudulent means or

(2) steals or copies or plagiarizes answers or work of other students, or

(3) impersonates another person through trickery or deceit, or

(4) that induces another to take an examination (oral or written) on its behalf.

c) Observations of immoral behavior: Incurred in violation is the student who voluntarily engages in acts, gestures, symbols or practices that are hostile to the welfare of the general public and contrary to morality, harmony or order of the school; this is not limited to issues of sexual acts, it may include conduct that conflicts with what is right or indicative of corruption, indecency, depravity; lawless attitude or one that is deliberate, blatant and shameless, indicative of moral indifference towards the opinions of respected members of a community, or inconsiderate attitude regarding the order or public welfare.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by Puerto Rico provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
Website		
No relevant resources found		
Documents		
No relevant resources found		
Other Resources		
No relevant resources found		

Rhode Island Compilation of School Discipline Laws and Regulations

Prepared: August 12, 2013

Introduction

This compilation presents school discipline-related state statutes, school discipline-related regulations, and, where available, links to state-sponsored websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSLE). For example, one major category encompasses all state laws or regulations mandating specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of state legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in each state.

Discipline categories were not mutually exclusive. Statutes and regulations often appeared across multiple categories. For states with more extensive statutes covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. State laws, ordered by chapter and section number, appear first within each category followed by state regulations. All statutes and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists statutes by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to state-sponsored websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of May 2013, with the exception of the state laws related to seclusion and restraint, which are complete and current as of December 2012. Readers should also note that the information in this document was compiled from individual state sources that are created by each state and which are maintained and updated with varying frequencies. Readers should consult the source information provided for each state directly in order to check for updates to this state's laws and regulations or conduct further research.

For further information, including definitions of the different policy categories, please refer to the Discipline Laws and Regulations Compendium posted on the Center's website.

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Safe Supportive Learning
Engagement | Safety | Environment

Table of Contents

Rhode Island State Codes Cited **1**

General Provisions **3**

Authority to develop and establish rules of conduct 3
Scope 5
Communication of policy 5

In-School Discipline **7**

Use of multi-tiered discipline approaches 7
Teacher authority to remove students from classrooms 7
Alternatives to suspension 7
Use of corporal punishment 8
Use of student and locker searches 8
Other in-school disciplinary approaches 8

Out-of-School and Exclusionary Discipline: Suspension, Expulsion, Restraint and Seclusion, and Alternative Placements **9**

Grounds for possible suspension or expulsion 9
Grounds for mandatory suspension or expulsion 10
Limitations, conditions, or exclusions for use of suspension and expulsion 10
Administrative procedures related to suspension and expulsion 11
In-school suspension 11
Return to school following removal 11
Use of restraint and seclusion 12
Alternative placements 19

Disciplinary Approaches Addressing Specific Infractions and Conditions **21**

Firearms (as required by the Guns-Free Schools Act) 21
Other weapons 22
Students with chronic disciplinary issues 22
Attendance and truancy 23
Substance use 24
Bullying, harassment, or hazing 24
Other special infractions or conditions 26

Prevention and Behavioral Interventions (Non-Punitive) **28**

Prevention 28
Behavioral interventions and student support services 29
Professional development 31

Monitoring and Accountability **33**

Formal incident reporting of conduct violations 33
Parental notification 34
Reporting and referrals between schools and law enforcement 37
Disclosure of school records 40
Data collection, review, and reporting of disciplinary policies and actions 41

Student Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers 42
Authority and power to implement school arrest 42
Certification or training 42
MOUs, authorization, and/or funding 43
State Education Agency Support 44
State model policies and implementation support 44
Funding appropriations 47
Other/Uncategorized 48
Professional immunity or liability 48
Community input or involvement 48
Other/Uncategorized 49
State-Sponsored, Publicly Available Websites or Other Resources on School Discipline 52

Rhode Island State Codes Cited

Rhode Island Revised Statutes

Title 11. Criminal Offenses

Chapter 11-47. Weapons

11-47-60. Possession of firearms on school grounds
11-47-60.2. Possession of weapons on school grounds – Notification

Title 16. Education

Chapter 16-2. School Committees and Superintendents

16-2-17. Right to a safe school

Chapter 16-12. Right and Duties of Teachers Generally

16-12-10. Immunity for reports of suspected substance abuse

Chapter 16-19. Compulsory Attendance

16-19-1. Attendance required
16-19-10. Notification of pupil absence

Chapter 16-21. Health and Safety of Pupils

16-21-16. Students suspected of narcotic addiction
16-21-18. Students prohibited from bringing or possessing firearms on school premises
16-21-19. Special rules for students with disabilities bringing firearms to school
16-21-20. Alternative placement and prevention activities
16-21-21. Student discipline codes
16-21-21.1. Penalties for drug, alcohol or weapons offenses
16-21-24. Requirements of school safety plans, school emergency response plans, and school crisis response plans
16-21-27. Alternative education programs
16-21-30. Dating violence policy
16-21-33. Safe schools act
16-21-34. Statewide bullying policy implemented

Chapter 16-21.2. The Rhode Island Substance Abuse Prevention Act

16-21.2-1. Short title
16-21.2-2. Declaration of purpose
16-21.2-3. Authority of municipal governments
16-21.2-11. Devices prohibited

Chapter 16-21.3. The Rhode Island Student Assistance Junior High/Middle School Act

16-21.3-1. Declaration of purpose

Chapter 16-21.5. Student Interrogations

16-21.5-1. Legislative intent
16-21.5-2. Procedure for interrogating elementary students
16-21.5-3. Procedure for interrogating high school students
16-21.5-4. Student interrogations under exigent circumstances

Chapter 16-60. Board of Regents for Elementary and Secondary Education

16-60-4. Board of regents for elementary and secondary education -- Powers and duties

Chapter 16-77. Establishment of Charter Public Schools

16-77-6.1. Additional standards

Rhode Island Administrative Code

08-000-020. Statewide bullying policy
08-010-002. Education of children with disabilities
08-010-013. Physical restraint
08-010-025. Basic education program

General Provisions

Authority to develop and establish rules of conduct

STATUTES

§ 16-21-21. Student discipline codes

Each school committee shall make, maintain, and enforce a student discipline code. The purpose of the code is to foster a positive environment that promotes learning. The department of elementary and secondary education shall provide necessary technical assistance in the development of the student discipline code. The school committee shall cause the school discipline code to be distributed to each student enrolled in the district. Each student and his or her parent, guardian, or custodian shall sign a statement verifying that they have been given a copy of the student discipline code of their respective school district.

§ 16-2-17. Right to a safe school

(a) Each student, staff member, teacher, and administrator has a right to attend and/or work at a school which is safe and secure, and which is conducive to learning, and which is free from the threat, actual or implied, of physical harm by a disruptive student. A disruptive student is a person who is subject to compulsory school attendance who exhibits persistent conduct which substantially impedes the ability of other students to learn or otherwise substantially interferes with the rights stated above, and who has failed to respond to corrective and rehabilitative measures presented by staff, teachers, or administrators.

(b) The school committee, or a school principal as designated by the school committee, may suspend all pupils found guilty of this conduct or of violation of those school regulations which relate to the rights set forth in subsection (a), or where a student represents a threat to those rights of students, teachers or administrators, as described in subsection (a). Nothing in this section shall relieve the school committee or school principals from following all procedures required by state and federal law regarding discipline of students with disabilities.

(c) A student suspended under this section may appeal the action of the school committee, or a school principal as designee, to the commissioner of elementary and secondary education who, after notice to the parties interested of the time and place of hearing, shall examine and decide the appeal without cost to the parties involved. Any decision of the commissioner in these matters shall be subject to appeal by the student to the board of regents for elementary and secondary education and any decision of the board of regents may be appealed by the student to the family court for the county in which the school is located as provided in § 42-35-15.

ADMINISTRATIVE CODE

08 010 013 Physical Restraint

Section 2.0 Authority, Scope, Purpose and Construction

2.1 Authority. These regulations are promulgated by the Rhode Island Board of Regents for Elementary and Secondary Education pursuant to R.I.G.L. 16-60-4.

2.2 Scope. These regulations govern the use of physical restraint and crisis intervention on all students in publicly funded elementary and secondary education programs, including all Rhode Island public school districts and regional public school districts, all Rhode Island State Operated Schools, all Public Charter Schools, educational programs operated by the Department for Children Youth and Families, Educational

Collaborative Programs, and Local Educational Agencies operating a public education program; all of which shall hereafter be referred to as public education programs.

2.3 Purpose. The purpose of these regulations is to ensure that every student participating in a Rhode Island public education program be free from the unreasonable use of physical restraint and crisis intervention. Physical intervention, the use of manual or mechanical restraint or escort involving physical contact should only be used as a crisis intervention for the purpose of preventing harm or injury. The crisis intervention must not include procedures that intentionally cause pain, injury, trauma or humiliation. A physical restraint crisis intervention should not be used for the purpose of changing behavior in situations where no protection from harm or injury is needed. Only the least intrusive physical interaction needed to adequately protect the child or others shall be used and shall be terminated as soon as the need for protection has abated.

2.4 Construction. Nothing in these regulations shall be construed to limit the protection offered publicly funded students under other state or federal laws nor do these regulations preclude any teacher, employee or agent of a public education program from using reasonable force to protect students, other persons or themselves from imminent, serious, physical harm.

08 010 025. Basic Education Program G-14-2.1.4. Positive Behavioral Supports and Discipline

Each LEA shall ensure that schools promote a positive climate with emphasis on mutual respect, self-control, good attendance, order and organization, and proper security. Each LEA shall develop protocols that define a set of discipline strategies and constructs that ensure that students and adults make positive behavioral choices and that are conducive to a safe and nurturing environment that promotes academic success. Each LEA shall ensure that:

-- Schools engage in a participatory process (involving students and staff) to assess periodically the school climate and to adopt or develop strategies to improve conditions (see the Board of Regents Policy Statement on Student Rights);

-- Students and parents/guardians are notified of district and school rules related to conduct and shall receive regular instruction regarding these rules. In addition, parents/guardians, and students shall be provided with information about early warning signs of harassing and intimidating behaviors, such as bullying, as well as prevention and intervention strategies;

-- Schools provide a structure of incentives that adequately reward students for their efforts and achievements. Attention shall be given to rewarding a diversity of accomplishments and to broadening the availability of rewards;

-- Schools have a clearly delineated system for ensuring compulsory attendance for children six (6) to sixteen (16) that includes:

a) Procedures for noting daily absenteeism and investigating unexcused absences;

b) Procedures for noting the required period of attendance of students attending at- home instruction approved by the school committee or at a private day school approved by the Commissioner of Education; and

c) The appointment of truant (or attendance) officers whose duties shall include referring truant students to appropriate school support services and procedures for enforcing any given case through civil action filed in Family Court;

-- Disciplinary actions are fairly administered for all students and comply with state laws mandating that certain violations be considered on a case by case basis; recognizing that there is no mechanism in Rhode Island law for expulsion of students; and

-- Schools shall provide a continuum of interim alternative educational placement options to continue a student's education while suspended that ensure the safety of the student and the school community.

Scope

ADMINISTRATIVE CODE

08 010 013 Physical Restraint

2.2 Scope. These regulations govern the use of physical restraint and crisis intervention on all students in publicly funded elementary and secondary education programs, including all Rhode Island public school districts and regional public school districts, all Rhode Island State Operated Schools, all Public Charter Schools, educational programs operated by the Department for Children Youth and Families, Educational Collaborative Programs, and Local Educational Agencies operating a public education program; all of which shall hereafter be referred to as public education programs.

Communication of policy

STATUTES

§ 16-21-21. Student discipline codes

Each school committee shall make, maintain, and enforce a student discipline code. The purpose of the code is to foster a positive environment that promotes learning. The department of elementary and secondary education shall provide necessary technical assistance in the development of the student discipline code. The school committee shall cause the school discipline code to be distributed to each student enrolled in the district. Each student and his or her parent, guardian, or custodian shall sign a statement verifying that they have been given a copy of the student discipline code of their respective school district.

§ 16-21-34. Statewide bullying policy implemented

(a) The Rhode Island department of education shall prescribe by regulation a statewide bullying policy, ensuring a consistent and unified, statewide approach to the prohibition of bullying at school. The statewide policy shall apply to all schools that are approved for the purpose of § 16-9-1 and shall contain the following:

(12) Provisions for informing parents and guardians about the bullying policy of the school district or school shall include, but not be limited to:

(i) A link to the policy prominently posted on the home page of the school district's website and distributed annually to parents and guardians of students;

(ii) A provision for notification, within twenty-four (24) hours, of the incident report, to the parents or guardians of the victim of bullying and parents or guardians of the alleged perpetrator of the bullying;

ADMINISTRATIVE CODE

08 000 020. Statewide Bullying Policy

INTRODUCTION

This Statewide Bullying Policy is promulgated pursuant to the authority set forth in § 16-21-34 of the General Laws of Rhode Island. Known as the Safe School Act, the statute recognizes that the bullying of a student creates a climate of fear and disrespect that can seriously impair the student's health and negatively affect learning. Bullying undermines the safe learning environment that students need to achieve their full potential. The purpose of the Policy is to ensure a consistent and unified statewide approach to the prohibition of bullying at school.

…The school principal, director or head of school shall ensure that students, staff, volunteers, and parents/legal guardians are provided information regarding this Policy. This information shall include methods of discouraging and preventing this type of behavior, the procedure to file a complaint, and the disciplinary action that may be taken against those who commit acts in violation of this policy.

This policy shall be:

a. Distributed annually to students, staff, volunteers, and parents/legal guardians

b. Included in student codes of conduct, disciplinary policies, and student handbooks

c. A prominently posted link on the home page of the school/district website…

08 010 025. Basic Education Program G-14-2.1.4. Positive Behavioral Supports and Discipline

Each LEA shall ensure that schools promote a positive climate with emphasis on mutual respect, self-control, good attendance, order and organization, and proper security. Each LEA shall develop protocols that define a set of discipline strategies and constructs that ensure that students and adults make positive behavioral choices and that are conducive to a safe and nurturing environment that promotes academic success. Each LEA shall ensure that:

-- Schools engage in a participatory process (involving students and staff) to assess periodically the school climate and to adopt or develop strategies to improve conditions (see the Board of Regents Policy Statement on Student Rights);

-- Students and parents/guardians are notified of district and school rules related to conduct and shall receive regular instruction regarding these rules. In addition, parents/guardians, and students shall be provided with information about early warning signs of harassing and intimidating behaviors, such as bullying, as well as prevention and intervention strategies…

In-School Discipline

Use of multi-tiered discipline approaches

ADMINISTRATIVE CODE

08 000 020. Statewide Bullying Policy

Section 7. Disciplinary Action.

The disciplinary actions for violations of the bullying policy shall be determined by the school/district appropriate authority. Disciplinary actions for violations of the bullying policy shall balance the need for accountability with the need to teach appropriate behavior. The severity of the disciplinary action shall be aligned to the severity of the bullying behavior.

Teacher authority to remove students from classrooms

No relevant statutes found.

Alternatives to suspension

ADMINISTRATIVE CODE

08 000 020. Statewide Bullying Policy

Section 7. Disciplinary Action.

The disciplinary actions for violations of the bullying policy shall be determined by the school/district appropriate authority. Disciplinary actions for violations of the bullying policy shall balance the need for accountability with the need to teach appropriate behavior. The severity of the disciplinary action shall be aligned to the severity of the bullying behavior.

The range of disciplinary actions that may be taken against a perpetrator for bullying, cyberbullying or retaliation shall include, but not be limited to:

a. Admonitions and warnings

b. Parental/Guardian notification and meetings

c. Detention

d. In-school suspension

e. Loss of school-provided transportation or loss of student parking pass

f. Loss of the opportunity to participate in extracurricular activities

g. Loss of the opportunity to participate in school social activities

h. Loss of the opportunity to participate in graduation exercises or middle school promotional activities

i. Police contact

j. School suspension: No student shall be suspended from school unless it is deemed to be a necessary consequence of the violation of this Policy….

Use of corporal punishment

ADMINISTRATIVE CODE

08 010 013 Physical Restraint

Section 3.0 Definitions

…3.6 Corporal Punishment- is defined as the infliction of bodily pain as a penalty for disapproved behavior.

Corporal punishment as defined shall not be used in public education programs…

Use of student and locker searches

No relevant statutes found.

Other in-school disciplinary approaches

No relevant statutes found.

Out-of-School and Exclusionary Discipline: Suspension, Expulsion, Restraint and Seclusion, and Alternative Placements

Grounds for possible suspension or expulsion

STATUTES

§ 16-2-17. Right to a safe school

(a) Each student, staff member, teacher, and administrator has a right to attend and/or work at a school which is safe and secure, and which is conducive to learning, and which is free from the threat, actual or implied, of physical harm by a disruptive student. A disruptive student is a person who is subject to compulsory school attendance who exhibits persistent conduct which substantially impedes the ability of other students to learn or otherwise substantially interferes with the rights stated above, and who has failed to respond to corrective and rehabilitative measures presented by staff, teachers, or administrators.

(b) The school committee, or a school principal as designated by the school committee, may suspend all pupils found guilty of this conduct or of violation of those school regulations which relate to the rights set forth in subsection (a), or where a student represents a threat to those rights of students, teachers or administrators, as described in subsection (a). Nothing in this section shall relieve the school committee or school principals from following all procedures required by state and federal law regarding discipline of students with disabilities.

(c) A student suspended under this section may appeal the action of the school committee, or a school principal as designee, to the commissioner of elementary and secondary education who, after notice to the parties interested of the time and place of hearing, shall examine and decide the appeal without cost to the parties involved. Any decision of the commissioner in these matters shall be subject to appeal by the student to the board of regents for elementary and secondary education and any decision of the board of regents may be appealed by the student to the family court for the county in which the school is located as provided in § 42-35-15.

§ 16-21-24. Requirements of school safety plans, school emergency response plans, and school crisis response plans

[...] (16) Procedures for determining whether or not any threats or conduct established in the policy may be grounds for discipline of the student. School districts, school committees, school officials, and school employees providing notice in good faith as required and consistent with the committee's policies adopted under this section are immune from any liability arising out of such notification[...]

ADMINISTRATIVE CODE

08 000 020. Statewide Bullying Policy

Section 7. Disciplinary Action.

The disciplinary actions for violations of the bullying policy shall be determined by the school/district appropriate authority. Disciplinary actions for violations of the bullying policy shall balance the need for accountability with the need to teach appropriate behavior. The severity of the disciplinary action shall be aligned to the severity of the bullying behavior.

The range of disciplinary actions that may be taken against a perpetrator for bullying, cyberbullying or retaliation shall include, but not be limited to:

a. Admonitions and warnings

b. Parental/Guardian notification and meetings

c. Detention

d. In-school suspension

e. Loss of school-provided transportation or loss of student parking pass

f. Loss of the opportunity to participate in extracurricular activities

g. Loss of the opportunity to participate in school social activities

h. Loss of the opportunity to participate in graduation exercises or middle school promotional activities

i. Police contact

j. School suspension: No student shall be suspended from school unless it is deemed to be a necessary consequence of the violation of this Policy…

Grounds for mandatory suspension or expulsion

ADMINISTRATIVE CODE

08 010 013 Physical Restraint

…3.28 Zero Tolerance- (as defined by state policy) the purpose is to provide a school environment that is conducive to learning. The underlying belief of this policy is that all children have the right to be educated in a safe and nurturing environment. Therefore, each school system shall adopt a policy of zero tolerance for weapons, violence and illegal drugs in schools. Any student found to be in possession of a weapon, or involved in an aggravated assault as defined herein, will immediately be suspended in accordance with applicable due process provisions. During this suspension, the school district will take the necessary steps in determining any additional action to be taken, which may include long-term suspension. Zero tolerance policies cannot supercede other Federal and State Regulations, such as the Individuals with Disabilities Act (IDEA), Section 504 of the Rehabilitation Act of 1973, and R.I. Special Education Regulations.

Limitations, conditions, or exclusions for use of suspension and expulsion

STATUTES

§ 16-19-1. Attendance required

[...] (d) No school shall use a student's truancy or absenteeism as the sole basis for using an out-of-school suspension as a disciplinary action.

ADMINISTRATIVE CODE

08 010 025. Basic Education Program G-14-2.1.4. Positive Behavioral Supports and Discipline

Each LEA shall ensure that schools promote a positive climate with emphasis on mutual respect, self-control, good attendance, order and organization, and proper security. Each LEA shall develop protocols that define a set of discipline strategies and constructs that ensure that students and adults make positive behavioral choices and that are conducive to a safe and nurturing environment that promotes academic success. Each LEA shall ensure that:

-- Schools have a clearly delineated system for ensuring compulsory attendance for children six (6) to sixteen (16) that includes:

c) The appointment of truant (or attendance) officers whose duties shall include referring truant students to appropriate school support services and procedures for enforcing any given case through civil action filed in Family Court;

-- Disciplinary actions are fairly administered for all students and comply with state laws mandating that certain violations be considered on a case by case basis; recognizing that there is no mechanism in Rhode Island law for expulsion of students…

Administrative procedures related to suspension and expulsion

STATUTES

§ 16-2-17. Right to a safe school

(a) Each student, staff member, teacher, and administrator has a right to attend and/or work at a school which is safe and secure, and which is conducive to learning, and which is free from the threat, actual or implied, of physical harm by a disruptive student. A disruptive student is a person who is subject to compulsory school attendance who exhibits persistent conduct which substantially impedes the ability of other students to learn or otherwise substantially interferes with the rights stated above, and who has failed to respond to corrective and rehabilitative measures presented by staff, teachers, or administrators.

(b) The school committee, or a school principal as designated by the school committee, may suspend all pupils found guilty of this conduct or of violation of those school regulations which relate to the rights set forth in subsection (a), or where a student represents a threat to those rights of students, teachers or administrators, as described in subsection (a). Nothing in this section shall relieve the school committee or school principals from following all procedures required by state and federal law regarding discipline of students with disabilities.

(c) A student suspended under this section may appeal the action of the school committee, or a school principal as designee, to the commissioner of elementary and secondary education who, after notice to the parties interested of the time and place of hearing, shall examine and decide the appeal without cost to the parties involved. Any decision of the commissioner in these matters shall be subject to appeal by the student to the board of regents for elementary and secondary education and any decision of the board of regents may be appealed by the student to the family court for the county in which the school is located as provided in § 42-35-15.

§ 16-77-6.1. Additional standards

(d) A student who is not under suspension or expulsion for discipline reasons may withdraw from a charter public school at any time and enroll in another public school in the district where the student resides as determined by the school committee of the district. A student may be suspended or expelled from a charter public school in accordance with the board of regents regulations for suspensions and/or expulsions, and other public schools may give full faith and credit to that suspension or expulsion…

In-school suspension

No relevant statutes found.

Return to school following removal

No relevant statutes found.

Use of restraint and seclusion

ADMINISTRATIVE CODE

08 010 013 Physical Restraint

Section 1.0 Preamble.

The Rhode Island Department of Education recognizes the right to effective structural strategies to be the basic educational right of each child. Furthermore, the Rhode Island Department of Education believes that positive behavioral support and educational strategies should be used, as they relate to behavioral intervention, to respect each child's dignity and personal privacy. Intervention techniques must focus not only on eliminating a certain undesirable behavior, but also upon a determination of the purpose of that behavior, and the provision/instruction of a more appropriate behavior. Behavior intervention plans must be individually designed to meet the needs of the student, including students served in general education, special education, and students protected by Section 504 of the Rehabilitation Act of 1973. These behavioral interventions must not be confused with a physical restraint/crisis intervention. Physical restraint/crisis intervention are not part of a behavioral intervention plan designed to alter a child's behavior but rather are utilized as one method of preventing harm or injury. Once the use of physical restraint/crisis intervention has been employed on a student, school personnel shall determine if the student requires a behavioral intervention plan as part of the student's education program, and if one already exists, whether that plan needs to be modified or adjusted.

Section 2.0 Authority, Scope, Purpose and Construction

2.1 Authority. These regulations are promulgated by the Rhode Island Board of Regents for Elementary and Secondary Education pursuant to R.I.G.L. 16-60-4.

2.2 Scope. These regulations govern the use of physical restraint and crisis intervention on all students in publicly funded elementary and secondary education programs, including all Rhode Island public school districts and regional public school districts, all Rhode Island State Operated Schools, all Public Charter Schools, educational programs operated by the Department for Children Youth and Families, Educational Collaborative Programs, and Local Educational Agencies operating a public education program; all of which shall hereafter be referred to as public education programs.

2.3 Purpose. The purpose of these regulations is to ensure that every student participating in a Rhode Island public education program be free from the unreasonable use of physical restraint and crisis intervention. Physical intervention, the use of manual or mechanical restraint or escort involving physical contact should only be used as a crisis intervention for the purpose of preventing harm or injury. The crisis intervention must not include procedures that intentionally cause pain, injury, trauma or humiliation. A physical restraint crisis intervention should not be used for the purpose of changing behavior in situations where no protection from harm or injury is needed. Only the least intrusive physical interaction needed to adequately protect the child or others shall be used and shall be terminated as soon as the need for protection has abated.

2.4 Construction. Nothing in these regulations shall be construed to limit the protection offered publicly funded students under other state or federal laws nor do these regulations preclude any teacher, employee or agent of a public education program from using reasonable force to protect students, other persons or themselves from imminent, serious, physical harm.

Section 3.0 Definitions

3.1 Antecedent- A preceding circumstance, event, object or phenomenon which may trigger a particular behavior or chain of behaviors.

3.2 Aversive Interventions/Strategies- The specific strategies include but are not limited to the following:

(a) Noxious, painful, intrusive stimuli or activities that result in pain;

(b) Any form of noxious, painful or intrusive spray or inhalant;

(c) Electric shock;

(d) Water spray to the face;

(e) Pinches and deep muscle squeezes;

(f) Shouting, screaming or using a loud, sharp, harsh voice to frighten or threaten or the use of obscene language;

(g) Withholding adequate sleep;

(h) Withholding adequate shelter or bedding;

(i) Withholding bathroom facilities;

(j) Withholding meals, essential nutrition or hydration;

(k) Removal of an individual's personal property as punishment;

(l) Unobserved time-out or room/area solely used for time out;

(m) Facial or auditory screening devices; and

(n) Use of chemical restraints instead of positive programs or medical treatments. (RI 40.1-26-4.1)

3.3 Behavioral Analysis- A functional analysis with the addition of operationally defining a target behaviors and the grouping of behaviors for an intervention plan.

3.4 Behavior Intervention Plan: A plan, developed by a team, that delineates emotional, social and/or behavioral goals for a student and the steps that the school, student, parent and/or others will take to positively support the student's progress toward those goals. A Behavior Intervention Plan is comprised of practical and specific strategies to increase or reduce defined behaviors or a pattern of behavior exhibited by a student. A Behavior Intervention Plan includes the following:

1. Definition of the behavior in specific, measurable terms.
2. A plan for prevention of the behavior by changing some of the who, what, when, and where information from the Functional Behavioral Assessment (FBA).
3. A plan to teach the student new ways to meet his or her needs.
4. A description of how to react to the student's behavior in a way that will reinforce appropriate behavior.
5. A plan for how to manage a crisis situation.
6. A data collection, analysis and evaluation system.
7. Timelines for review.

3.5 Behavioral Momentum- The speed or force of behavior in a behavior chain, often beginning with an antecedent.

3.6 Corporal Punishment- is defined as the infliction of bodily pain as a penalty for disapproved behavior.

Corporal punishment as defined shall not be used in public education programs.

3.7 De-Escalation- The withdrawal or presentation of stimulus to a situation which causes it to become more controlled, calm and less dangerous.

3.8 Environmental Engineering- The arrangement or manipulation of the physical environment and stimuli in order to facilitate more appropriate behavioral responses.

3.9 Escalation- The withdrawal or presentation of new stimulus to a situation which causes it to become more out of control and potentially dangerous.

3.10 Forceful Physical Guidance- An inappropriate response to a child's perceived misbehavior that consists of an adult/supervisory person physically forcing to engage in the desired behavior or to comply with a directive.

3.11 Functional Behavioral Analysis- The evaluation of behavioral assessment information that occurs at specific points in time. The analysis provides the information necessary to develop a behavior intervention plan.

3.12 Functional Behavioral Assessment- is an ongoing process for gathering information that can be used to hypothesize about the function of student behavior. The components of the process are as follows:

1. Define/describe behavior
2. Gather information
3. Identify when, where and under what circumstances does the behavior occur
4. Identify the consequences that maintain the behavior
5. Develop a theory as to the functional intent of the behavior

3.13 IDEA- Individuals with Disabilities Education Act 20, USCA 1400, 34 CFR Part 300

3.14 IEP- Individual Education Program - A written statement for a child with a disability that is developed, reviewed, and revised in a meeting in accordance with § 300.341-§ 300.350 of 34 CFR 300.341-350 and RI Regulations Governing The Education Of Children With Disabilities 300.341-300.350.

3.15 Instructional Physical Guidance- a teaching technique that involves physical contact between the adult/supervisory person and the child. This enables the child to learn or model the physical movement necessary for the development of the desired competency. Example: Hand over hand guidance in instructing a child in writing technique.

3.16 Mechanical Restraint- means the use of devices such as mittens, straps, or restraint chairs to limit a person's movement or hold a person immobile as an intervention precipitated by the person's behavior. Mechanical restraint applies to uses intended to prevent injury with persons who engage in behaviors such as head-banging, gouging, or other self-injurious actions that result in tissue damage and medical problems. Mechanical restraint does not apply to restraint used to treat a person's medical needs or to position a person with physical disabilities.

3.17 Misting- The release of noxious, toxic or otherwise unpleasant sprays, mists or substances in proximity to the child's face.

3.18 Negative Practice Overcorrection- Having a child repeat an activity/task with an arbitrarily selected frequency. Example: Writing a classroom rule on the chalkboard 100 times.

3.19 Parental Consent- Parental consent means that (a) the parent has been fully informed of all information relevant to the activity for which consent is sought, in his or her native language or other mode of communication; (b) the parent understands and agrees in writing to the carrying out of the activity for which his/her consent is sought, and the consent describes that activity and lists the records (if any) that will be released and to whom; and (c) the parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time.

3.20 Physical Restraint/Crisis Intervention.

(a) Manual Restraint- The use of physical intervention intended to hold a person immobile or limit a person's movement by using body contact as the only source of physical restraint.

(b) Seclusion Restraint: Physically confining a student alone in a room or limited space without access to school staff. The use of "time out" procedures during which a staff member remains accessible to the student shall not be considered "seclusion restraint." The use of seclusion restraint is prohibited in public education programs.

(c) Chemical Restraint: The administration of medication for the purpose of restraint. The use of medication restraint is prohibited in public education programs.

3.21 Positive Behavioral Supports- a set of practices used to organize teaching and learning environments and experiences for students which facilitate the student's successful self-awareness, self-management, engagement with others and with the learning process.

3.22 Redirection encompasses a number of techniques which serve to: (1) Divert the student from an unwanted task or a problematic behavior. (2) Return the student to a more desirable task or more appropriate behavior. Redirection occurs without the coercion of negative consequences. Among these techniques are:

Proximity, Cueing, Regrouping, Restructuring, Diversions, Hurdle Help.

3.23 Satiation- The repetition of a task/activity/behavior to the point that a person is unable to perform the task even one more time.

3.24 Seclusion- placing a child alone in a locked room without supervision. Such action is strictly prohibited in Rhode Island.

3.25 Section 504 of The Rehabilitation Act of 1973. A Civil Rights law prohibiting discrimination against individuals with disabilities from federally assisted programs or activities.

3.26 Self Management- The monitoring, regulation, care, guidance and treatment of one's own behavior.

3.27 Timeout- A Punishment (Type II) procedure in which access to reinforcement is withdrawn for a certain period of time.

(a) Isolation "from the group" -- Reinforcement is withdrawn and the student remains in a separate room or booth for a certain period of time. The small room or booth may or may not have a door.

3.28 Zero Tolerance- (as defined by state policy) the purpose is to provide a school environment that is conducive to learning. The underlying belief of this policy is that all children have the right to be educated in a safe and nurturing environment. Therefore, each school system shall adopt a policy of zero tolerance for weapons, violence and illegal drugs in schools. Any student found to be in possession of a weapon, or involved in an aggravated assault as defined herein, will immediately be suspended in accordance with applicable due process provisions. During this suspension, the school district will take the necessary steps in determining any additional action to be taken, which may include long-term suspension. Zero tolerance policies cannot supercede other Federal and State Regulations, such as the Individuals with Disabilities Act (IDEA), Section 504 of the Rehabilitation Act of 1973, and R.I. Special Education Regulations.

Section 4.0 Procedures and Training

4.1 Procedures. Public education programs shall develop written procedures regarding appropriate responses to student behavior that may require the use of physical restraint/crisis intervention. Such procedures shall be annually reviewed and provided to school staff and made available to parents of enrolled students. Such procedures shall include, but not be limited to:

(a) Methods for preventing student violence, self-injurious behavior, and suicide, including de-escalation of potentially dangerous behavior occurring among groups of students or with an individual student;

(b) A school policy regarding intervention that provides a description and explanation of the school's or program's method of physical restraint/crisis intervention, a description of the school's or program's training requirements, reporting requirements and follow-up procedures, and a procedure for receiving and investigating complaints regarding restraint practices.

4.2 Required Training For All Staff. Each public education program shall designate personnel to determine a time and methods to provide all staff with training regarding the school's physical restraint/crisis intervention policies. Such training shall occur at least annually not later than within the first

month of each school year. For employees hired after the school year begins, this training shall take place within the first month of their employment. Training shall include information on the following:

(a) The program's restraint policy;

(b) Interventions that may preclude the need for restraint, including de-escalation of problematic behaviors;

(c) Types of restraints and related safety considerations, including information regarding the increased risk of injury to a student when an extended restraint is used;

(d) Administering physical restraint in accordance with known medical or psychological limitations and/or behavioral intervention plans applicable to an individual student; and

(e) Identification of program staff who have received advanced training pursuant to Regulation 4.3 in the use of physical restraint/crisis intervention.

4.3 Advanced Staff Training on the Use of Physical Restraint/Crisis Intervention.

At the start of each school year, every public education program shall identify staff that are authorized to serve as a school-wide based resource to assist other staff in ensuring proper administration of physical restraint and crisis interventions. These staff members shall participate in advanced training in the use of physical restraint/crisis intervention beyond the basic training offered to all staff and the public education program shall document the extent of such training.

4.4 Content of Advanced Training. The advanced training required by Regulation 4.3 in the proper administration of physical restraint/crisis intervention shall include, but not be limited to:

(a) Appropriate procedures for preventing the need for physical restraint/crisis intervention, including the de-escalation of problematic behavior, relationship building and the use of alternatives to such restraints;

(b) A description and identification of dangerous behaviors on the part of students that may indicate the need for physical restraint/crisis intervention and methods for evaluating the risk of harm in individual situations in order to determine whether the use of physical restraint and crisis interventions are warranted;

(c) The simulated experience of administering and receiving physical restraint/crisis intervention, instruction regarding the effect(s) on the person restrained, including instruction on monitoring physical signs of distress and obtaining medical assistance;

(d) Instruction regarding documentation and reporting requirements and investigation of injuries and complaints; and

(e) Demonstration by participants of proficiency in administering physical restraint/crisis intervention.

Section 5.0 Determining When Physical Restraint/Crisis Intervention May Be Used

5.1 Use of Restraint/Intervention. Physical restraint/crisis intervention may be used only in the following circumstances:

(a) Non-physical interventions would not be effective; and

(b) The student's behavior poses a threat of imminent, serious, physical harm to self and/or others; and

(c) If a behavioral intervention plan has been developed for the student, those various positive reinforcement techniques have been implemented appropriately and the child has failed to respond to those reinforcement techniques.

Section 6.0 Limitations and Prohibitions

6.1 Limitations on the Use of Restraints. Physical restraint/crisis intervention in a public education program shall be limited to the use of such reasonable force as necessary to protect a student or another member of the school community from assault or imminent, serious, physical harm.

6.2 Prohibitions. Physical restraint/crisis intervention are prohibited in the following circumstances:

(a) As a means of punishment;

(b) As an intervention designed to, or likely to cause physical pain;

(c) As in any intervention which denies adequate sleep, food, water, shelter, bedding or access to bathroom facilities;

(d) As in any intervention which is designed to subject, used to subject, or likely to subject the individual to verbal abuse, ridicule or humiliation, physical pain, or which can be expected to cause excessive emotional trauma;

(e) As in a restrictive intervention which employs a device or material or objects that simultaneously immobilize all four extremities, including the procedure known as prone containment, except that prone containment may be used by trained personnel as a limited emergency intervention when a documented part of a previously agreed upon written behavioral intervention plan;

(f) As in seclusion, unless under constant surveillance and observation when documented as part of a previously agreed upon written behavioral intervention plan;

(g) As in any intervention that precludes adequate supervision of the child;

(h) Any intervention which deprives the individual of one or more of his or her senses

Section 7.0 Proper Administration of Physical Restraint/Crisis Intervention

7.1 Trained Personnel. Only personnel who have had training pursuant to Regulation 4.1 may administer physical restraint/crisis intervention with students. Whenever possible, the administration of a physical restraint/crisis intervention shall be witnessed by at least one adult who does not participate in the restraint. The training requirement contained in Regulation 4.1 shall not preclude a teacher, employee or agent of a public education program from using reasonable force to protect students, other persons, or themselves from imminent, serious physical harm.

7.2 Use of Force. A person administering a physical restraint/crisis intervention shall use only the amount of force necessary to protect the student or others from physical injury or harm and shall discontinue the physical restraint/crisis intervention as soon as possible.

7.3 Safety Requirements. Additional requirements for the use of physical restraint/crisis intervention are:

(a) No restraint shall be administered in such a way that the student is prevented from breathing or speaking. During the administration of a restraint, a staff member shall continuously monitor the physical status of the student, including skin color and respiration. A restraint shall be released immediately upon a determination by the staff member administering the restraint that the student is no longer at risk of causing imminent physical harm to him or herself or others.

(b) Restraint shall be administered in such a way so as to prevent or minimize physical harm. If, at any time during a physical restraint/crisis intervention, the student demonstrates significant physical distress, the student shall be released from the restraint immediately, and school staff shall take steps to seek medical assistance.

(c) Program staff shall review and consider any known medical or psychological limitations and/or behavioral intervention plans regarding the use of physical restraint/crisis intervention on an individual student.

(d) Following the release of a student from a restraint, the Public Education Program shall implement follow-up procedures. These procedures shall include reviewing the incident with the student, as appropriate, to address the behavior that precipitated the restraint, reviewing the incident with the staff person(s) who administered the restraint to discuss whether proper restraint procedures were followed, and consideration of whether any follow-up is appropriate for students who witnessed the incident.

Section 8.0 Reporting Requirements

8.1 Informing School Administration. The staff member who administered the physical restraint/crisis intervention shall inform the administration of any public education program of the use of a physical restraint/crisis intervention as soon as possible, and by a written report not later than the next working day. The administration shall maintain an ongoing written record of all reported instances of physical restraint/crisis intervention.

8.2 Informing Parents. The school administration shall have procedures to inform the student's parent(s) or guardian(s) of the use of a restraint as soon as possible, and not later than two (2) school days after each incident. Written documentation of this notification shall be maintained by the public education program.

8.3 Contents of Report. The written report required by Regulation 8.1 shall include:

(a) The names and job titles of the staff who administered the restraint, and observers, if any, the date of the restraint, the time the restraint began and ended, and the name of the administrator who was verbally informed following the restraint;

(b) A description of the activity in which the restrained student and other students and staff in the same room or vicinity were engaged immediately preceding the use of physical restraint/crisis intervention, the behavior that prompted the restraint, the efforts made to deescalate the situation, alternatives to restraint that were attempted, and the justification for initiating physical restraint/crisis intervention;

(c) A description of the administration of the restraint including the holds used and reasons such holds were necessary, the student's behavior and reactions during the restraint, how the restraint ended, and documentation of injury to the student and/or staff, if any, during the restraint and any medical care provided;

(d) Information regarding any further action(s) that the school has taken or may take, including any disciplinary sanctions that may be imposed on the student, and a behavioral intervention plan was developed or modified as a result of the restraint;

(e) Information regarding opportunities for the student' parents or guardians to discuss with school officials the administration of the restraint, any disciplinary sanctions that may be imposed on the student and/or any other related matter.

8.4 Report to the R.I. Department of Education. Each public educational program shall provide the R.I. Department of Education a record of every incident of the use of a physical restraint/crisis intervention on an annual basis.

Section 9.0 Emergency Situations

These regulations shall not create a barrier to maintaining a safe school environment. While these regulations govern the use of physical restraint/crisis interventions, they do not limit the ability of school personnel or their agents from using reasonable force to protect students, other persons or themselves from imminent, serious physical harm.

Section 10.0 Behavioral Intervention Plans

Once the use of physical restraint/crisis intervention has been employed on a student, school personnel shall determine if the student requires a behavioral intervention plan as part of the student's education program, and if one already exists, whether that plan needs to be modified or adjusted.

Appendix A Continuum of Behavioral Interventions

(It is important to note that strategies and interventions may be positive or negative based on the response of the child.)

Proactive Planning Strategies:

[] Room Arrangement

[] Appropriate and Motivating Curriculum

[] High Rates of Positive Responses from Teachers
[] Structured Daily Schedules
[] Staff Training -- including but not limited to:
Factual information regarding numbers, frequency, duration, antecedents
Behavior Disorders - Understanding behavior
functional assessment
behavioral plans
behavioral contracting
Emotional Disorders - DSM IV
Legal Issues
Discipline Codes
Zero Tolerance
Conflict Management
Peer Mediation
Crisis Intervention
comfort zone
verbal & non-verbal communication
fight/flight/fright
Restraint Training
Token Economy
Avoid Power/Control Issues
Medications, Logs, Side Effects, Communication
Surface Management
Reality Therapy
[] Environmental Engineering
[] Instructional Pacing
[] Home Notes
[] Precision Commands
[] Data Collection
[] Parent Conference
[] Special Equipment
[] Supervision
[] Rule Out Physiological/Medical Factors

Alternative placements

STATUTES

§ 16-19-1. Attendance required

[...] (1) Alternative learning plans shall include age-appropriate academic rigor and the flexibility to incorporate the pupil's interests and manner of learning. These plans may include, but are not limited to, such components or combination of components of extended learning opportunities as independent

study, private instruction, performing groups, internships, community service, apprenticeships, and online courses that are currently funded and available to the school department and/or the community.

(2) Alternative learning plans shall be developed, and amended if necessary, in consultation with the pupil, a school guidance counselor, the school principal and at least one parent or guardian of the pupil, and submitted to the superintendent for approval.

(3) If the superintendent does not approve the alternative learning plan, the parent or guardian of the pupil may appeal such decision to the school committee. A parent or guardian may appeal the decision of the school committee to the commissioner of education pursuant to chapter 39 of title 16.

(c) Nothing in this section shall be deemed to limit or otherwise interfere with the rights of teachers and other school employees to collectively bargain pursuant to chapters 9.3 and 9.4 of title 28 or to allow any school committee to abrogate any agreement reached by collective bargaining[...]

§ 16-21-20. Alternative placement and prevention activities

The department of elementary and secondary education in conjunction with the attorney general's task force to prevent violence in schools shall develop requirements for the alternative placement of students suspended under the provision of § 16-21-18. The placements shall be cooperative efforts between the local school district, which shall be responsible for instruction of students, and other appropriate state and local agencies. Further, the department of elementary and secondary education in conjunction with the attorney general's task force shall establish policies in support of locally developed prevention and education activities that include broad parent, teacher, and community involvement.

§ 16-21-27. Alternative education programs

Each school district shall adopt a plan to ensure continued education of students who are removed from the classroom because of a suspension of more than ten (10) days or who are chronically truant. The plan shall be adopted by the school committee and shall be submitted to Rhode Island department of elementary and secondary education as part of its annual strategic plan submission.

ADMINISTRATIVE CODE

08 010 025. Basic Education Program G-14-2.1.4. Positive Behavioral Supports and Discipline

Each LEA shall ensure that schools promote a positive climate with emphasis on mutual respect, self-control, good attendance, order and organization, and proper security. Each LEA shall develop protocols that define a set of discipline strategies and constructs that ensure that students and adults make positive behavioral choices and that are conducive to a safe and nurturing environment that promotes academic success. Each LEA shall ensure that:

[...]-- Schools have a clearly delineated system for ensuring compulsory attendance for children six (6) to sixteen (16) that includes:

[...]c) The appointment of truant (or attendance) officers whose duties shall include referring truant students to appropriate school support services and procedures for enforcing any given case through civil action filed in Family Court;

-- Disciplinary actions are fairly administered for all students and comply with state laws mandating that certain violations be considered on a case by case basis; recognizing that there is no mechanism in Rhode Island law for expulsion of students; and

-- Schools shall provide a continuum of interim alternative educational placement options to continue a student's education while suspended that ensure the safety of the student and the school community.

Disciplinary Approaches Addressing Specific Infractions and Conditions

Firearms (as required by the Guns-Free Schools Act)

STATUTES

§ 11-47-60. Possession of firearms on school grounds

(a) (1) No person shall have in his or her possession any firearm or other weapons on school grounds.

(2) For the purposes of this section, "school grounds" means the property of a public or private elementary or secondary school or in those portions of any building, stadium, or other structure on school grounds which were, at the time of the violation, being used for an activity sponsored by or through a school in this state or while riding school provided transportation.

(3) Every person violating the provisions of this section shall, upon conviction, be sentenced to imprisonment for not less than one year nor more than five (5) years, or shall be fined not less than five hundred dollars ($ 500) nor more than five thousand dollars ($ 5,000).

(4) Any juvenile adjudicated delinquent pursuant to this statute shall, in addition to whatever other penalties are imposed by the family court, lose his or her license to operate a motor vehicle for up to six (6) months. If the juvenile has not yet obtained the necessary age to obtain a license, the court may impose as part of its sentence a delay in his or her right to obtain the license when eligible to do so, for a period of up to six (6) months.

(b) The provisions of this section shall not apply to any person who shall be exempt pursuant to the provisions of §§ 11-47-9, 11-47-11, and 11-47-18 or to the following activities when the activities are officially recognized and sanctioned by the educational institution:

(1) Firearm instruction and/or safety courses;

(2) Government-sponsored military-related programs such as ROTC;

(3) Interscholastic shooting and/or marksmanship events;

(4) Military history and firearms collection courses and/or programs; and

(5) The use of blank guns in theatrical and/or athletic events.

(c) The provisions of this section shall not apply to colleges, universities, or junior colleges.

§ 11-47-60.2. Possession of weapons on school grounds -- Notification

(a) If a student is found to be carrying a weapon, as defined in § 11-47-42, a firearm or replica of a firearm, or commits an aggravated assault on school grounds as defined in § 11-47-60, the principal or designee shall immediately notify the student's parents and the local police and turn the weapon over, if any, to the local enforcement agency.

(b) Any person who has reasonable cause to know that any person is in violation of this statute shall notify the principal or designee. The principal or designee shall immediately notify the student's parents and the local police. Any person acting in good faith who makes a report under this section shall have immunity from any civil liability that might otherwise be incurred or imposed as a result of making the report.

(c) School superintendents shall receive notice from the clerk of the family court regarding the disposition of all cases involving juveniles from their school districts adjudged pursuant to this statute. This information shall remain confidential and be shared with school officials who deal directly with the student.

(d) The provisions of this section should not apply to the following activities when the activities are officially recognized and sanctioned by the educational institution:

(1) Firearm instructed and/or safety course;

(2) Government-sponsored military-related programs such as ROTC;

(3) Interscholastic shooting and/or marksmanship events;

(4) Military history and firearms collection courses and/or programs; and

(5) The use of blank guns in theatrical and/or athletic events.

(e) The provisions of this section shall not apply to colleges, universities or junior colleges.

§ 16-21-18. Students prohibited from bringing or possessing firearms on school premises

The school penalty for bringing or possessing a weapon as defined in 18 U.S.C. § 921, a firearm or realistic replica of a firearm within school premises, premises being used for school purposes or activities, into a vehicle used for school transportation, or onto a roadway or path along which school children or teachers are walking to school shall be suspension from school for one year. This penalty will also be incurred when a student is not on school premises but when he or she aims a firearm or realistic replica of a firearm at school premises, school vehicles, or students, staff, or visitors attending school or in transit to or from school. This term of suspension may be shortened by the superintendent of schools on a case-by-case basis and under guidelines to be developed by the school committee with broad parent, teacher, and community involvement.

§ 16-21-19. Special rules for students with disabilities bringing firearms to school

(a) Students with disabilities as defined by the Individuals With Disabilities Education Act, 20 U.S.C. § 1415, shall be subject to the provisions of § 16-21-18 to the extent permitted by the Individuals With Disabilities Education Act, 20 U.S.C. § 1415.

(b) Students with disabilities as defined by Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, shall be subject to the provisions of § 16-21-18 to the extent permitted by Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794.

Other weapons

STATUTES

§ 16-21-21.1. Penalties for drug, alcohol or weapons offenses

The discipline of any public school student for violating a school policy relating to the possession or use of alcohol, drugs or weapons not described in § 16-21-18 of this chapter, shall be imposed on a case-by-case basis pursuant to guidelines developed and promulgated by the school committee for that district. The guidelines and any discipline imposed shall take into account the nature and circumstances of the violation and the applicability of any federal laws governing students with disabilities.

Students with chronic disciplinary issues

No relevant statutes found.

Attendance and truancy

STATUTES

§ 16-19-1. Attendance required

[...](a) Every child who has completed or will have completed six (6) years of life on or before September 1 of any school year and has not completed eighteen (18) years of life shall regularly attend some public day school during all the days and hours that the public schools are in session in the city or town in which the child resides. Every person having under his or her control a child as described in this section shall cause the child to attend school as required by this section, and for every neglect of this duty the person having control of the child shall be fined not exceeding fifty dollars ($ 50.00) for each day or part of a day that the child fails to attend school, and if the total of these days is more than thirty (30) school days during any school year, then the person shall, upon conviction, be imprisoned not exceeding six (6) months or shall be fined not more than five hundred dollars ($ 500), or both; provided, that if the person so charged shall prove that the child has attended for the required period of time a private day school approved by the commissioner of elementary and secondary education pursuant to § 16-60-6(10), or a course of at-home instruction approved by the school committee of the town where the child resides, or has been accepted into an accredited postsecondary education program, or has obtained a waiver under subsection (b) of this section, or that the physical or mental condition of the child was such as to render his or her attendance at school inexpedient or impracticable, or that the child was excluded from school by virtue of some other general law or regulation, then attendance shall not be obligatory nor shall the penalty be incurred.

(b) A waiver to the compulsory attendance requirement may be granted by the superintendent only upon proof that the pupil is sixteen (16) years of age or older and has an alternative learning plan for obtaining either a high school diploma or its equivalent[...]

§ 16-19-10. Notification of pupil absence

(a) Whenever any pupil in grades kindergarten through nine (9) fails to report to school on a regularly scheduled school day and no indication has been received by school personnel that the pupil's parent or guardian is aware of the pupil's absence, a reasonable effort to notify, by telephone, the parent or guardian shall be made by school personnel or volunteers organized by the school committee of each city, town, or regional school district or the director or other person in charge of private schools of elementary and secondary grades.

(b) School committees, school personnel, or volunteers organized pursuant to this section shall be immune from any civil or criminal liability in connection with the notice to parents of a pupil's absence or failure to give the notice required by this section.

ADMINISTRATIVE CODE

08 010 025. Basic Education Program G-14-2.1.4. Positive Behavioral Supports and Discipline

Each LEA shall ensure that schools promote a positive climate with emphasis on mutual respect, self-control, good attendance, order and organization, and proper security. Each LEA shall develop protocols that define a set of discipline strategies and constructs that ensure that students and adults make positive behavioral choices and that are conducive to a safe and nurturing environment that promotes academic success. Each LEA shall ensure that:

[...]-- Schools have a clearly delineated system for ensuring compulsory attendance for children six (6) to sixteen (16) that includes:

a) Procedures for noting daily absenteeism and investigating unexcused absences;

b) Procedures for noting the required period of attendance of students attending at- home instruction approved by the school committee or at a private day school approved by the Commissioner of Education; and

c) The appointment of truant (or attendance) officers whose duties shall include referring truant students to appropriate school support services and procedures for enforcing any given case through civil action filed in Family Court…

Substance use

No relevant statutes found.

Bullying, harassment, or hazing

STATUTES

§ 16-21-33. Safe schools act

(a) Definitions. As used in this chapter:

(1) "Bullying" means the use by one or more students of a written, verbal or electronic expression or a physical act or gesture or any combination thereof directed at a student that:

(i) Causes physical or emotional harm to the student or damage to the student's property;

(ii) Places the student in reasonable fear of harm to himself/herself or of damage to his/her property;

(iii) Creates an intimidating, threatening, hostile, or abusive educational environment for the student;

(iv) Infringes on the rights of the student to participate in school activities; or

(v) Materially and substantially disrupts the education process or the orderly operation of a school. The expression, physical act or gesture may include, but is not limited to, an incident or incidents that may be reasonably perceived as being motivated by characteristics such as race, color, religion, ancestry, national origin, gender, sexual orientation, gender identity and expression or mental, physical, or sensory disability, intellectual ability or by any other distinguishing characteristic.

(2) "Cyber-bullying" means bullying through the use of technology or any electronic communication, which shall include, but shall not be limited to, any transfer of signs, signals, writing, images, sounds, data, texting or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photo electronic or photo optical system, including, but not limited to, electronic mail, Internet communications, instant messages or facsimile communications. For purposes of this section, cyber-bullying shall also include:

(i) The creation of a web page or blog in which the creator assumes the identity of another person;

(ii) The knowing impersonation of another person as the author of posted content or messages; or

(iii) The distribution by electronic means of a communication to more than one person or the posting of materials on an electronic medium that may be accessed by one or more persons, if the creation, impersonation, or distribution results in any of the conditions enumerated in clauses (i) to (v) of the definition of bullying herein.

(3) "At school" means on school premises, at any school-sponsored activity or event whether or not it is held on school premises, on a school-transportation vehicle, at an official school bus stop, using property or equipment provided by the school, or creates a material and substantial disruption of the education process or the orderly operation of the school.

§ 16-21-34. Statewide bullying policy implemented

(a) The Rhode Island department of education shall prescribe by regulation a statewide bullying policy, ensuring a consistent and unified, statewide approach to the prohibition of bullying at school. The statewide policy shall apply to all schools that are approved for the purpose of § 16-9-1 and shall contain the following:

(1) Descriptions of and statements prohibiting bullying, cyber-bullying and retaliation of school;

(2) Clear requirements and procedures for students, staff, parents, guardians and others to report bullying or retaliation;

(3) A provision that reports of bullying or retaliation may be made anonymously; provided, however, that no disciplinary action shall be taken against a student solely on the basis of an anonymous report;

(4) Clear procedures for promptly responding to and investigating reports of bullying or retaliation;

(5) The range of disciplinary actions that may be taken against a perpetrator for bullying or retaliation; provided, however, that the disciplinary actions shall balance the need for accountability with the need to teach appropriate behavior; and provided, further:

(i) A parental engagement strategy; and

(ii) A provision that states punishments for violations of the bullying policy shall be determined by the school's appropriate authority; however, no student shall be suspended from school unless it is deemed a necessary consequence of the violations;

(6) Clear procedures for restoring a sense of safety for a victim and assessing that victim's needs for protection;

(7) Strategies for protecting from bullying or retaliation a person who reports bullying, provides information during an investigation of bullying or witnesses or has reliable information about an act of bullying;

(8) Procedures for promptly notifying the parents or guardians of a victim and a perpetrator; provided, further, that the parents or guardians of a victim shall also be notified of the action taken to prevent any further acts of bullying or retaliation; and provided, further, that the procedures shall provide for immediate notification of the local law enforcement agency when criminal charges may be pursued against the perpetrator;

(9) A provision that a student who knowingly makes a false accusation of bullying or retaliation shall be subject to disciplinary action;

(10) A strategy for providing counseling or referral to appropriate services currently being offered by schools or communities for perpetrators and victims and for appropriate family members of said students. The plan shall afford all students the same protection regardless of their status under the law;

(11) A provision that requires a principal or designee to be responsible for the implementation and oversight of the bullying policy;

(12) Provisions for informing parents and guardians about the bullying policy of the school district or school shall include, but not be limited to:

(i) A link to the policy prominently posted on the home page of the school district's website and distributed annually to parents and guardians of students;

(ii) A provision for notification, within twenty-four (24) hours, of the incident report, to the parents or guardians of the victim of bullying and parents or guardians of the alleged perpetrator of the bullying;

(13) A school employee, school volunteer, student, parent, legal guardian, or relative caregiver who promptly reports, in good faith, an act of bullying to the appropriate school official designated in the school's policy is immune from a cause of action for damages arising from reporting bullying;

(14) This section does not prevent a victim from seeking redress under any other available law, either civil or criminal. This section does not create or alter any tort liability;

(15) Students shall be prohibited from accessing social networking sites at school, except for educational or instructional purposes and with the prior approval from school administration. Nothing in this act shall prohibit students from using school department or school websites for educational purposes. School districts and schools are encouraged to provide in-service training on Internet safety for students, faculty and staff; and

(16) All school districts, charter schools, career and technical schools, approved private day or residential schools and collaborative schools shall be subject to the requirements of this section. School districts and schools must adopt the statewide bullying policy promulgated pursuant to this section by June 30, 2012.

ADMINISTRATIVE CODE

08 000 020. Statewide Bullying Policy

Section 7. Disciplinary Action.

The disciplinary actions for violations of the bullying policy shall be determined by the school/district appropriate authority. Disciplinary actions for violations of the bullying policy shall balance the need for accountability with the need to teach appropriate behavior. The severity of the disciplinary action shall be aligned to the severity of the bullying behavior.

The range of disciplinary actions that may be taken against a perpetrator for bullying, cyberbullying or retaliation shall include, but not be limited to:

a. Admonitions and warnings

b. Parental/Guardian notification and meetings

c. Detention

d. In-school suspension

e. Loss of school-provided transportation or loss of student parking pass

f. Loss of the opportunity to participate in extracurricular activities

g. Loss of the opportunity to participate in school social activities

h. Loss of the opportunity to participate in graduation exercises or middle school promotional activities

i. Police contact

j. School suspension: No student shall be suspended from school unless it is deemed to be a necessary consequence of the violation of this Policy…

Other special infractions or conditions

STATUTES

§ 16-21-30. Dating violence policy

(a) As used in this section:

(1) "Dating violence" means a pattern of behavior where one person uses threats of, or actually uses, physical, sexual, verbal or emotional abuse to control his or her dating partner.

(2) "Dating partner" means any person, regardless of gender, involved in an intimate relationship with another primarily characterized by the expectation of affectionate involvement whether casual, serious or long-term.

(3) "At school" means in a classroom, on or immediately adjacent to school premises, on a school bus or other school-related vehicle, at an official school bus stop, or at any school-sponsored activity or event whether or not it is on school grounds.

(b) The department of education shall develop a model dating violence policy to assist school districts in developing policies for dating violence reporting and response. The model policy shall be issued on or before April 1, 2008.

(c) Each school district shall establish a specific policy to address incidents of dating violence involving students at school by December 1, 2008. Each school district shall verify compliance with the department of education on an annual basis through the annual school health report.

(1) Such policy shall include, but not be limited to, a statement that dating violence will not be tolerated, dating violence reporting procedures, guidelines to responding to at school incidents of dating violence and discipline procedures specific to such incidents.

(2) To ensure notice of the school district's dating violence policy, the policy shall be published in any school district policy and handbook that sets forth the comprehensive rules, procedures and standards of conduct for students at school.

(d) Each school district shall provide dating violence training to all administrators, teachers, nurses and mental health staff at the middle and high school levels. Upon the recommendation of the administrator, other staff may be included or may attend the training on a volunteer basis. The dating violence training shall include, but not be limited to, basic principles of dating violence, warnings signs of dating violence and the school district's dating violence policy, to ensure that they are able to appropriately respond to incidents of dating violence at school. Thereafter, this training shall be provided yearly to all newly hired staff deemed appropriate to receive the training by the school's administration.

(e) Each school district shall inform the students' parents or legal guardians of the school district's dating violence policy. If requested, the school district shall provide the parents or legal guardians with the school district's dating violence policy and relevant information. It is strongly recommended that the school district provide parent awareness training.

(f) This section does not prevent a victim from seeking redress under any other available law, either civil or criminal. This section does not create or alter any tort liability.

§ 16-21.2-11. Devices prohibited

(a) Any student enrolled in any secondary or elementary school shall be prohibited from carrying, possessing or using a paging device of any kind or a laser pointer of any kind on school property, except with the written consent of the principal of the school in which the student is enrolled.

(b) The penalty for violation of this section shall be the confiscation of the device.

Prevention and Behavioral Interventions (Non-Punitive)

Prevention

STATUTES

§ 16-21.2-1. Short title

This chapter shall be known as "The Rhode Island Substance Abuse Prevention Act".

§ 16-21.2-2. Declaration of purpose

In recognition of the growing problem of substance use and abuse that municipalities face the purpose of this chapter is as follows:

(1) To promote the opportunity for municipalities to establish a comprehensive substance abuse prevention program addressing the specific needs of each individual municipality.

(2) To encourage the development of partnership among municipal governments, school systems, parents, and human service providers to serve the interest of the community in addressing the need for a comprehensive substance abuse prevention program.

(3) To promote a substance abuse prevention program in every community.

(4) To provide financial assistance for the planning, establishment, and operation of substance abuse prevention programs.

(5) To encourage municipal governments, in cooperation with school systems and human services organizations to jointly assess the extent of the substance abuse problem in their community.

§ 16-21.2-3. Authority of municipal governments

(a) All municipal governments or their designated agents shall have the power to establish, operate, conduct, and/or make provision for programs to provide a comprehensive substance abuse prevention program.

(b) The appropriate municipal authority shall adopt rules and regulations governing the substance abuse prevention program including an application and contracting procedure by which qualified groups may apply to operate a substance abuse prevention program.

(c) Substance abuse prevention programs shall comply with all applicable provisions of the general laws with all applicable state rules and regulations.

§ 16-21.3-1. Declaration of purpose

In recognition of the growing problem of substance use and abuse among youth and that the average age of onset of substance use and abuse is middle school age, the purpose of this chapter is as follows:

(1) To establish a student assistance program in every public junior high/middle school based upon the model currently operating successfully in Rhode Island high schools.

(2) The student assistance program will address the following areas:

(i) Identification and supportive services for high risk youth;

(ii) Primary prevention programming in junior high/middle schools;

(iii) Assessment and referral services for substance abuse problems;

(iv) School staff training on integration of prevention/intervention program;

(v) Parent and community programming for substance abuse prevention;

(vi) Focused prevention/support groups for high risk youth;

(vii) Development and integration of school substance abuse policy with prevention/intervention services;

(viii) To promote integration between student assistance programs and community substance abuse prevention task forces.

(3) To establish a pilot student assistance program in public elementary schools to the extent that funds are available from the junior high/middle school student assistance fund for that purpose.

(4) To establish a student assistance program in every public high school to the extent that funds are available.

§ 16-21-20. Alternative placement and prevention activities

The department of elementary and secondary education in conjunction with the attorney general's task force to prevent violence in schools shall develop requirements for the alternative placement of students suspended under the provision of § 16-21-18. The placements shall be cooperative efforts between the local school district, which shall be responsible for instruction of students, and other appropriate state and local agencies. Further, the department of elementary and secondary education in conjunction with the attorney general's task force shall establish policies in support of locally developed prevention and education activities that include broad parent, teacher, and community involvement.

ADMINISTRATIVE CODE

08 010 025. Basic Education Program G-14-2.1.4. Positive Behavioral Supports and Discipline

Each LEA shall ensure that schools promote a positive climate with emphasis on mutual respect, self-control, good attendance, order and organization, and proper security. Each LEA shall develop protocols that define a set of discipline strategies and constructs that ensure that students and adults make positive behavioral choices and that are conducive to a safe and nurturing environment that promotes academic success.

Behavioral interventions and student support services

STATUTES

§ 16-21-34. Statewide bullying policy implemented

(a) The Rhode Island department of education shall prescribe by regulation a statewide bullying policy, ensuring a consistent and unified, statewide approach to the prohibition of bullying at school. The statewide policy shall apply to all schools that are approved for the purpose of § 16-9-1 and shall contain the following:

(10) A strategy for providing counseling or referral to appropriate services currently being offered by schools or communities for perpetrators and victims and for appropriate family members of said students. The plan shall afford all students the same protection regardless of their status under the law;

ADMINISTRATIVE CODE

08 010 013 Physical Restraint

Section 1.0 Preamble.

The Rhode Island Department of Education recognizes the right to effective structural strategies to be the basic educational right of each child. Furthermore, the Rhode Island Department of Education believes that positive behavioral support and educational strategies should be used, as they relate to behavioral

intervention, to respect each child's dignity and personal privacy. Intervention techniques must focus not only on eliminating a certain undesirable behavior, but also upon a determination of the purpose of that behavior, and the provision/instruction of a more appropriate behavior. Behavior intervention plans must be individually designed to meet the needs of the student, including students served in general education, special education, and students protected by Section 504 of the Rehabilitation Act of 1973. These behavioral interventions must not be confused with a physical restraint/crisis intervention. Physical restraint/crisis intervention are not part of a behavioral intervention plan designed to alter a child's behavior but rather are utilized as one method of preventing harm or injury. Once the use of physical restraint/crisis intervention has been employed on a student, school personnel shall determine if the student requires a behavioral intervention plan as part of the student's education program, and if one already exists, whether that plan needs to be modified or adjusted.

3.4 Behavior Intervention Plan: A plan, developed by a team, that delineates emotional, social and/or behavioral goals for a student and the steps that the school, student, parent and/or others will take to positively support the student's progress toward those goals. A Behavior Intervention Plan is comprised of practical and specific strategies to increase or reduce defined behaviors or a pattern of behavior exhibited by a student. A Behavior Intervention Plan includes the following:

1. Definition of the behavior in specific, measurable terms.
2. A plan for prevention of the behavior by changing some of the who, what, when, and where information from the Functional Behavioral Assessment (FBA).
3. A plan to teach the student new ways to meet his or her needs.
4. A description of how to react to the student's behavior in a way that will reinforce appropriate behavior.
5. A plan for how to manage a crisis situation.
6. A data collection, analysis and evaluation system.
7. Timelines for review.

3.12 Functional Behavioral Assessment- is an ongoing process for gathering information that can be used to hypothesize about the function of student behavior. The components of the process are as follows:

1. Define/describe behavior
2. Gather information
3. Identify when, where and under what circumstances does the behavior occur
4. Identify the consequences that maintain the behavior

3.21 Positive Behavioral Supports- a set of practices used to organize teaching and learning environments and experiences for students which facilitate the student's successful self-awareness, self-management, engagement with others and with the learning process.

08 010 025. Basic Education Program G-14-2.1.4. Positive Behavioral Supports and Discipline

Each LEA shall ensure that schools promote a positive climate with emphasis on mutual respect, self-control, good attendance, order and organization, and proper security. Each LEA shall develop protocols that define a set of discipline strategies and constructs that ensure that students and adults make positive behavioral choices and that are conducive to a safe and nurturing environment that promotes academic success. Each LEA shall ensure that:

-- Schools engage in a participatory process (involving students and staff) to assess periodically the school climate and to adopt or develop strategies to improve conditions (see the Board of Regents Policy Statement on Student Rights);

-- Students and parents/guardians are notified of district and school rules related to conduct and shall receive regular instruction regarding these rules. In addition, parents/guardians, and students shall be provided with information about early warning signs of harassing and intimidating behaviors, such as bullying, as well as prevention and intervention strategies;

-- Schools provide a structure of incentives that adequately reward students for their efforts and achievements. Attention shall be given to rewarding a diversity of accomplishments and to broadening the availability of rewards;

-- Schools have a clearly delineated system for ensuring compulsory attendance for children six (6) to sixteen (16) that includes:

a) Procedures for noting daily absenteeism and investigating unexcused absences;

b) Procedures for noting the required period of attendance of students attending at- home instruction approved by the school committee or at a private day school approved by the Commissioner of Education; and

c) The appointment of truant (or attendance) officers whose duties shall include referring truant students to appropriate school support services and procedures for enforcing any given case through civil action filed in Family Court;

-- Disciplinary actions are fairly administered for all students and comply with state laws mandating that certain violations be considered on a case by case basis; recognizing that there is no mechanism in Rhode Island law for expulsion of students; and

-- Schools shall provide a continuum of interim alternative educational placement options to continue a student's education while suspended that ensure the safety of the student and the school community.

08 010 025. Basic Education Program G-14-2.1.3. Prevention of Bullying, Harassment, Hazing, Teen Dating Violence, and Sexual Violence.

Each LEA shall:

1. Prevent and respond appropriately to incidents of bullying, hazing, teen dating violence, sexual violence, and related issues;

2. Promote nonviolent conflict resolution techniques in order to encourage attitudes and behaviors that foster harmonious relations;

3. Provide professional development, training, resources, and other means to assist students, staff, and other adults in the school building or at school sponsored activities in carrying out these responsibilities; and

4. Comply with relevant state and federal statutes regarding these issues.

Professional development

ADMINISTRATIVE CODE

08 010 013 Physical Restraint

4.2 Required Training For All Staff. Each public education program shall designate personnel to determine a time and methods to provide all staff with training regarding the school's physical restraint/crisis intervention policies. Such training shall occur at least annually not later than within the first month of each school year. For employees hired after the school year begins, this training shall take place within the first month of their employment. Training shall include information on the following:

(a) The program's restraint policy;

(b) Interventions that may preclude the need for restraint, including de-escalation of problematic behaviors;

(c) Types of restraints and related safety considerations, including information regarding the increased risk of injury to a student when an extended restraint is used;

(d) Administering physical restraint in accordance with known medical or psychological limitations and/or behavioral intervention plans applicable to an individual student; and

(e) Identification of program staff who have received advanced training pursuant to Regulation 4.3 in the use of physical restraint/crisis intervention.

4.3 Advanced Staff Training on the Use of Physical Restraint/Crisis Intervention.

At the start of each school year, every public education program shall identify staff that are authorized to serve as a school-wide based resource to assist other staff in ensuring proper administration of physical restraint and crisis interventions. These staff members shall participate in advanced training in the use of physical restraint/crisis intervention beyond the basic training offered to all staff and the public education program shall document the extent of such training.

4.4 Content of Advanced Training. The advanced training required by Regulation 4.3 in the proper administration of physical restraint/crisis intervention shall include, but not be limited to:

(a) Appropriate procedures for preventing the need for physical restraint/crisis intervention, including the de-escalation of problematic behavior, relationship building and the use of alternatives to such restraints;

(b) A description and identification of dangerous behaviors on the part of students that may indicate the need for physical restraint/crisis intervention and methods for evaluating the risk of harm in individual situations in order to determine whether the use of physical restraint and crisis interventions are warranted;

(c) The simulated experience of administering and receiving physical restraint/crisis intervention, instruction regarding the effect(s) on the person restrained, including instruction on monitoring physical signs of distress and obtaining medical assistance;

(d) Instruction regarding documentation and reporting requirements and investigation of injuries and complaints; and

(e) Demonstration by participants of proficiency in administering physical restraint/crisis intervention.

08 010 025. Basic Education Program G-14-2.1.3. Prevention of Bullying, Harassment, Hazing, Teen Dating Violence, and Sexual Violence.

Each LEA shall:

1. Prevent and respond appropriately to incidents of bullying, hazing, teen dating violence, sexual violence, and related issues;

2. Promote nonviolent conflict resolution techniques in order to encourage attitudes and behaviors that foster harmonious relations;

3. Provide professional development, training, resources, and other means to assist students, staff, and other adults in the school building or at school sponsored activities in carrying out these responsibilities; and

4. Comply with relevant state and federal statutes regarding these issues.

Monitoring and Accountability

Formal incident reporting of conduct violations

ADMINISTRATIVE CODE

08 010 013 Physical Restraint

8.1 Informing School Administration. The staff member who administered the physical restraint/crisis intervention shall inform the administration of any public education program of the use of a physical restraint/crisis intervention as soon as possible, and by a written report not later than the next working day. The administration shall maintain an ongoing written record of all reported instances of physical restraint/crisis intervention.

8.3 Contents of Report. The written report required by Regulation 8.1 shall include:

(a) The names and job titles of the staff who administered the restraint, and observers, if any, the date of the restraint, the time the restraint began and ended, and the name of the administrator who was verbally informed following the restraint;

(b) A description of the activity in which the restrained student and other students and staff in the same room or vicinity were engaged immediately preceding the use of physical restraint/crisis intervention, the behavior that prompted the restraint, the efforts made to deescalate the situation, alternatives to restraint that were attempted, and the justification for initiating physical restraint/crisis intervention;

(c) A description of the administration of the restraint including the holds used and reasons such holds were necessary, the student's behavior and reactions during the restraint, how the restraint ended, and documentation of injury to the student and/or staff, if any, during the restraint and any medical care provided;

(d) Information regarding any further action(s) that the school has taken or may take, including any disciplinary sanctions that may be imposed on the student, and a behavioral intervention plan was developed or modified as a result of the restraint;

(e) Information regarding opportunities for the student' parents or guardians to discuss with school officials the administration of the restraint, any disciplinary sanctions that may be imposed on the student and/or any other related matter.

8.4 Report to the R.I. Department of Education. Each public educational program shall provide the R.I. Department of Education a record of every incident of the use of a physical restraint/crisis intervention on an annual basis.

08 000 020. Statewide Bullying Policy

[...]Section 5. Reporting.

The school principal, director or head of school shall establish, and prominently publicize to students, staff, volunteers, and parents/guardians, how a report of bullying may be filed and how this report will be acted upon (See attached sample Report Form).

The victim of bullying, anyone who witnesses an incidence of bullying, and anyone who has credible information that an act of bullying has taken place may file a report of bullying.

Any student or staff member who believes he/she is being bullied should immediately report such circumstances to an appropriate staff member, teacher or administrator.

Section 6. Investigation/Response.

The school principal, director or head of school shall promptly investigate all allegations of bullying, harassment, or intimidation. If the allegation is found to be credible, appropriate disciplinary actions, subject to applicable due process requirements, will be imposed. The School Resource Officer or other qualified staff may be utilized to mediate bullying situations.

The investigation will include an assessment by the school psychologist and/or social worker of what effect the bullying, harassment or intimidation has had on the victim. A student who engages in continuous and/or serious acts of bullying will also be referred to the school psychologist and/or social worker.

Parental notification

STATUTES

§ 11-47-60.2. Possession of weapons on school grounds -- Notification

(a) If a student is found to be carrying a weapon, as defined in § 11-47-42, a firearm or replica of a firearm, or commits an aggravated assault on school grounds as defined in § 11-47-60, the principal or designee shall immediately notify the student's parents and the local police and turn the weapon over, if any, to the local enforcement agency.

(b) Any person who has reasonable cause to know that any person is in violation of this statute shall notify the principal or designee. The principal or designee shall immediately notify the student's parents and the local police. Any person acting in good faith who makes a report under this section shall have immunity from any civil liability that might otherwise be incurred or imposed as a result of making the report.

§ 16-19-10. Notification of pupil absence

(a) Whenever any pupil in grades kindergarten through nine (9) fails to report to school on a regularly scheduled school day and no indication has been received by school personnel that the pupil's parent or guardian is aware of the pupil's absence, a reasonable effort to notify, by telephone, the parent or guardian shall be made by school personnel or volunteers organized by the school committee of each city, town, or regional school district or the director or other person in charge of private schools of elementary and secondary grades.

§ 16-21.5-1. Legislative intent

(a) Community policing and the presence of school resource officers on school campuses serve a vital role fostering a safe learning environment for pupils, faculty and staff.

(b) In order to enable school resource officers to more effectively fulfill this role, it is the intent of the legislature to encourage them to form positive relationships with both parents and pupils who are part of the school community.

(c) It is also vitally important that parents be given meaningful opportunity to be active and informed participants in situations involving interaction with school resource officers or other members of the law enforcement community in the school setting.

(d) In furtherance of this objective, it is the intent of the legislature to increase the level of participation of parents when their minor children are being questioned by law enforcement in school or at a school-sponsored activity.

§ 16-21-34. Statewide bullying policy implemented

(a) The Rhode Island department of education shall prescribe by regulation a statewide bullying policy, ensuring a consistent and unified, statewide approach to the prohibition of bullying at school. The

statewide policy shall apply to all schools that are approved for the purpose of § 16-9-1 and shall contain the following:

(8) Procedures for promptly notifying the parents or guardians of a victim and a perpetrator; provided, further, that the parents or guardians of a victim shall also be notified of the action taken to prevent any further acts of bullying or retaliation; and provided, further, that the procedures shall provide for immediate notification of the local law enforcement agency when criminal charges may be pursued against the perpetrator;

ADMINISTRATIVE CODE

08 010 013 Physical Restraint

8.2 Informing Parents. The school administration shall have procedures to inform the student's parent(s) or guardian(s) of the use of a restraint as soon as possible, and not later than two (2) school days after each incident. Written documentation of this notification shall be maintained by the public education program.

08 000 020. Statewide Bullying Policy

INTRODUCTION

This Statewide Bullying Policy is promulgated pursuant to the authority set forth in § 16-21-34 of the General Laws of Rhode Island. Known as the Safe School Act, the statute recognizes that the bullying of a student creates a climate of fear and disrespect that can seriously impair the student's health and negatively affect learning. Bullying undermines the safe learning environment that students need to achieve their full potential. The purpose of the Policy is to ensure a consistent and unified statewide approach to the prohibition of bullying at school.

[...]Section 5. Reporting.

The school principal, director or head of school shall establish, and prominently publicize to students, staff, volunteers, and parents/guardians, how a report of bullying may be filed and how this report will be acted upon (See attached sample Report Form).

The victim of bullying, anyone who witnesses an incidence of bullying, and anyone who has credible information that an act of bullying has taken place may file a report of bullying.

Any student or staff member who believes he/she is being bullied should immediately report such circumstances to an appropriate staff member, teacher or administrator.

Parents/Guardians of the victim of bullying and parents/guardians of the alleged perpetrator of the bullying shall be notified within twenty- four (24) hours of the incident report. When there is a reasonable suspicion that a child is either a bully or a victim of bullying, the parents/guardians of the child will be notified immediately by the principal, director or head of school.

Responsibility of Staff: School staff, including volunteers, who observe an act of bullying or who have reasonable grounds to believe that bullying is taking place must report the bullying to school authorities. Failure to do so may result in disciplinary action.

Responsibility of Students: Students who observe an act of bullying or who have reasonable grounds to believe that bullying is taking place must report the bullying to school authorities. Failure to do so may result in disciplinary action. The victim of bullying, however, shall not be subject to discipline for failing to report the bullying. Student reports of bullying or retaliation may be made anonymously, provided, however, that no disciplinary action shall be taken against a student solely on the basis of an anonymous report.

Prohibition against Retaliation: Retaliation or threats of retaliation in any form designed to intimidate the victim of bullying, those who are witnesses to bullying, or those investigating an incident of bullying shall not be tolerated. Retaliation or threat of retaliation will result in the imposition of discipline in accordance with the school behavior code.

False Reporting/Accusations: A school employee, school volunteer or student who knowingly makes a false accusation of bullying or retaliation shall be disciplined in accordance with the school behavior code.

Reports in Good Faith: A school employee, school volunteer, student, parent/legal guardian, or caregiver who promptly reports, in good faith, an act of bullying to the appropriate school official designated in the school's policy shall be immune from a cause of action for damages arising from reporting bullying.

Section 6. Investigation/Response.

The school principal, director or head of school shall promptly investigate all allegations of bullying, harassment, or intimidation. If the allegation is found to be credible, appropriate disciplinary actions, subject to applicable due process requirements, will be imposed. The School Resource Officer or other qualified staff may be utilized to mediate bullying situations.

The investigation will include an assessment by the school psychologist and/or social worker of what effect the bullying, harassment or intimidation has had on the victim. A student who engages in continuous and/or serious acts of bullying will also be referred to the school psychologist and/or social worker.

Police Notification: Immediate notification of the local law enforcement agency will be made when circumstances warrant the pursuit of criminal charges against the perpetrator.

Protection: If a student is the victim of serious or persistent bullying:

a. The school principal, director or head of school will intervene immediately to provide the student with a safe educational environment.

b. The interventions will be developed, if possible, with input from the student, his or her parent/guardian, and staff.

c. The parents/guardians of a victim shall also be notified of the action taken to prevent any further acts of bullying or retaliation.

Section 7. Disciplinary Action.

The disciplinary actions for violations of the bullying policy shall be determined by the school/district appropriate authority. Disciplinary actions for violations of the bullying policy shall balance the need for accountability with the need to teach appropriate behavior. The severity of the disciplinary action shall be aligned to the severity of the bullying behavior.

The range of disciplinary actions that may be taken against a perpetrator for bullying, cyberbullying or retaliation shall include, but not be limited to:

a. Admonitions and warnings

b. Parental/Guardian notification and meetings

c. Detention

d. In-school suspension

e. Loss of school-provided transportation or loss of student parking pass

f. Loss of the opportunity to participate in extracurricular activities

g. Loss of the opportunity to participate in school social activities

h. Loss of the opportunity to participate in graduation exercises or middle school promotional activities

i. Police contact

j. School suspension: No student shall be suspended from school unless it is deemed to be a necessary consequence of the violation of this Policy…

Reporting and referrals between schools and law enforcement

STATUTES

§ 11-47-60.2. Possession of weapons on school grounds -- Notification

(a) If a student is found to be carrying a weapon, as defined in § 11-47-42, a firearm or replica of a firearm, or commits an aggravated assault on school grounds as defined in § 11-47-60, the principal or designee shall immediately notify the student's parents and the local police and turn the weapon over, if any, to the local enforcement agency.

(b) Any person who has reasonable cause to know that any person is in violation of this statute shall notify the principal or designee. The principal or designee shall immediately notify the student's parents and the local police. Any person acting in good faith who makes a report under this section shall have immunity from any civil liability that might otherwise be incurred or imposed as a result of making the report.

(c) School superintendents shall receive notice from the clerk of the family court regarding the disposition of all cases involving juveniles from their school districts adjudged pursuant to this statute. This information shall remain confidential and be shared with school officials who deal directly with the student.

(d) The provisions of this section should not apply to the following activities when the activities are officially recognized and sanctioned by the educational institution:

(1) Firearm instructed and/or safety course;

(2) Government-sponsored military-related programs such as ROTC;

(3) Interscholastic shooting and/or marksmanship events;

(4) Military history and firearms collection courses and/or programs; and

(5) The use of blank guns in theatrical and/or athletic events.

(e) The provisions of this section shall not apply to colleges, universities or junior colleges.

§ 16-21.5-2. Procedure for interrogating elementary students

(a) Before making an elementary school pupil available to a law enforcement officer for the purpose of being questioned, the principal of the elementary school, or his or her designee, shall take immediate steps to obtain the oral consent of the parent or guardian of the pupil to permit the questioning.

(b) If the parent or guardian requests that the pupil not be questioned until he or she can be present, the pupil may not be made available to the law enforcement officer for questioning until the parent or guardian is present.

(c) If school officials are unable, after reasonable efforts undertaken within a period not to exceed one hour, to contact a parent or guardian in order to obtain consent pursuant to this subdivision, a school administrator, school counselor, or school teacher who is reasonably available and selected by the pupil, shall be present during the questioning.

(d) If the school administrator, school counselor, or school teacher selected by the pupil declines to be present during the questioning, the principal, or his or her designee, shall be present during the questioning.

(e) In those cases in which school officials are unable to contact the pupil's parent or guardian, after the questioning has been completed, the principal or his or her designee shall immediately notify the parent

or guardian that the questioning has occurred and make the staff member who was present during the questioning available to inform the parent or guardian about questioning.

§ 16-21.5-3. Procedure for interrogating high school students

(a) Before making a high school pupil under eighteen (18) years of age available to a law enforcement officer for the purpose of questioning, the principal of the school, or his or her designee, shall inform the pupil that the pupil has the right to request that his or her parent or guardian or an adult family member, or person on the list of emergency contacts for the pupil be present during the questioning.

(b) If the person selected by the pupil cannot be made available within a reasonable period of time, not exceeding one hour, or declines to be present at the questioning, the principal or his or her designee shall inform the pupil that the pupil may select as an alternate, a school administrator, school counselor, or school teacher who is reasonably available to be present during the questioning.

(c) If the person selected by the pupil declines to be present during the questioning, the principal, or his or her designee, shall so inform the pupil and advise the pupil that the principal, or his or designee, will be present during the questioning if the pupil so requests.

(d) If the pupil exercises his or her right, pursuant to this subsection, to have one of the persons designated in paragraph (a), (b) or (c) present during the questioning, the pupil may not be made available to the law enforcement officer for questioning until that person is present.

§ 16-21.5-4. Student interrogations under exigent circumstances

The provisions of §§ 16-21.5-2 and 16-21.5-3 shall not apply if any of the following conditions exist:

(a) The law enforcement officer reasonably believes that, due to exigent circumstances, the inability of the officer to immediately question the pupil will materially interfere with the ability of the officer to conduct his or her investigation and any delay would significantly impede the timely apprehension of a suspect. In that case, if an elementary school pupil is being questioned, the principal or his or her designee shall be present during the questioning and shall take immediate and continuous steps to notify the parent or guardian by telephone about the questioning, and if unsuccessful in doing so before the questioning, shall take immediate steps to notify the parent or guardian about the questioning after the questioning has been completed. If a high school pupil is being questioned, the pupil shall be given the option of having the principal, or his or her designee, present during the questioning.

(b) The law enforcement officer reasonably believes that there is a substantial risk of immediate personal injury or substantial property damage. In that case, if an elementary school pupil is being questioned, the principal or his or her designee shall be present during the questioning and shall take immediate and continuous steps to notify the parent or guardian by telephone regarding the questioning, and if unsuccessful in doing so before the questioning is completed, shall take immediate steps to notify the parent or guardian regarding the questioning after it has been completed. If a high school pupil is being questioned, the pupil shall be given the option of having the principal or his or her designee present during the questioning.

(c) The minor pupil being questioned is suspected of being a victim of child abuse or neglect, and either the principal or his or her designee or the law enforcement officer has reasonable belief that the pupil would be endangered by the notification requirements of § 16-21.5-2 or § 16-21.5-3. In that case, if the pupil is an elementary school pupil, the principal of the school, or his or her designee, shall inform the pupil that the pupil has the right to select a school administrator, school counselor or school teacher who is reasonably available to be present during the questioning, as provided in paragraphs (c) and (d) of § 16-21.5-2. If the pupil is a high school pupil, the principal of the school, or his or her designee, shall inform the pupil that the pupil has the right to select another person to be present during the questioning as provided in subsection 16-21.5-3(b).

(d) (1) In the case of an elementary school pupil, the law enforcement officer's questioning of the pupil concerns the commission of criminal activity by the person who would otherwise be present during the questioning pursuant to § 16-21.5-2. In that case, the principal of the school, or his or her designee, shall inform the pupil that the pupil has the right to select a school administrator, school counselor, or school teacher who is reasonably available to be present during the questioning as provided in subsection 16-21.5-2(c).

(2) In the case of a high school pupil, the law enforcement officer's questioning of the pupil concerns the commission of criminal activity by the person selected by the pupil pursuant to § 16-21.5-3. In that case, the principal of the school, or his or her designee, shall so inform the pupil and advise that the pupil has the right to select another person to be present during the questioning as provided in subsection 16-21.5-3(c).

(e) The pupil is on probation or parole and is being interviewed or otherwise contacted by a probation or parole officer in the normal course of duties of the probation or parole officer.

(f) Except in exigent circumstances as determined by the law enforcement officer, any questioning of a pupil by a law enforcement officer for any reason other than the ordinary, day-to-day conversation that is to be expected among members of a school community, shall take place in a private location, including, but not limited to, the principal's office, and may not take place in a classroom or hallway or other areas where pupils or others may be present.

(g) A school official present during the questioning of a pupil under this section may not disclose matters discussed with the pupil other than to the parent or guardian of the pupil, the attorney for the pupil, other school officials, or a court.

(h) Any school officer or staff member present at the questioning of the pupil by a law enforcement officer pursuant to this section is immune from civil or criminal liability arising from his or her participation during the questioning of the pupil.

(i) For the purposes of this section, "questioning" means only formal questioning in which the principal, or his or her designee, makes a pupil available to a law enforcement officer, at the request of the law enforcement officer, the principal or his or her designee, for questioning as a victim, suspect, or person with information concerning a suspected violation of a school rule that constitutes grounds for expulsion or a suspected commission of a crime. For the purposes of this section, "formal questioning" means only questioning of a pupil by a law enforcement officer that occurs on school grounds. "Formal questioning" does not include ordinary, day-to-day conversations between a pupil and a law enforcement officer.

§ 16-21-34. Statewide bullying policy implemented

(a) The Rhode Island department of education shall prescribe by regulation a statewide bullying policy, ensuring a consistent and unified, statewide approach to the prohibition of bullying at school. The statewide policy shall apply to all schools that are approved for the purpose of § 16-9-1 and shall contain the following:

(8) Procedures for promptly notifying the parents or guardians of a victim and a perpetrator; provided, further, that the parents or guardians of a victim shall also be notified of the action taken to prevent any further acts of bullying or retaliation; and provided, further, that the procedures shall provide for immediate notification of the local law enforcement agency when criminal charges may be pursued against the perpetrator;

ADMINISTRATIVE CODE

08 000 020. Statewide Bullying Policy

INTRODUCTION

This Statewide Bullying Policy is promulgated pursuant to the authority set forth in § 16-21-34 of the General Laws of Rhode Island. Known as the Safe School Act, the statute recognizes that the bullying of a student creates a climate of fear and disrespect that can seriously impair the student's health and negatively affect learning. Bullying undermines the safe learning environment that students need to achieve their full potential. The purpose of the Policy is to ensure a consistent and unified statewide approach to the prohibition of bullying at school.

[...]Section 6. Investigation/Response.

The school principal, director or head of school shall promptly investigate all allegations of bullying, harassment, or intimidation. If the allegation is found to be credible, appropriate disciplinary actions, subject to applicable due process requirements, will be imposed. The School Resource Officer or other qualified staff may be utilized to mediate bullying situations.

The investigation will include an assessment by the school psychologist and/or social worker of what effect the bullying, harassment or intimidation has had on the victim. A student who engages in continuous and/or serious acts of bullying will also be referred to the school psychologist and/or social worker.

Police Notification: Immediate notification of the local law enforcement agency will be made when circumstances warrant the pursuit of criminal charges against the perpetrator.

Protection: If a student is the victim of serious or persistent bullying:

a. The school principal, director or head of school will intervene immediately to provide the student with a safe educational environment.

b. The interventions will be developed, if possible, with input from the student, his or her parent/guardian, and staff.

c. The parents/guardians of a victim shall also be notified of the action taken to prevent any further acts of bullying or retaliation.

Disclosure of school records

STATUTES

§ 16-21-24. Requirements of school safety plans, school emergency response plans, and school crisis response plans

[...] (15) Policies and procedures for disclosing information that is provided to the school administrators about a student's conduct, including, but not limited to, the student's prior disciplinary records, and history of violence, to classroom teachers, school staff, and school security, if they have been determined by the principal to have a legitimate need for the information in order to fulfill their professional responsibilities and for protecting such information from any further disclosure; and

(16) Procedures for determining whether or not any threats or conduct established in the policy may be grounds for discipline of the student. School districts, school committees, school officials, and school employees providing notice in good faith as required and consistent with the committee's policies adopted under this section are immune from any liability arising out of such notification[...]

Data collection, review, and reporting of disciplinary policies and actions

STATUTES

§ 16-60-4. Board of regents for elementary and secondary education -- Powers and duties

The board of regents for elementary and secondary education shall have in addition to those enumerated in § 16-60-1, the following powers and duties:

(21) (i) To prepare with the assistance of the commissioner of elementary and secondary education and to present annually to the general assembly by January 1 a report on school discipline in Rhode Island schools. This report shall include:

(A) Expulsions by district, including duration and the reason for each action.

(B) Suspensions by district, including duration and the reason for each action.

(C) Placements to alternative programs for disciplinary reasons.

(D) Assaults of teachers, students, and school staff by students.

(E) Incidents involving possession of weapons on school property. For the purpose of this section, a weapon shall be considered any of those weapons described in §§ 11-47-2 and 11-47-42.

(F) Incidents of the sale of controlled substances by students.

(G) Incidents of the possession with the intent to sell controlled substances by students.

(H) Additional demographic information including, but not limited to, the ethnic and racial classifications, age, and gender, as prescribed by the commissioner, of each of the students involved in the incidents, events or actions described in subparagraphs (A) through (G) of this subdivision.

(I) A description of the education program provided to each student suspended for over ten (10) consecutive school days in a school year.

(ii) All school superintendents shall supply the necessary information on forms established by the commissioner of elementary and secondary education to the board of regents to assist in the preparation of the board of regents' report on school discipline.

(22) To prepare and promulgate a uniform statewide school reporting system which would provide information including, but not limited to, the following:

(i) Student and teacher attendance rates;

(ii) Standardized test scores;

(iii) Demographic profiles;

(iv) Results of polls of students, parents, and teachers;

(v) Descriptions of goals, initiatives, and achievements;

(vi) Best teaching practices;

(vii) Alternative student assessments;

(viii) Special programs;

(ix) Number of student suspensions and teacher grievances and the amount of parental involvement…

Student Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers

Authority and power to implement school arrest

STATUTES

§ 16-21.5-1. Legislative intent

(a) Community policing and the presence of school resource officers on school campuses serve a vital role fostering a safe learning environment for pupils, faculty and staff.

(b) In order to enable school resource officers to more effectively fulfill this role, it is the intent of the legislature to encourage them to form positive relationships with both parents and pupils who are part of the school community.

(c) It is also vitally important that parents be given meaningful opportunity to be active and informed participants in situations involving interaction with school resource officers or other members of the law enforcement community in the school setting.

(d) In furtherance of this objective, it is the intent of the legislature to increase the level of participation of parents when their minor children are being questioned by law enforcement in school or at a school-sponsored activity.

ADMINISTRATIVE CODE

08 000 020. Statewide Bullying Policy

INTRODUCTION

This Statewide Bullying Policy is promulgated pursuant to the authority set forth in § 16-21-34 of the General Laws of Rhode Island. Known as the Safe School Act, the statute recognizes that the bullying of a student creates a climate of fear and disrespect that can seriously impair the student's health and negatively affect learning. Bullying undermines the safe learning environment that students need to achieve their full potential. The purpose of the Policy is to ensure a consistent and unified statewide approach to the prohibition of bullying at school.

[...]Section 6. Investigation/Response.

The school principal, director or head of school shall promptly investigate all allegations of bullying, harassment, or intimidation. If the allegation is found to be credible, appropriate disciplinary actions, subject to applicable due process requirements, will be imposed. The School Resource Officer or other qualified staff may be utilized to mediate bullying situations….

Certification or training

No relevant statutes found.

MOUs, authorization, and/or funding

STATUTES

§ 16-21.5-1. Legislative intent

(a) Community policing and the presence of school resource officers on school campuses serve a vital role fostering a safe learning environment for pupils, faculty and staff.

(b) In order to enable school resource officers to more effectively fulfill this role, it is the intent of the legislature to encourage them to form positive relationships with both parents and pupils who are part of the school community.

(c) It is also vitally important that parents be given meaningful opportunity to be active and informed participants in situations involving interaction with school resource officers or other members of the law enforcement community in the school setting.

(d) In furtherance of this objective, it is the intent of the legislature to increase the level of participation of parents when their minor children are being questioned by law enforcement in school or at a school-sponsored activity.

ADMINISTRATIVE CODE

08 010 025. Basic Education Program G-14-2.1.4. Positive Behavioral Supports and Discipline

Each LEA shall ensure that schools promote a positive climate with emphasis on mutual respect, self-control, good attendance, order and organization, and proper security. Each LEA shall develop protocols that define a set of discipline strategies and constructs that ensure that students and adults make positive behavioral choices and that are conducive to a safe and nurturing environment that promotes academic success. Each LEA shall ensure that:

[...] Schools have a clearly delineated system for ensuring compulsory attendance for children six (6) to sixteen (16) that includes:

[...]c) The appointment of truant (or attendance) officers whose duties shall include referring truant students to appropriate school support services and procedures for enforcing any given case through civil action filed in Family Court;

State Education Agency Support

State model policies and implementation support

ADMINISTRATIVE CODE

08 000 020. Statewide Bullying Policy

INTRODUCTION

This Statewide Bullying Policy is promulgated pursuant to the authority set forth in § 16-21-34 of the General Laws of Rhode Island. Known as the Safe School Act, the statute recognizes that the bullying of a student creates a climate of fear and disrespect that can seriously impair the student's health and negatively affect learning. Bullying undermines the safe learning environment that students need to achieve their full potential. The purpose of the Policy is to ensure a consistent and unified statewide approach to the prohibition of bullying at school.

Section 1. Definitions.

BULLYING means the use by one or more students of a written, verbal or electronic expression or a physical act or gesture or any combination thereof directed at a student that:

a. Causes physical or emotional harm to the student or damage to the student's property;

b. Places the student in reasonable fear of harm to himself/herself or of damage to his/her property;

c. Creates an intimidating, threatening, hostile, or abusive educational environment for the student;

d. Infringes on the rights of the student to participate in school activities; or

e. Materially and substantially disrupts the education process or the orderly operation of a school.

The expression, physical act or gesture may include, but is not limited to, an incident or incidents that may be reasonably perceived as being motivated by characteristics such as:

Race, color, religion, ancestry, national origin, gender, sexual orientation, gender identity and expression or mental, physical, or sensory disability, intellectual ability or by any other distinguishing characteristic.

Bullying most often occurs as repeated behavior and often is not a single incident between the bullying/cyber- bullying offender(s) and the bullying victim(s).

CYBER-BULLYING means bullying through the use of technology or any electronic communication, which shall include, but not be limited to, any transfer of signs, signals, writing, images, sounds, data, texting or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photo electronic or photo optical system, including, but not limited to, electronic mail, Internet communications, instant messages or facsimile communications.

Forms of cyber-bullying may include but are not limited to:

a. The creation of a web page or blog in which the creator assumes the identity of another person;

b. The knowing impersonation of another person as the author of posted content or messages; or

c. The distribution by electronic means of a communication to more than one person or the posting of materials on an electronic medium that may be accessed by one or more persons, if the creation, impersonation, or distribution results in any of the conditions enumerated in clauses (a) to (e) of the definition of bullying.

AT SCHOOL means:

a. on school premises,

b. at any school- sponsored activity or event whether or not it is held on school premises,

c. on a school- transport ation vehicle,

d. at an official school bus stop,

e. using property or equipment provided by the school, or

f. acts which create a material and substantial disruption of the education process or the orderly operation of the school.

Section 2. School Climate.

Bullying, cyber- bullying, and retaliation against any person associated with a report of bullying or the investigation thereof is prohibited in all schools that are approved for the purpose of the compulsory attendance statute (§§ 16-19-1 and 16-19-2). School staff shall take all reasonable measures to prevent bullying at school. Such measures may include professional development and prevention activities, parental workshops, and student assemblies among other strategies. School faculty, administration and staff, at all times, will model courteous behavior to each other, to students, and to school visitors. Abusive or humiliating language or demeanor will not be accepted. Additionally, students and their families are expected to exhibit courteous behavior to all members of the learning community in school and at school sponsored events.

Section 3. Policy Oversight and Responsibility.

The school principal, director, or head of school shall be responsible for the implementation and oversight of this bullying policy.

The school principal, director, or head of school shall provide the superintendent, school committee and/or school governing board with a summary report of incidents, responses, and any other bullying-related issues at least twice annually.

For public schools, the prevention of bullying shall be part of the school district strategic plan (§ 16-7.1-2(e)) and school safety plan (§ 16-21-24).

Section 4. Information Dissemination.

The school principal, director or head of school shall ensure that students, staff, volunteers, and parents/legal guardians are provided information regarding this Policy. This information shall include methods of discouraging and preventing this type of behavior, the procedure to file a complaint, and the disciplinary action that may be taken against those who commit acts in violation of this policy.

This policy shall be:

a. Distributed annually to students, staff, volunteers, and parents/legal guardians

b. Included in student codes of conduct, disciplinary policies, and student handbooks

c. A prominently posted link on the home page of the school/district website

Section 5. Reporting.

The school principal, director or head of school shall establish, and prominently publicize to students, staff, volunteers, and parents/guardians, how a report of bullying may be filed and how this report will be acted upon (See attached sample Report Form).

The victim of bullying, anyone who witnesses an incidence of bullying, and anyone who has credible information that an act of bullying has taken place may file a report of bullying.

Any student or staff member who believes he/she is being bullied should immediately report such circumstances to an appropriate staff member, teacher or administrator.

Parents/Guardians of the victim of bullying and parents/guardians of the alleged perpetrator of the bullying shall be notified within twenty- four (24) hours of the incident report. When there is a reasonable

suspicion that a child is either a bully or a victim of bullying, the parents/guardians of the child will be notified immediately by the principal, director or head of school.

Responsibility of Staff: School staff, including volunteers, who observe an act of bullying or who have reasonable grounds to believe that bullying is taking place must report the bullying to school authorities. Failure to do so may result in disciplinary action.

Responsibility of Students: Students who observe an act of bullying or who have reasonable grounds to believe that bullying is taking place must report the bullying to school authorities. Failure to do so may result in disciplinary action. The victim of bullying, however, shall not be subject to discipline for failing to report the bullying. Student reports of bullying or retaliation may be made anonymously, provided, however, that no disciplinary action shall be taken against a student solely on the basis of an anonymous report.

Prohibition against Retaliation: Retaliation or threats of retaliation in any form designed to intimidate the victim of bullying, those who are witnesses to bullying, or those investigating an incident of bullying shall not be tolerated. Retaliation or threat of retaliation will result in the imposition of discipline in accordance with the school behavior code.

False Reporting/Accusations: A school employee, school volunteer or student who knowingly makes a false accusation of bullying or retaliation shall be disciplined in accordance with the school behavior code.

Reports in Good Faith: A school employee, school volunteer, student, parent/legal guardian, or caregiver who promptly reports, in good faith, an act of bullying to the appropriate school official designated in the school's policy shall be immune from a cause of action for damages arising from reporting bullying.

Section 6. Investigation/Response.

The school principal, director or head of school shall promptly investigate all allegations of bullying, harassment, or intimidation. If the allegation is found to be credible, appropriate disciplinary actions, subject to applicable due process requirements, will be imposed. The School Resource Officer or other qualified staff may be utilized to mediate bullying situations.

The investigation will include an assessment by the school psychologist and/or social worker of what effect the bullying, harassment or intimidation has had on the victim. A student who engages in continuous and/or serious acts of bullying will also be referred to the school psychologist and/or social worker.

Police Notification: Immediate notification of the local law enforcement agency will be made when circumstances warrant the pursuit of criminal charges against the perpetrator.

Protection: If a student is the victim of serious or persistent bullying:

a. The school principal, director or head of school will intervene immediately to provide the student with a safe educational environment.

b. The interventions will be developed, if possible, with input from the student, his or her parent/guardian, and staff.

c. The parents/guardians of a victim shall also be notified of the action taken to prevent any further acts of bullying or retaliation.

Section 7. Disciplinary Action.

The disciplinary actions for violations of the bullying policy shall be determined by the school/district appropriate authority. Disciplinary actions for violations of the bullying policy shall balance the need for accountability with the need to teach appropriate behavior. The severity of the disciplinary action shall be aligned to the severity of the bullying behavior.

The range of disciplinary actions that may be taken against a perpetrator for bullying, cyberbullying or retaliation shall include, but not be limited to:

a. Admonitions and warnings

b. Parental/Guardian notification and meetings

c. Detention

d. In-school suspension

e. Loss of school-provided transportation or loss of student parking pass

f. Loss of the opportunity to participate in extracurricular activities

g. Loss of the opportunity to participate in school social activities

h. Loss of the opportunity to participate in graduation exercises or middle school promotional activities

i. Police contact

j. School suspension: No student shall be suspended from school unless it is deemed to be a necessary consequence of the violation of this Policy.

Section 8. Social Services/Counseling.

Referral to appropriate counseling and/or social services currently being offered by schools or communities shall be provided for bullying victims, perpetrators and appropriate family members of said students.

Section 9. Social Networking.

Students shall be prohibited from accessing social networking sites in school, except for educational or instructional purposes and with the prior approval from school administration.

Section 10. Other Redress.

This section does not prevent a victim of bullying, cyber-bullying or retaliation from seeking redress under any other available law, either civil or criminal. This section does not create or alter any tort liability.

Section 11. Adoption of Policy.

The governing bodies of all schools approved for the purpose of §§ 16-19-1 and 16-19-2 shall adopt this Policy by June 30, 2012.

Funding appropriations

No relevant statutes found.

Other/Uncategorized

Professional immunity or liability

STATUTES

§ 16-12-10. Immunity for reports of suspected substance abuse

Any teacher, school administrator, school guidance counselor, school psychologist, school drug counselor, school nurse, supervisor of attendance, attendance teacher, or attendance officer having reasonable cause to suspect that an elementary or secondary school student is abusing a controlled substance or alcohol, or is under the influence of a dangerous drug or alcohol, or has in his or her possession a controlled substance or alcohol, who reports this information to the appropriate elementary or secondary school officials pursuant to the school's drug policy, or if the school has no drug policy to the school's principal or the parents of the student under eighteen (18) years of age, or to a police agency, shall have immunity from any civil liability that might otherwise be incurred or imposed as a result of the making of the report.

§ 16-19-10. Notification of pupil absence

(b) School committees, school personnel, or volunteers organized pursuant to this section shall be immune from any civil or criminal liability in connection with the notice to parents of a pupil's absence or failure to give the notice required by this section.

§ 16-21-16. Students suspected of narcotic addiction

Any teacher having reasonable cause to suspect that a secondary or elementary student under eighteen (18) years of age is addicted to a narcotic drug or under the influence of a dangerous drug who reports this information to the appropriate secondary or elementary school officials pursuant to the school's drug policy, or if the school has no drug policy to the school's principal or the parents of the student under eighteen (18) years of age, shall have immunity from any civil liability that might otherwise be incurred or imposed as a result of the making of the report.

§ 16-21-24. Requirements of school safety plans, school emergency response plans, and school crisis response plans

[...] (16) Procedures for determining whether or not any threats or conduct established in the policy may be grounds for discipline of the student. School districts, school committees, school officials, and school employees providing notice in good faith as required and consistent with the committee's policies adopted under this section are immune from any liability arising out of such notification[...]

Community input or involvement

STATUTES

§ 16-21.5-1. Legislative intent

(a) Community policing and the presence of school resource officers on school campuses serve a vital role fostering a safe learning environment for pupils, faculty and staff.

(b) In order to enable school resource officers to more effectively fulfill this role, it is the intent of the legislature to encourage them to form positive relationships with both parents and pupils who are part of the school community.

(c) It is also vitally important that parents be given meaningful opportunity to be active and informed participants in situations involving interaction with school resource officers or other members of the law enforcement community in the school setting.

(d) In furtherance of this objective, it is the intent of the legislature to increase the level of participation of parents when their minor children are being questioned by law enforcement in school or at a school-sponsored activity.

§ 16-21-20. Alternative placement and prevention activities

The department of elementary and secondary education in conjunction with the attorney general's task force to prevent violence in schools shall develop requirements for the alternative placement of students suspended under the provision of § 16-21-18. The placements shall be cooperative efforts between the local school district, which shall be responsible for instruction of students, and other appropriate state and local agencies. Further, the department of elementary and secondary education in conjunction with the attorney general's task force shall establish policies in support of locally developed prevention and education activities that include broad parent, teacher, and community involvement.

Other/Uncategorized

ADMINISTRATIVE CODE

08-010-002. Education of Children with Disabilities 300.530 Authority of school personnel; emergency removal

(a) Case-by-case determination.

(1) School personnel may consider any unique circumstances on a case-by-case basis when determining whether a change in placement, consistent with the other requirements of this section, is appropriate for a child with a disability who violates a code of student conduct.

(2) If school personnel determine that a child with a disability presents an immediate threat to him or herself or to others, the child may be removed from school for the remainder of the school day regardless of the number of days of suspension the child had already accrued during that school year.

(3) For any emergency removal under paragraph (2) of this section the public agency must follow the requirements of this section.

(b) School Removal.

(1) Removals for less than ten (10) days cumulative. School personnel under this section may remove a child with a disability who violates a code of student conduct from his or her current placement to an appropriate interim alternative educational setting, another setting, or suspension, for not more than 10 consecutive school days (to the extent those alternatives are applied tochildren without disabilities).

(i) During the first ten (10) school days of removal (cumulative) during the course of a school year, a public agency may, but is not required to:

(A) Provide educational services to the child;

(B) Conduct a manifestation determination prior to the disciplinary removal;

(C) Perform a functional behavioral assessment of the child; or

(D) Develop a behavioral intervention plan to address the behavioral factors such as the length of each removal, the total amount of time the child is removed, and the proximity of the removals to one another.102

(2) Removals for more than ten (10) days cumulative. After a child with a disability has been removed from his or her current placement for more than ten (10) school days cumulative in the same school

year, during any subsequent days of removal the public agency must provide services to the extent required under paragraph (d) of this section.

(c) Additional authority. For disciplinary changes in placement that would exceed 10 consecutive school days, if the behavior that gave rise to the violation of the school code is determined not to be a manifestation of the child's disability pursuant to paragraph (e) of this section, school personnel may apply the relevant disciplinary procedures to children with disabilities in the same manner and for the same duration as the procedures would be applied to children without disabilities, except as provided in paragraph (d) of this section.

(d) Services.

(1) A child with a disability who is removed from the child's current placement pursuant to paragraphs (c), or (g) of this section must —

(i) Continue to receive educational services, as provided in § 300.101(a), so as to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP; and

(ii) Receive a functional behavioral assessment, and behavioral intervention services and modifications, that are designed to address the behavior violation so that it does not recur.

(2) The services required by paragraph (d)(1), (d)(3), (d)(4), and (d)(5) of this section may be provided in an interim alternative educational setting.

(3) A public agency is only required to provide services during periods of removal to a child with a disability who has been removed from his or her current placement for 10 school days or less in that school year, if it provides services to a child without disabilities who is similarly removed.

(4) After a child with a disability has been removed from his or her current placement for ten (10) school days cumulative in the same school year, any subsequent removal constitutes a change in placement under § 300.536.

(5) If the removal is a change of placement under § 300.536, the child's IEP Team determines appropriate services under paragraph (d)(1) of this section.

(e) Manifestation determination.

(1) Within 10 school days of any decision to change the placement of a child with a disability because of a violation of a code of student conduct, the LEA, the parent, and relevant members of the child's IEP Team (as determined by the parent and the LEA) must review all relevant information in the student's file, including the child's IEP, any teacher observations, and any relevant information provided by the parents to determine —

(i) If the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability; or

(ii) If the conduct in question was the direct result of the LEA's failure to implement the IEP.

(2) The conduct must be determined to be a manifestation of the child's disability if the LEA, the parent, and relevant members of the child's IEP Team determine that a condition in either paragraph (e)(1)(i) or (1)(ii) of this section was met.

(3) If the LEA, the parent, and relevant members of the child's IEP Team determine the condition described in paragraph (e)(1)(ii) of this section was met, the LEA must take immediate steps to remedy those deficiencies.103

(f) Determination that behavior was a manifestation. If the LEA, the parent, and relevant members of the IEP Team make the determination that the conduct was a manifestation of the child's disability, the IEP Team must —

(1) Either —

(i) Conduct a functional behavioral assessment, unless the LEA had conducted a functional behavioral assessment before the behavior that resulted in the change of placement occurred, and implement a behavioral intervention plan for the child; or

(ii) If a behavioral intervention plan already has been developed, review the behavioral intervention plan, and modify it, as necessary, to address the behavior; and

(2) Except as provided in paragraph (g) of this section, return the child to the placement from which the child was removed, unless the parent and the LEA agree to a change of placement as part of the modification of the behavioral intervention plan.

(g) Special circumstances. The LEA may remove a student to an interim alternative educational setting for not more than 45 school days without regard to whether the behavior is determined to be a manifestation of the child's disability, if the child —

(1) Carries a weapon to or possesses a weapon at school, on school premises, or to or at a school function under the jurisdiction of an SEA or an LEA;

(2) Knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance, while at school, on school premises, or at a school function under the jurisdiction of an SEA or an LEA; or

(3) Has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of an SEA or an LEA.

(h) Notification. On the date on which the decision is made to make a removal that constitutes a change of placement of a child with a disability because of a violation of a code of student conduct, the LEA must notify the parents of that decision, and provide the parents the procedural safeguards notice described in § 300.504.

(i) Definitions. For purposes of this section, the following definitions apply:

(1) Controlled substance means a drug or other substance identified under schedules I, II, III, IV, or V in § 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)).

(2) Illegal drug means a controlled substance; but does not include a controlled substance that is legally possessed or used under the supervision of a licensed health-care professional or that is legally possessed or used under any other authority under that Act or under any other provision of Federal law.

(3) Serious bodily injury has the meaning given the term “serious bodily injury” under paragraph (3) of subsection (h) of § 1365 of title 18, United States Code.

(4) Weapon has the meaning given the term “dangerous weapon” under paragraph (2) of the first subsection (g) of § 930 of title 18, United States Code.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by Rhode Island provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
Website		
No relevant resources found		
Documents		
No relevant resources found		
Other Resources		
No relevant resources found		

South Carolina Compilation of School Discipline Laws and Regulations

Prepared: August 12, 2013

Introduction

This compilation presents school discipline-related state statutes, school discipline-related regulations, and, where available, links to state-sponsored websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSLE). For example, one major category encompasses all state laws or regulations mandating specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of state legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in each state.

Discipline categories were not mutually exclusive. Statutes and regulations often appeared across multiple categories. For states with more extensive statutes covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. State laws, ordered by chapter and section number, appear first within each category followed by state regulations. All statutes and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists statutes by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to state-sponsored websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of May 2013, with the exception of the state laws related to seclusion and restraint, which are complete and current as of December 2012. Readers should also note that the information in this document was compiled from individual state sources that are created by each state and which are maintained and updated with varying frequencies. Readers should consult the source information provided for each state directly in order to check for updates to this state's laws and regulations or conduct further research.

For further information, including definitions of the different policy categories, please refer to the Discipline Laws and Regulations Compendium posted on the Center's website.

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Safe Supportive Learning
Engagement | Safety | Environment

Table of Contents

South Carolina State Codes Cited **1**

General Provisions **3**

Authority to develop and establish rules of conduct 3
Scope 5
Communication of policy 10

In-School Discipline **13**

Use of multi-tiered discipline approaches 13
Teacher authority to remove students from classrooms 17
Alternatives to suspension 17
Use of corporal punishment 18
Use of student and locker searches 18
Other in-school disciplinary approaches 19

Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements **24**

Grounds for possible suspension or expulsion 24
Grounds for mandatory suspension or expulsion 28
Limitations, conditions or exclusions for use of suspension and expulsion 28
Administrative procedures related to suspension and expulsion 29
In-school suspension 30
Return to school following removal 34
Use of restraint and seclusion 35
Alternative placements 35

Disciplinary Approaches Addressing Specific Infractions and Conditions **37**

Firearms (as required by the Guns-Free Schools Act) 37
Other weapons 38
Students with chronic disciplinary issues 38
Attendance and truancy 40
Substance use 44
Bullying, harassment, or hazing 47
Other special infractions or conditions 50

Prevention and Behavioral Interventions (Non-Punitive) **51**

Prevention 51
Behavioral interventions and student support services 52
Professional development 54

Monitoring and Accountability **56**

Formal incident reporting of conduct violations 56
Parental notification 57
Reporting and referrals between schools and law enforcement 57
Disclosure of school records 60
Data collection, review, and reporting of disciplinary policies and actions 60

School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers 63
Authority and power to implement school arrest 63
Certification or training 63
MOUs, authorization, and/or funding 64
State Education Agency Support 65
State model policies and implementation support 65
Funding appropriations 67
Other/Uncategorized 69
Professional immunity or liability 69
Community input or involvement 69
Other/Uncategorized 69
State-Sponsored, Publicly Available Websites or Other Resources on School Discipline 70

South Carolina State Codes Cited

South Carolina Revised Statutes

Title 5 Municipal Corporations

Chapter 7. General Structure, Organization, Powers, Duties, Functions and Responsibilities of All Responsibilities of All Municipalities

5-7-12.	Designation of school resource officer; jurisdiction; employment rights

Title 16. Crimes and Offenses

Chapter 23. Offenses Involving Weapons

16-23-420.	Possession of firearm on school property; concealed weapon
16-23-460.	Carrying concealed weapons; forfeiture of weapons

Title 59. Education

Chapter 5. State Board of Education

59-5-60.	General powers of Board
59-5-65.	Powers and responsibilities of State Board of Education

Chapter 17. School Districts

59-17-135.	Character education

Chapter 19. School Trustees

59-19-90.	General powers and duties of school trustees

Chapter 63. Pupils Generally

59-63-110.	This article may be cited as the 'Safe School Climate Act'
59-63-140.	Local school districts to adopt policies prohibiting harassment; required components; model policies by State Board of Education; bullying prevention programs
59-63-210.	Grounds for which trustees may expel, suspend or transfer pupils; petition for readmission
59-63-217.	Barring enrollment of student; grounds; notice and hearing; duration of bar
59-63-220.	Suspension of pupils by administrator
59-63-230.	Notices of suspensions; conferences with parents or guardian
59-63-235.	Expulsion of student determined to have brought firearm to school
59-63-240.	Expulsion for remainder of year; hearings
59-63-250.	Transfer of pupils
59-63-260.	Corporal punishment
59-63-275.	Hazing prohibited at all public education institutions
59-63-280.	"Paging device" defined; adoption of policies addressing student possession
59-63-280.	Possession of paging devices by public school students under age eighteen prohibited
59-63-320.	Reporting form
59-63-330.	Quarterly and annual reports

59-63-333. School crime requirements to conform to federal "No Child Left Behind Act"
59-63-335. Failure of school administrator to report criminal conduct; liability
59-63-350. Local law enforcement
59-63-360. Attorney General; representation of school districts
59-63-370. Student's conviction or delinquency adjudication for certain offenses; notification of senior administrator at student's school; placement of information in permanent school records
59-63-380. School official reporting school related crimes; immunity
59-63-390. Inclusion of school crime report act summary in student handbook
59-63-1110. Consent to search person or his effects
59-63-1120. Searches by school administrators or officials with or without probable cause
59-63-1130. Searches by principals or their designees
59-63-1140. Strip searches prohibited
59-63-1150. Compliance with case law; training of school administrators
59-63-1160. Posting of notice; costs of notice to be paid by State; effect of failure to post notice
59-63-1300. Alternative school programs established
59-63-1320. Referral or placement of students in alternative school programs
59-63-1330. Discretion of school board

Chapter 65. Attendance of Pupils

59-65-50. Nonattendance reported to court having jurisdiction of juveniles
59-65-60. Procedure upon receipt by court of report of nonattendance
59-65-70. Court empowered to declare child delinquent
59-65-80. Enrollment or attendance of expelled or suspended child not authorized
59-65-90. Rules and regulations

Chapter 66. School Safety Coordinators

59-66-20. School safety coordinator grant program; funding; requirements
59-66-30. Public middle schools and high schools to be equipped with metal detector; training; regulations

Chapter 67. Transportation of Students; School Buses

59-67-240. Other duties of driver; discipline of pupils for misconduct

South Carolina Administrative Code

South Carolina Code of Regulations

Chapter 43. State Board of Education

Article 13. General School Administration

43-166. Student and school safety

Article 20. Students

43-274. Student Attendance
43-274.1. At-risk students
43-279. Minimum Standards of Student Conduct and Disciplinary Enforcement Procedures to be Implemented by Local School Districts

General Provisions

Authority to develop and establish rules of conduct

STATUTES

59-5-60. General powers of Board.

The State Board of Education shall have the power to:

(1) Adopt policies, rules and regulations not inconsistent with the laws of the State for its own government and for the government of the free public schools.

59-5-65. Powers and responsibilities of State Board of Education.

The State Board of Education shall have the power and responsibility to:

(1) Establish on or before August 15, 1985, regulations prescribing minimum standards of conduct and behavior that must be met by all pupils as a condition to the right of pupils to attend the public schools of the State. The rules shall take into account the necessity of proper conduct on the part of all pupils in order that the welfare of the greatest possible number of pupils shall be promoted notwithstanding that the rules may result in suspension or expulsion of pupils, provided, however, that disciplinary procedures shall be in compliance with Public Law 94-142.

(2) Promulgate on or before August 15, 1985, regulations prescribing a uniform system of minimum enforcement by the various school districts of the rules of conduct and behavior.

(3) Promulgate rules prescribing scholastic standards of achievement. The rules shall take into account the necessity for scholastic progress in order that the welfare of the greatest possible number of pupils shall be promoted. School districts may impose additional standards of conduct and may impose additional penalties for the violation of such standards of behavior, provided, however, that disciplinary procedures shall be in compliance with Public Law 94-142;

(4) Establish on or before July 1, 1985, regulations prescribing a uniform system of enforcement by the various school districts of the state compulsory attendance laws and regulations promulgated pursuant to 59-65-90.

59-19-90. General powers and duties of school trustees.

The board of trustees shall also:

(3) Promulgate rules and regulations. Promulgate rules prescribing scholastic standards of achievement and standards of conduct and behavior that must be met by all pupils as a condition to the right of such pupils to attend the public schools of such district. The rules shall take into account the necessity of proper conduct on the part of all pupils and the necessity for scholastic progress in order that the welfare of the greatest possible number of pupils shall be promoted notwithstanding that such rules may result in the ineligibility of pupils who fail to observe the required standards, and require the suspension or permanent dismissal of such pupils;

59-17-135. Character education.

(B) Each local school board of trustees of the State must develop a policy addressing character education. Any character education program implemented by a district as a result of an adopted policy must, to the extent possible, incorporate character traits including, but not limited to, the following: respect for authority and respect for others, honesty, self-control, cleanliness, courtesy, good manners, cooperation, citizenship, patriotism, courage, fairness, kindness, self-respect, compassion, diligence,

good work ethics, sound educational habits, generosity, punctuality, cheerfulness, patience, sportsmanship, loyalty, and virtue. Local school boards must include all sectors of the community, as referenced in subsection (A)(4), in the development of a policy and in the development of any program implemented as a result of the policy. As part of any policy and program developed by the local school board, an evaluation component must be included.

59-63-140. Local school districts to adopt policies prohibiting harassment; required components; model policies by State Board of Education; bullying prevention programs.

(A) Before January 1, 2007, each local school district shall adopt a policy prohibiting harassment, intimidation, or bullying at school. The school district shall involve parents and guardians, school employees, volunteers, students, administrators, and community representatives in the process of creating the policy.

(B) The policy must include, but not be limited to, the following components:

(1) a statement prohibiting harassment, intimidation, or bullying of a student;

(2) a definition of harassment, intimidation, or bullying no less inclusive than the definition in Section 59 63 120;

(3) a description of appropriate student behavior;

(4) consequences and appropriate remedial actions for persons committing acts of harassment, intimidation, or bullying, and for persons engaging in reprisal or retaliation;

(5) procedures for reporting acts of harassment, intimidation, or bullying, to include a provision for reporting anonymously. However, formal disciplinary action must not be taken solely on the basis of an anonymous report. The procedures must identify the appropriate school personnel responsible for taking the report and investigating the complaint;

(6) procedures for prompt investigation of reports of serious violations and complaints;

(7) a statement that prohibits reprisal or retaliation against a person who reports an act of harassment, intimidation, or bullying;

(8) consequences and appropriate remedial action for persons found to have falsely accused another;

(9) a process for discussing the district's harassment, intimidation, or bullying policy with students; and

(10) a statement of how the policy is to be publicized, including notice that the policy applies to participation in school sponsored functions.

(C) To assist local school districts in developing policies for the prevention of harassment, intimidation, or bullying, the State Board of Education shall develop model policies applicable to grades kindergarten through twelve. Additionally, the State Board of Education shall develop teacher preparation program standards on the identification and prevention of bullying. The model policies and standards must be developed no later than September 1, 2006.

(D) The local school board shall ensure that the school district's policy developed pursuant to this article is included in the school district's publication of the comprehensive rules, procedures, and standards of conduct for schools and in the student's handbook.

(E) Information regarding a local school district policy against harassment, intimidation, or bullying must be incorporated into a school's employee training program. Training also should be provided to school volunteers who have significant contact with students.

(F) Schools and school districts are encouraged to establish bullying prevention programs and other initiatives involving school staff, students, administrators, volunteers, parents, law enforcement, and community members.

59-63-220. Suspension of pupils by administrator.

Any district board may confer upon any administrator the authority to suspend a pupil from a teacher's class or from the school not in excess of ten days for any one offense and for not more than thirty days in any one school year but no such administrator may suspend a pupil from school during the last ten days of a year if the suspension will make the pupil ineligible to receive credit for the school year without the approval of the school board unless the presence of the pupil constitutes an actual threat to a class or a school or a hearing is granted within twenty four hours of the suspension.

59-63-280. "Paging device" defined; adoption of policies addressing student possession.

(A) For purposes of this section, "paging device" means a telecommunications, to include mobile telephones, device that emits an audible signal, vibrates, displays a message, or otherwise summons or delivers a communication to the possessor.

(B) The board of trustees of each school district shall adopt a policy that addresses student possession of paging devices as defined in subsection (A). This policy must be included in the district's written student conduct standards. If the policy includes confiscation of a paging device, as defined in subsection (A), it should also provide for the return of the device to the owner.

59-63-1330. Discretion of school board.

Nothing in this article shall abrogate the authority of any public school district and its governing board to take such disciplinary action as it is otherwise empowered by law to take against any student for misconduct including, but not limited to, expulsion, and nothing in this chapter shall require that any student be assigned to such an alternative school. These decisions shall rest solely in the discretion of the district and school board, regardless of the offense, record of the child, or other information presented from any source.

ADMINISTRATIVE CODE

43-279. Minimum Standards of Student Conduct and Disciplinary Enforcement Procedures to be Implemented by Local School Districts. [SC ADC 43-279]

II. Previously Adopted School District Discipline Policies

This regulation is established as a uniform system of minimum disciplinary enforcement for the school districts of South Carolina. School districts, which previously have adopted discipline policies that are consistent with and contain the elements included in this regulation, may retain their local policies as adopted.

Scope

ADMINISTRATIVE CODE

43-279. Minimum Standards of Student Conduct and Disciplinary Enforcement Procedures to be Implemented by Local School Districts.

I. Expectations for Student Conduct in South Carolina Public Schools

Students in the public schools of South Carolina enjoy the same basic rights of United States citizenship as do other United States citizens. The rights of students are supported by the responsibility to insure that the rights of others are respected. This regulation is adopted with the intent to better assure that the opportunity to enjoy the benefits of public education is available to all those attending the public schools of the state of South Carolina.

II. Previously Adopted School District Discipline Policies

This regulation is established as a uniform system of minimum disciplinary enforcement for the school districts of South Carolina. School districts, which previously have adopted discipline policies that are consistent with and contain the elements included in this regulation, may retain their local policies as adopted.

III. Levels of Student Misconduct

A. The levels of student misconduct considered in this regulation are arranged by degrees of seriousness. The levels are arranged from the least serious to the most serious.

B. Three levels of student misconduct are identified: disorderly conduct, disruptive conduct, and criminal conduct. The levels are defined in this regulation.

C. This regulation includes a listing of possible sanctions for the three levels of student misconduct. As the levels increase in seriousness, the severity of possible disciplinary sanctions increases.

D. Suggested sanctions within the Level I misconduct category range from verbal reprimand to in-school suspension. Level II misconduct includes sanctions ranging from temporary removal from class to expulsion, while Level III misconduct includes sanctions ranging from out-of-school suspension to appropriate action within the criminal justice system.

E. A local school board, in its discretion, may authorize more stringent standards than those contained in this regulation.

IV. Minimum Standards

A. Disorderly Conduct--Level I

1. Disorderly conduct is defined as those activities engaged in by student(s) which tend to impede orderly classroom procedures or instructional activities, orderly operation of the school, or the frequency or seriousness of which disturb the classroom or school. The provisions of this regulation apply not only to within-school activities, but also to student conduct on school bus transportation vehicles, and other school sponsored activities.

2. Acts of disorderly conduct may include, but are not limited to:

a. Classroom tardiness;

b. Cheating on examinations or classroom assignments;

c. Lying;

d. Acting in a manner so as to interfere with the instructional process;

e. Abusive language between or among students;

f. Failure to complete assignments or carry out directions;

g. Use of forged notes or excuses;

h. Cutting class;

i. School tardiness;

j. Truancy;

k. Other disorderly acts as determined by local school authorities.

3. The basic enforcement procedures to be followed in instances of disorderly conduct are:

a. Upon observation or notification and verification of an offense, the staff member should take immediate action to rectify the misconduct. The staff member should apply an appropriate sanction, and should maintain a record of the misconduct and the sanction.

b. If, either in the opinion of the staff member or according to local school board policy, a certain misconduct is not immediately rectifiable, the problem should be referred to the appropriate administrator for action specified by local school board policy.

c. The administrator should meet with the reporting staff member, and, if necessary, the student and the parent or guardian, and should effect the appropriate disciplinary action.

d. A complete record of the procedures should be maintained.

4. Possible sanctions to be applied in cases of disorderly conduct may include, but are not limited to:

a. Verbal reprimand;

b. Withdrawal of privileges;

c. Demerits;

d. Detention;

e. Corporal punishment;

f. In-school suspension;

g. Other sanctions as approved by local school authorities.

B. Disruptive Conduct--Level II

1. Disruptive conduct is defined as those activities engaged in by student(s) which are directed against persons or property, and the consequences of which tend to endanger the health or safety of oneself or others in the school. Some instances of disruptive conduct may overlap certain criminal offenses, justifying both administrative sanctions and court proceedings. Disorderly conduct (Level I) may be reclassified as disruptive conduct (Level II) if it occurs three or more times. The provisions of this regulation apply not only to within school activities, but also to student conduct on school bus transportation vehicles, and other school sponsored activities.

2. Acts of disruptive conduct may include, but are not limited to:

a. Use of an intoxicant;

b. Fighting;

c. Vandalism (minor);

d. Stealing;

e. Threats against others;

f. Trespass;

g. Abusive language to staff;

h. Refusal to obey school personnel or agents (such as volunteer aides or chaperones) whose responsibilities include supervision of students;

i. Possession or use of unauthorized substances, as defined by law or local school board policy;

j. Illegally occupying or blocking in any way school property with the intent to deprive others of its use;

k. Unlawful assembly;

l. Disrupting lawful assembly;

m. Other acts as determined by local school authorities.

3. The basic enforcement procedures to be followed in instances of disruptive conduct are:

a. Upon observation or notification and verification of an offense, the administrator should investigate the circumstances of the misconduct and should confer with staff on the extent of the consequences.

b. The administrator should notify the parent or guardian of the student's misconduct and related proceedings. The administrator should meet with the student and, if necessary, the parent or

guardian, confer with them about the student's misconduct, and effect the appropriate disciplinary action.

c. A complete record of the procedures should be maintained.

4. Possible sanctions to be applied in cases of disruptive conduct may include, but are not limited to:

a. Temporary removal from class;

b. Alternative education program;

c. In-school suspension;

d. Out-of-school suspension;

e. Transfer;

f. Referral to outside agency;

g. Expulsion;

h. Restitution of property and damages, where appropriate, should be sought by local school authorities;

i. Other sanctions as approved by local school authorities.

C. Criminal Conduct--Level III

1. Criminal conduct is defined as those activities engaged in by student(s) which result in violence to oneself or another's person or property or which pose a direct and serious threat to the safety of oneself or others in the school. These activities usually require administrative actions which result in the immediate removal of the student from the school, the intervention of law enforcement authorities, and/or action by the local school board. The provisions of this regulation apply not only to within-school activities, but also to student conduct on school bus transportation vehicles, and other school sponsored activities.

2. Acts of criminal conduct may include, but are not limited to:

a. Assault and battery;

b. Extortion;

c. Bomb threat;

d. Possession, use, or transfer of dangerous weapons;

e. Sexual offenses;

f. Vandalism (major);

g. Theft, possession, or sale of stolen property;

h. Arson;

i. Furnishing or selling unauthorized substances, as defined by local school board policy;

j. Furnishing, selling, or possession of controlled substances (drugs, narcotics, or poisons).

3. The basic enforcement procedures to be followed in instances of criminal conduct are:

a. Upon observation or notification and verification of an offense, the administrator should confer with the staff involved, should effect the appropriate disciplinary action, and, if appropriate, should meet with the student.

b. If warranted, the student should be removed immediately from the school environment. A parent or guardian should be notified as soon as possible.

c. If appropriate, school officials should contact law enforcement authorities.

d. Established due process procedures shall be followed when applicable.

e. A complete record of the procedures should be maintained.

4. Possible sanctions to be applied in cases of criminal conduct may include, but are not limited to:

a. Out-of-school suspension;

b. Assignment to alternative schools;

c. Expulsion;

d. Restitution of property and damages, where appropriate, should be sought by local school authorities;

e. Other sanctions as approved by local school authorities.

D. Extenuating, Mitigating or Aggravating Circumstances. A local school board may confer upon the appropriate administrator the authority to consider extenuating, mitigating or aggravating circumstances which may exist in a particular case of misconduct. Such circumstances should be considered in determining the most appropriate sanction to be used.

V. Discipline of Handicapped Students

A. Disciplinary Process. Handicapped students are not exempt from school disciplinary processes, nor are they entitled to remain in a particular educational program when their conduct substantially impairs the education of other children in the program. However, the public schools are required by federal and state law and regulations to meet the individual educational needs of handicapped children to the extent that current educational expertise permits.

B. Program Prescriptions. A handicapped student's Staffing Committee may prescribe or prohibit specified disciplinary measures for an individual student by including appropriate provisions in the student's individual education plan. The student's handicapping condition must be taken into consideration when deciding whether or not a particular form of discipline is to be utilized. Administrative authorities should observe any such provisions contained in a handicapped student's individual education plan, except that a Staffing Committee may not prohibit the initiation of proceedings for suspension or expulsion which are conducted in accordance with this regulation.

C. Suspensions. A handicapped student may be suspended, unless a suspension is prohibited by the student's individual education plan. At the end of the suspension, the student should, if appropriate, be returned to the same educational placement. School districts may remove immediately, for a short period of time, a handicapped student who is endangering himself or others.

D. Expulsions. Expulsion of a handicapped student is equivalent to a change in educational placement and therefore requires special procedures. Before a handicapped student may be expelled, a multi-disciplinary team must determine whether or not there is a connection between the handicapping condition and the misconduct. If there is a connection or causal relationship between the handicapping condition and the misconduct, then expulsion resulting in cessation of educational services for that student would be unallowable.

Handicapped students who have been expelled under the regulations of the State Board of Education shall continue to receive a free and appropriate education as set forth in such student's Individual Education Program. The term handicapped as used herein means handicapped students as defined in P.L. 94-142, as amended.

E. Immediate Removal. Nothing contained in this regulation shall be construed as limiting an administrative authority's ability to remove a handicapped student from school immediately under emergency conditions.

VI. Other Areas of Student Conduct Which May Be Regulated by Local School Board Policy

A. Other areas of student conduct which are subject to regulation by local school boards include, but are not limited to:

1. School attendance;

2. Use of and access to public school property;
3. Student dress and personal appearance;
4. Use of tobacco in the public schools;
5. Speech and assembly within the public schools;
6. Publications produced and/or distributed in the public schools;
7. The existence, scope and conditions of availability of student privileges, including extracurricular activities and rules governing participation;
8. Other activities not in conflict with existing state statutes or regulations.

B. Other areas of student conduct may be regulated within legal limits by local school boards as they deem appropriate to local conditions. The term "legal limits" signifies the requirements of the federal and state constitutions and governing statutes, standards and regulations, the fundamental common-law requirement that rules of student conduct be reasonable exercises of the school's authority in pursuance of legitimate educational and related functions, and special limitations arising from constitutional guarantees.

Communication of policy

STATUTES

59-5-65. Powers and responsibilities of State Board of Education.

The State Board of Education shall have the power and responsibility to:

(15) Develop by regulation a model safe schools checklist to be used by school districts on a regular basis to assess their schools' safety strengths and weaknesses. The checklist must include:

(a) the existence of a comprehensive safety plan;
(b) communication of discipline policies and procedures;
(c) intraagency and interagency emergency planning;
(d) recording of disruptive incidents;
(e) training of staff and students;
(f) assessment of buildings and grounds;
(g) procedures for handling visitors;
(h) assignment of personnel in emergencies;
(i) emergency communication and management procedures; and
(j) transportation rules and accident procedures.

(16) consult with the Department of Agricultural Education of Clemson University at all steps in the development of any state plan prepared to satisfy any federal requirement related to the Carl Perkins Vocational and Applied Technology and Education Act or any successor federal law, including, but not limited to, the allocation or distribution of funds under this federal act.

59-63-140. Local school districts to adopt policies prohibiting harassment; required components; model policies by State Board of Education; bullying prevention programs.

(D) The local school board shall ensure that the school district's policy developed pursuant to this article is included in the school district's publication of the comprehensive rules, procedures, and standards of conduct for schools and in the student's handbook.

59-63-1160. Posting of notice; costs of notice to be paid by State; effect of failure to post notice.

Notice must be conspicuously posted on school property informing the provisions of this article. The notice must be posted at least at all regular entrances and any other access point to the school grounds.

The costs of posting the notice required by this section must be paid by the State. No school or school district shall be required to incur any financial obligation for complying with the notice requirements contained in this section. The failure to post the notice provided in this section shall not constitute a defense to any civil action or criminal prosecution and shall not constitute grounds for any legal liability.

ADMINISTRATIVE CODE

R43-166. Student and school safety.

A. School Safety Assessment

1. The State Department of Education shall develop a Model Safe Schools Checklist designed to assess schools' safety strengths and weaknesses. The checklist must include items addressing the following topics:
   a. the existence of a comprehensive safety plan;
   b. communication of discipline policies and procedures;
   c. intra-agency and interagency emergency planning;
   d. recording of disruptive incidents;
   e. training of staff and students;
   f. assessment of buildings and grounds;
   g. procedures for handling visitors;
   h. assignment of personnel in emergencies;
   i. emergency communication and management procedures; and
   j. transportation rules and accident procedures.
2. The State Department of Education shall submit the checklist to the State Board of Education for approval prior to dissemination to the school districts. The checklist may be revised on an annual basis by the State Board of Education in compliance with relevant provisions of the Safe Schools Act of 1990.
3. Prior to September 30 of each school year, the State Department of Education shall disseminate a copy of the model safe schools checklist to every public school district in the state.
4. School districts shall be advised by the Department of Education of the requirement to use a safe schools checklist in compliance with Section 59-5-65, S.C. Code of Laws, 1976. This safety assessment should be part of the comprehensive needs assessment conducted for school improvement purposes in compliance with Section 59-20-60(4)(d), S.C. Code of Laws, 1976. In particular, a safe schools check list should be utilized in determining "school climate" needs, one of the six indicators of school effectiveness.

B. First Aid Supplies. Each school shall provide adequate first aid supplies and equipment.

C. Support for Authorities. The Board urges all citizens to continue their active and vigorous support of the local school and civil authorities in insuring the personal safety and security of all students and teachers.

D. Emergency and Disaster Plans. A plan shall be designed to provide for the protection and welfare of students in the event of any disaster (tornado, hurricane, fire, etc.) which threatens to involve the school community. Each school shall conduct at least one emergency drill within the first month of school to insure safety against such disasters.

E. Guidelines will be developed by the State Department of Education which will refer to statutory provisions relating to school safety, as well as additional information. The State Department of Education will review and update these guidelines as needed.

In-School Discipline

Use of multi-tiered discipline approaches

ADMINISTRATIVE CODE

43-279. Minimum Standards of Student Conduct and Disciplinary Enforcement Procedures to be Implemented by Local School Districts.

I. Expectations for Student Conduct in South Carolina Public Schools

Students in the public schools of South Carolina enjoy the same basic rights of United States citizenship as do other United States citizens. The rights of students are supported by the responsibility to insure that the rights of others are respected. This regulation is adopted with the intent to better assure that the opportunity to enjoy the benefits of public education is available to all those attending the public schools of the state of South Carolina.

II. Previously Adopted School District Discipline Policies

This regulation is established as a uniform system of minimum disciplinary enforcement for the school districts of South Carolina. School districts, which previously have adopted discipline policies that are consistent with and contain the elements included in this regulation, may retain their local policies as adopted.

III. Levels of Student Misconduct

A. The levels of student misconduct considered in this regulation are arranged by degrees of seriousness. The levels are arranged from the least serious to the most serious.

B. Three levels of student misconduct are identified: disorderly conduct, disruptive conduct, and criminal conduct. The levels are defined in this regulation.

C. This regulation includes a listing of possible sanctions for the three levels of student misconduct. As the levels increase in seriousness, the severity of possible disciplinary sanctions increases.

D. Suggested sanctions within the Level I misconduct category range from verbal reprimand to in-school suspension. Level II misconduct includes sanctions ranging from temporary removal from class to expulsion, while Level III misconduct includes sanctions ranging from out-of-school suspension to appropriate action within the criminal justice system.

E. A local school board, in its discretion, may authorize more stringent standards than those contained in this regulation.

IV. Minimum Standards

A. Disorderly Conduct--Level I

1. Disorderly conduct is defined as those activities engaged in by student(s) which tend to impede orderly classroom procedures or instructional activities, orderly operation of the school, or the frequency or seriousness of which disturb the classroom or school. The provisions of this regulation apply not only to within-school activities, but also to student conduct on school bus transportation vehicles, and other school sponsored activities.

2. Acts of disorderly conduct may include, but are not limited to:

a. Classroom tardiness;

b. Cheating on examinations or classroom assignments;

c. Lying;

d. Acting in a manner so as to interfere with the instructional process;

e. Abusive language between or among students;

f. Failure to complete assignments or carry out directions;

g. Use of forged notes or excuses;

h. Cutting class;

i. School tardiness;

j. Truancy;

k. Other disorderly acts as determined by local school authorities.

3. The basic enforcement procedures to be followed in instances of disorderly conduct are:

a. Upon observation or notification and verification of an offense, the staff member should take immediate action to rectify the misconduct. The staff member should apply an appropriate sanction, and should maintain a record of the misconduct and the sanction.

b. If, either in the opinion of the staff member or according to local school board policy, a certain misconduct is not immediately rectifiable, the problem should be referred to the appropriate administrator for action specified by local school board policy.

c. The administrator should meet with the reporting staff member, and, if necessary, the student and the parent or guardian, and should effect the appropriate disciplinary action.

d. A complete record of the procedures should be maintained.

4. Possible sanctions to be applied in cases of disorderly conduct may include, but are not limited to:

a. Verbal reprimand;

b. Withdrawal of privileges;

c. Demerits;

d. Detention;

e. Corporal punishment;

f. In-school suspension;

g. Other sanctions as approved by local school authorities.

B. Disruptive Conduct--Level II

1. Disruptive conduct is defined as those activities engaged in by student(s) which are directed against persons or property, and the consequences of which tend to endanger the health or safety of oneself or others in the school. Some instances of disruptive conduct may overlap certain criminal offenses, justifying both administrative sanctions and court proceedings. Disorderly conduct (Level I) may be reclassified as disruptive conduct (Level II) if it occurs three or more times. The provisions of this regulation apply not only to within school activities, but also to student conduct on school bus transportation vehicles, and other school sponsored activities.

2. Acts of disruptive conduct may include, but are not limited to:

a. Use of an intoxicant;

b. Fighting;

c. Vandalism (minor);

d. Stealing;

e. Threats against others;

f. Trespass;

g. Abusive language to staff;

h. Refusal to obey school personnel or agents (such as volunteer aides or chaperones) whose responsibilities include supervision of students;

i. Possession or use of unauthorized substances, as defined by law or local school board policy;

j. Illegally occupying or blocking in any way school property with the intent to deprive others of its use;

k. Unlawful assembly;

l. Disrupting lawful assembly;

m. Other acts as determined by local school authorities.

3. The basic enforcement procedures to be followed in instances of disruptive conduct are:

a. Upon observation or notification and verification of an offense, the administrator should investigate the circumstances of the misconduct and should confer with staff on the extent of the consequences.

b. The administrator should notify the parent or guardian of the student's misconduct and related proceedings. The administrator should meet with the student and, if necessary, the parent or guardian, confer with them about the student's misconduct, and effect the appropriate disciplinary action.

c. A complete record of the procedures should be maintained.

4. Possible sanctions to be applied in cases of disruptive conduct may include, but are not limited to:

a. Temporary removal from class;

b. Alternative education program;

c. In-school suspension;

d. Out-of-school suspension;

e. Transfer;

f. Referral to outside agency;

g. Expulsion;

h. Restitution of property and damages, where appropriate, should be sought by local school authorities;

i. Other sanctions as approved by local school authorities.

C. Criminal Conduct--Level III

1. Criminal conduct is defined as those activities engaged in by student(s) which result in violence to oneself or another's person or property or which pose a direct and serious threat to the safety of oneself or others in the school. These activities usually require administrative actions which result in the immediate removal of the student from the school, the intervention of law enforcement authorities, and/or action by the local school board. The provisions of this regulation apply not only to within-school activities, but also to student conduct on school bus transportation vehicles, and other school sponsored activities.

2. Acts of criminal conduct may include, but are not limited to:

a. Assault and battery;

b. Extortion;

c. Bomb threat;

d. Possession, use, or transfer of dangerous weapons;

e. Sexual offenses;

f. Vandalism (major);

g. Theft, possession, or sale of stolen property;

h. Arson;

i. Furnishing or selling unauthorized substances, as defined by local school board policy;

j. Furnishing, selling, or possession of controlled substances (drugs, narcotics, or poisons).

3. The basic enforcement procedures to be followed in instances of criminal conduct are:

a. Upon observation or notification and verification of an offense, the administrator should confer with the staff involved, should effect the appropriate disciplinary action, and, if appropriate, should meet with the student.

b. If warranted, the student should be removed immediately from the school environment. A parent or guardian should be notified as soon as possible.

c. If appropriate, school officials should contact law enforcement authorities.

d. Established due process procedures shall be followed when applicable.

e. A complete record of the procedures should be maintained.

4. Possible sanctions to be applied in cases of criminal conduct may include, but are not limited to:

a. Out-of-school suspension;

b. Assignment to alternative schools;

c. Expulsion;

d. Restitution of property and damages, where appropriate, should be sought by local school authorities;

e. Other sanctions as approved by local school authorities.

D. Extenuating, Mitigating or Aggravating Circumstances. A local school board may confer upon the appropriate administrator the authority to consider extenuating, mitigating or aggravating circumstances which may exist in a particular case of misconduct. Such circumstances should be considered in determining the most appropriate sanction to be used.

V. Discipline of Handicapped Students

A. Disciplinary Process. Handicapped students are not exempt from school disciplinary processes, nor are they entitled to remain in a particular educational program when their conduct substantially impairs the education of other children in the program. However, the public schools are required by federal and state law and regulations to meet the individual educational needs of handicapped children to the extent that current educational expertise permits.

B. Program Prescriptions. A handicapped student's Staffing Committee may prescribe or prohibit specified disciplinary measures for an individual student by including appropriate provisions in the student's individual education plan. The student's handicapping condition must be taken into consideration when deciding whether or not a particular form of discipline is to be utilized. Administrative authorities should observe any such provisions contained in a handicapped student's individual education plan, except that a Staffing Committee may not prohibit the initiation of proceedings for suspension or expulsion which are conducted in accordance with this regulation.

C. Suspensions. A handicapped student may be suspended, unless a suspension is prohibited by the student's individual education plan. At the end of the suspension, the student should, if appropriate, be returned to the same educational placement. School districts may remove immediately, for a short period of time, a handicapped student who is endangering himself or others.

D. Expulsions. Expulsion of a handicapped student is equivalent to a change in educational placement and therefore requires special procedures. Before a handicapped student may be expelled, a multi-

disciplinary team must determine whether or not there is a connection between the handicapping condition and the misconduct. If there is a connection or causal relationship between the handicapping condition and the misconduct, then expulsion resulting in cessation of educational services for that student would be unallowable.

Handicapped students who have been expelled under the regulations of the State Board of Education shall continue to receive a free and appropriate education as set forth in such student's Individual Education Program. The term handicapped as used herein means handicapped students as defined in P.L. 94-142, as amended.

E. Immediate Removal. Nothing contained in this regulation shall be construed as limiting an administrative authority's ability to remove a handicapped student from school immediately under emergency conditions.

VI. Other Areas of Student Conduct Which May Be Regulated by Local School Board Policy

A. Other areas of student conduct which are subject to regulation by local school boards include, but are not limited to:

1. School attendance;
2. Use of and access to public school property;
3. Student dress and personal appearance;
4. Use of tobacco in the public schools;
5. Speech and assembly within the public schools;
6. Publications produced and/or distributed in the public schools;
7. The existence, scope and conditions of availability of student privileges, including extracurricular activities and rules governing participation;
8. Other activities not in conflict with existing state statutes or regulations.

B. Other areas of student conduct may be regulated within legal limits by local school boards as they deem appropriate to local conditions. The term "legal limits" signifies the requirements of the federal and state constitutions and governing statutes, standards and regulations, the fundamental common-law requirement that rules of student conduct be reasonable exercises of the school's authority in pursuance of legitimate educational and related functions, and special limitations arising from constitutional guarantees.

Teacher authority to remove students from classrooms

No relevant statutes found.

Alternatives to suspension

STATUTES

59-63-250. Transfer of pupils.

The board or a designated administrator may transfer a pupil to another school in lieu of suspension or expulsion but only after a conference or hearing with the parents or legal guardian. The parents or legal guardian may appeal a transfer made by an administrator to the board.

Use of corporal punishment

STATUTES

59-63-260. Corporal punishment.

The governing body of each school district may provide corporal punishment for any pupil that it deems just and proper.

ADMINISTRATIVE CODE

43-279. Minimum Standards of Student Conduct and Disciplinary Enforcement Procedures to be Implemented by Local School Districts. [SC ADC 43-279]

4. Possible sanctions to be applied in cases of disorderly conduct may include, but are not limited to:

   e. Corporal punishment;

Use of student and locker searches

STATUTES

59-63-1110. Consent to search person or his effects.

Any person entering the premises of any school in this State shall be deemed to have consented to a reasonable search of his person and effects.

59-63-1120. Searches by school administrators or officials with or without probable cause.

Notwithstanding any other provision of law, school administrators and officials may conduct reasonable searches on school property of lockers, desks, vehicles, and personal belongings such as purses, bookbags, wallets, and satchels with or without probable cause.

59-63-1130. Searches by principals or their designees.

Notwithstanding any other provision of law, school principals or their designees may conduct reasonable searches of the person and property of visitors on school premises.

59-63-1140. Strip searches prohibited.

No school administrator or official may conduct a strip search.

59-63-1150. Compliance with case law; training of school administrators.

Notwithstanding any other provision of this article, all searches conducted pursuant to this article must comply fully with the “reasonableness standard” set forth in New Jersey v. T.L.O., 469 U.S. 328 (1985). All school administrators must receive training in the “reasonableness standard” under existing case law and in district procedures established to be followed in conducting searches of persons entering the school premises and of the students attending the school.

59-63-1160. Posting of notice; costs of notice to be paid by State; effect of failure to post notice.

Notice must be conspicuously posted on school property informing the provisions of this article. The notice must be posted at least at all regular entrances and any other access point to the school grounds.

The costs of posting the notice required by this section must be paid by the State. No school or school district shall be required to incur any financial obligation for complying with the notice requirements

contained in this section. The failure to post the notice provided in this section shall not constitute a defense to any civil action or criminal prosecution and shall not constitute grounds for any legal liability.

Other in-school disciplinary approaches

ADMINISTRATIVE CODE

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D. Suggested sanctions within the Level I misconduct category range from verbal reprimand to in-school suspension. Level II misconduct includes sanctions ranging from temporary removal from class to expulsion, while Level III misconduct includes sanctions ranging from out-of-school suspension to appropriate action within the criminal justice system.

E. A local school board, in its discretion, may authorize more stringent standards than those contained in this regulation.

IV. Minimum Standards

A. Disorderly Conduct--Level I

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2. Acts of disorderly conduct may include, but are not limited to:

a. Classroom tardiness;

b. Cheating on examinations or classroom assignments;

c. Lying;

d. Acting in a manner so as to interfere with the instructional process;

e. Abusive language between or among students;

f. Failure to complete assignments or carry out directions;

g. Use of forged notes or excuses;

h. Cutting class;

i. School tardiness;

j. Truancy;

k. Other disorderly acts as determined by local school authorities.

3. The basic enforcement procedures to be followed in instances of disorderly conduct are:

a. Upon observation or notification and verification of an offense, the staff member should take immediate action to rectify the misconduct. The staff member should apply an appropriate sanction, and should maintain a record of the misconduct and the sanction.

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B. Disruptive Conduct--Level II

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b. Alternative education program;

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Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements

Grounds for possible suspension or expulsion

STATUTES

59-63-210. Grounds for which trustees may expel, suspend or transfer pupils; petition for readmission.

(A) Any district board of trustees may authorize or order the expulsion, suspension, or transfer of any pupil for the commission of any crime, gross immorality, gross misbehavior, persistent disobedience, or for violation of written rules and promulgated regulations established by the district board, county board, or the State Board of Education, or when the presence of the pupil is detrimental to the best interest of the school. Each expelled pupil has the right to petition for readmission for the succeeding school year. Expulsion or suspension must be construed to prohibit a pupil from entering the school or school grounds, except for a prearranged conference with an administrator, attending any day or night school functions, or riding a school bus. The provisions of this section do not preclude enrollment and attendance in any adult or night school.

(B) A district board of trustees shall not authorize or order the expulsion, suspension, or transfer of any pupil for a violation of Section 59-150-250(B).

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to expulsion, while Level III misconduct includes sanctions ranging from out-of-school suspension to appropriate action within the criminal justice system.

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b. Cheating on examinations or classroom assignments;

c. Lying;

d. Acting in a manner so as to interfere with the instructional process;

e. Abusive language between or among students;

f. Failure to complete assignments or carry out directions;

g. Use of forged notes or excuses;

h. Cutting class;

i. School tardiness;

j. Truancy;

k. Other disorderly acts as determined by local school authorities.

3. The basic enforcement procedures to be followed in instances of disorderly conduct are:

a. Upon observation or notification and verification of an offense, the staff member should take immediate action to rectify the misconduct. The staff member should apply an appropriate sanction, and should maintain a record of the misconduct and the sanction.

b. If, either in the opinion of the staff member or according to local school board policy, a certain misconduct is not immediately rectifiable, the problem should be referred to the appropriate administrator for action specified by local school board policy.

c. The administrator should meet with the reporting staff member, and, if necessary, the student and the parent or guardian, and should effect the appropriate disciplinary action.

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b. Withdrawal of privileges;

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2. Acts of disruptive conduct may include, but are not limited to:

a. Use of an intoxicant;

b. Fighting;

c. Vandalism (minor);

d. Stealing;

e. Threats against others;

f. Trespass;

g. Abusive language to staff;

h. Refusal to obey school personnel or agents (such as volunteer aides or chaperones) whose responsibilities include supervision of students;

i. Possession or use of unauthorized substances, as defined by law or local school board policy;

j. Illegally occupying or blocking in any way school property with the intent to deprive others of its use;

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l. Disrupting lawful assembly;

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d. Possession, use, or transfer of dangerous weapons;

e. Sexual offenses;

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3. The basic enforcement procedures to be followed in instances of criminal conduct are:

a. Upon observation or notification and verification of an offense, the administrator should confer with the staff involved, should effect the appropriate disciplinary action, and, if appropriate, should meet with the student.

b. If warranted, the student should be removed immediately from the school environment. A parent or guardian should be notified as soon as possible.

c. If appropriate, school officials should contact law enforcement authorities.

d. Established due process procedures shall be followed when applicable.

e. A complete record of the procedures should be maintained.

4. Possible sanctions to be applied in cases of criminal conduct may include, but are not limited to:

a. Out-of-school suspension;

b. Assignment to alternative schools;

c. Expulsion;

d. Restitution of property and damages, where appropriate, should be sought by local school authorities;

e. Other sanctions as approved by local school authorities.

D. Extenuating, Mitigating or Aggravating Circumstances. A local school board may confer upon the appropriate administrator the authority to consider extenuating, mitigating or aggravating circumstances which may exist in a particular case of misconduct. Such circumstances should be considered in determining the most appropriate sanction to be used.

Grounds for mandatory suspension or expulsion

STATUTES

59-63-235. Expulsion of student determined to have brought firearm to school.

The district board must expel for no less than one year a student who is determined to have brought a firearm to a school or any setting under the jurisdiction of a local board of trustees. The expulsion must follow the procedures established pursuant to Section 59-63-240. The one-year expulsion is subject to modification by the district superintendent of education on a case-by-case basis. Students expelled pursuant to this section are not precluded from receiving educational services in an alternative setting. Each local board of trustees is to establish a policy which requires the student to be referred to the local county office of the Department of Juvenile Justice or its representative.

Limitations, conditions or exclusions for use of suspension and expulsion

STATUTES

59-63-210. Grounds for which trustees may expel, suspend or transfer pupils; petition for readmission.

(A) Any district board of trustees may authorize or order the expulsion, suspension, or transfer of any pupil for the commission of any crime, gross immorality, gross misbehavior, persistent disobedience, or for violation of written rules and promulgated regulations established by the district board, county board, or the State Board of Education, or when the presence of the pupil is detrimental to the best interest of the school. Each expelled pupil has the right to petition for readmission for the succeeding school year. Expulsion or suspension must be construed to prohibit a pupil from entering the school or school grounds, except for a prearranged conference with an administrator, attending any day or night school functions, or riding a school bus. The provisions of this section do not preclude enrollment and attendance in any adult or night school.

(B) A district board of trustees shall not authorize or order the expulsion, suspension, or transfer of any pupil for a violation of Section 59-150-250(B).

59-63-220. Suspension of pupils by administrator.

Any district board may confer upon any administrator the authority to suspend a pupil from a teacher's class or from the school not in excess of ten days for any one offense and for not more than thirty days in any one school year but no such administrator may suspend a pupil from school during the last ten days of a year if the suspension will make the pupil ineligible to receive credit for the school year without the approval of the school board unless the presence of the pupil constitutes an actual threat to a class or a school or a hearing is granted within twenty four hours of the suspension.

59-63-1330. Discretion of school board.

Nothing in this article shall abrogate the authority of any public school district and its governing board to take such disciplinary action as it is otherwise empowered by law to take against any student for misconduct including, but not limited to, expulsion, and nothing in this chapter shall require that any student be assigned to such an alternative school. These decisions shall rest solely in the discretion of the district and school board, regardless of the offense, record of the child, or other information presented from any source.

Administrative procedures related to suspension and expulsion

STATUTES

59-63-210. Grounds for which trustees may expel, suspend or transfer pupils; petition for readmission.

Any district board of trustees may authorize or order the expulsion, suspension, or transfer of any pupil for a commission of any crime, gross misbehavior, persistent disobedience, or for violation of written rules and regulations established by the district board, county board, or the State Board of Education, or when the presence of the pupil is detrimental to the best interest of the school. Every expelled pupil shall have the right to petition for readmission for the succeeding school year. Expulsion or suspension shall be construed to prohibit a pupil from entering the school, or school grounds, except for a prearranged conference with an administrator, attending any day or night school functions or riding a school bus. The provisions of this section shall not preclude enrollment and attendance in any adult or night school.

59-63-220. Suspension of pupils by administrators.

Any district board may confer upon any administrator the authority to suspend a pupil from a teacher's class or from the school not in excess of ten days for any one offense and for not more than thirty days in any one school year but no such administrator may suspend a pupil from school during the last ten days of a year if the suspension will make the pupil ineligible to receive credit for the school year without the approval of the school board unless the presence of the pupil constitutes an actual threat to a class or a school or a hearing is granted within twenty-four hours of the suspension.

59-63-230. Notices of suspensions; conferences with parents or guardian.

When a pupil is suspended from a class or a school, the administrator shall notify, in writing, the parents or legal guardian of the pupil, giving the reason for such suspension and setting a time and place when the administrator shall be available for a conference with the parents or guardian. The conference shall be set within three days of the date of the suspension. After the conference the parents or legal guardian may appeal the suspension to the board of trustees or to its authorized agent.

59-63-240. Expulsion for remainder of year; hearings.

The board may expel for the remainder of the school year a pupil for any of the reasons listed in Section 59-63-210. If procedures for expulsion are initiated, the parents or legal guardian of the pupil shall be notified in writing of the time and the place of a hearing either before the board or a person or committee designated by the board. At the hearing the parents or legal guardian shall have the right to legal counsel and to all other regular legal rights including the right to question all witnesses. If the hearing is held by any authority other than the board of trustees, the right to appeal the decision to the board is reserved to either party. The hearing shall take place within fifteen days of the written notification at a time and place designated by the board and a decision shall be rendered within ten days of the hearing. The pupil may be suspended from school and all school activities during the time of the expulsion procedures. The action of the board may be appealed to the proper court. The board may permanently expel any incorrigible pupil.

In-school suspension

ADMINISTRATIVE CODE

43-279. Minimum Standards of Student Conduct and Disciplinary Enforcement Procedures to be Implemented by Local School Districts.

I. Expectations for Student Conduct in South Carolina Public Schools

Students in the public schools of South Carolina enjoy the same basic rights of United States citizenship as do other United States citizens. The rights of students are supported by the responsibility to insure that the rights of others are respected. This regulation is adopted with the intent to better assure that the opportunity to enjoy the benefits of public education is available to all those attending the public schools of the state of South Carolina.

II. Previously Adopted School District Discipline Policies

This regulation is established as a uniform system of minimum disciplinary enforcement for the school districts of South Carolina. School districts, which previously have adopted discipline policies that are consistent with and contain the elements included in this regulation, may retain their local policies as adopted.

III. Levels of Student Misconduct

A. The levels of student misconduct considered in this regulation are arranged by degrees of seriousness. The levels are arranged from the least serious to the most serious.

B. Three levels of student misconduct are identified: disorderly conduct, disruptive conduct, and criminal conduct. The levels are defined in this regulation.

C. This regulation includes a listing of possible sanctions for the three levels of student misconduct. As the levels increase in seriousness, the severity of possible disciplinary sanctions increases.

D. Suggested sanctions within the Level I misconduct category range from verbal reprimand to in-school suspension. Level II misconduct includes sanctions ranging from temporary removal from class to expulsion, while Level III misconduct includes sanctions ranging from out-of-school suspension to appropriate action within the criminal justice system.

E. A local school board, in its discretion, may authorize more stringent standards than those contained in this regulation.

IV. Minimum Standards

A. Disorderly Conduct--Level I

1. Disorderly conduct is defined as those activities engaged in by student(s) which tend to impede orderly classroom procedures or instructional activities, orderly operation of the school, or the frequency or seriousness of which disturb the classroom or school. The provisions of this regulation apply not only to within-school activities, but also to student conduct on school bus transportation vehicles, and other school sponsored activities.

2. Acts of disorderly conduct may include, but are not limited to:

a. Classroom tardiness;

b. Cheating on examinations or classroom assignments;

c. Lying;

d. Acting in a manner so as to interfere with the instructional process;

e. Abusive language between or among students;

f. Failure to complete assignments or carry out directions;

g. Use of forged notes or excuses;

h. Cutting class;

i. School tardiness;

j. Truancy;

k. Other disorderly acts as determined by local school authorities.

3. The basic enforcement procedures to be followed in instances of disorderly conduct are:

a. Upon observation or notification and verification of an offense, the staff member should take immediate action to rectify the misconduct. The staff member should apply an appropriate sanction, and should maintain a record of the misconduct and the sanction.

b. If, either in the opinion of the staff member or according to local school board policy, a certain misconduct is not immediately rectifiable, the problem should be referred to the appropriate administrator for action specified by local school board policy.

c. The administrator should meet with the reporting staff member, and, if necessary, the student and the parent or guardian, and should effect the appropriate disciplinary action.

d. A complete record of the procedures should be maintained.

4. Possible sanctions to be applied in cases of disorderly conduct may include, but are not limited to:

a. Verbal reprimand;

b. Withdrawal of privileges;

c. Demerits;

d. Detention;

e. Corporal punishment;

f. In-school suspension;

g. Other sanctions as approved by local school authorities.

B. Disruptive Conduct--Level II

1. Disruptive conduct is defined as those activities engaged in by student(s) which are directed against persons or property, and the consequences of which tend to endanger the health or safety of oneself or others in the school. Some instances of disruptive conduct may overlap certain criminal offenses, justifying both administrative sanctions and court proceedings. Disorderly conduct (Level I) may be reclassified as disruptive conduct (Level II) if it occurs three or more times. The provisions of this regulation apply not only to within school activities, but also to student conduct on school bus transportation vehicles, and other school sponsored activities.

2. Acts of disruptive conduct may include, but are not limited to:

a. Use of an intoxicant;

b. Fighting;

c. Vandalism (minor);

d. Stealing;

e. Threats against others;

f. Trespass;

g. Abusive language to staff;

h. Refusal to obey school personnel or agents (such as volunteer aides or chaperones) whose responsibilities include supervision of students;

i. Possession or use of unauthorized substances, as defined by law or local school board policy;

j. Illegally occupying or blocking in any way school property with the intent to deprive others of its use;

k. Unlawful assembly;

l. Disrupting lawful assembly;

m. Other acts as determined by local school authorities.

3. The basic enforcement procedures to be followed in instances of disruptive conduct are:

a. Upon observation or notification and verification of an offense, the administrator should investigate the circumstances of the misconduct and should confer with staff on the extent of the consequences.

b. The administrator should notify the parent or guardian of the student's misconduct and related proceedings. The administrator should meet with the student and, if necessary, the parent or guardian, confer with them about the student's misconduct, and effect the appropriate disciplinary action.

c. A complete record of the procedures should be maintained.

4. Possible sanctions to be applied in cases of disruptive conduct may include, but are not limited to:

a. Temporary removal from class;

b. Alternative education program;

c. In-school suspension;

d. Out-of-school suspension;

e. Transfer;

f. Referral to outside agency;

g. Expulsion;

h. Restitution of property and damages, where appropriate, should be sought by local school authorities;

i. Other sanctions as approved by local school authorities.

C. Criminal Conduct--Level III

1. Criminal conduct is defined as those activities engaged in by student(s) which result in violence to oneself or another's person or property or which pose a direct and serious threat to the safety of oneself or others in the school. These activities usually require administrative actions which result in the immediate removal of the student from the school, the intervention of law enforcement authorities, and/or action by the local school board. The provisions of this regulation apply not only to within-school activities, but also to student conduct on school bus transportation vehicles, and other school sponsored activities.

2. Acts of criminal conduct may include, but are not limited to:

a. Assault and battery;

b. Extortion;

c. Bomb threat;

d. Possession, use, or transfer of dangerous weapons;

e. Sexual offenses;

f. Vandalism (major);

g. Theft, possession, or sale of stolen property;

h. Arson;

i. Furnishing or selling unauthorized substances, as defined by local school board policy;

j. Furnishing, selling, or possession of controlled substances (drugs, narcotics, or poisons).

3. The basic enforcement procedures to be followed in instances of criminal conduct are:

a. Upon observation or notification and verification of an offense, the administrator should confer with the staff involved, should effect the appropriate disciplinary action, and, if appropriate, should meet with the student.

b. If warranted, the student should be removed immediately from the school environment. A parent or guardian should be notified as soon as possible.

c. If appropriate, school officials should contact law enforcement authorities.

d. Established due process procedures shall be followed when applicable.

e. A complete record of the procedures should be maintained.

4. Possible sanctions to be applied in cases of criminal conduct may include, but are not limited to:

a. Out-of-school suspension;

b. Assignment to alternative schools;

c. Expulsion;

d. Restitution of property and damages, where appropriate, should be sought by local school authorities;

e. Other sanctions as approved by local school authorities.

D. Extenuating, Mitigating or Aggravating Circumstances. A local school board may confer upon the appropriate administrator the authority to consider extenuating, mitigating or aggravating circumstances which may exist in a particular case of misconduct. Such circumstances should be considered in determining the most appropriate sanction to be used.

V. Discipline of Handicapped Students

A. Disciplinary Process. Handicapped students are not exempt from school disciplinary processes, nor are they entitled to remain in a particular educational program when their conduct substantially impairs the education of other children in the program. However, the public schools are required by federal and state law and regulations to meet the individual educational needs of handicapped children to the extent that current educational expertise permits.

B. Program Prescriptions. A handicapped student's Staffing Committee may prescribe or prohibit specified disciplinary measures for an individual student by including appropriate provisions in the student's individual education plan. The student's handicapping condition must be taken into consideration when deciding whether or not a particular form of discipline is to be utilized. Administrative authorities should observe any such provisions contained in a handicapped student's individual education plan, except that a Staffing Committee may not prohibit the initiation of proceedings for suspension or expulsion which are conducted in accordance with this regulation.

C. Suspensions. A handicapped student may be suspended, unless a suspension is prohibited by the student's individual education plan. At the end of the suspension, the student should, if appropriate, be returned to the same educational placement. School districts may remove immediately, for a short period of time, a handicapped student who is endangering himself or others.

D. Expulsions. Expulsion of a handicapped student is equivalent to a change in educational placement and therefore requires special procedures. Before a handicapped student may be expelled, a multi-disciplinary team must determine whether or not there is a connection between the handicapping condition and the misconduct. If there is a connection or causal relationship between the handicapping

condition and the misconduct, then expulsion resulting in cessation of educational services for that student would be unallowable.

Handicapped students who have been expelled under the regulations of the State Board of Education shall continue to receive a free and appropriate education as set forth in such student's Individual Education Program. The term handicapped as used herein means handicapped students as defined in P.L. 94-142, as amended.

E. Immediate Removal. Nothing contained in this regulation shall be construed as limiting an administrative authority's ability to remove a handicapped student from school immediately under emergency conditions.

VI. Other Areas of Student Conduct Which May Be Regulated by Local School Board Policy

A. Other areas of student conduct which are subject to regulation by local school boards include, but are not limited to:

1. School attendance;
2. Use of and access to public school property;
3. Student dress and personal appearance;
4. Use of tobacco in the public schools;
5. Speech and assembly within the public schools;
6. Publications produced and/or distributed in the public schools;
7. The existence, scope and conditions of availability of student privileges, including extracurricular activities and rules governing participation;
8. Other activities not in conflict with existing state statutes or regulations.

B. Other areas of student conduct may be regulated within legal limits by local school boards as they deem appropriate to local conditions. The term "legal limits" signifies the requirements of the federal and state constitutions and governing statutes, standards and regulations, the fundamental common-law requirement that rules of student conduct be reasonable exercises of the school's authority in pursuance of legitimate educational and related functions, and special limitations arising from constitutional guarantees.

Return to school following removal

STATUTES

59-63-210. Grounds for which trustees may expel, suspend or transfer pupils; petition for readmission.

(A) Any district board of trustees may authorize or order the expulsion, suspension, or transfer of any pupil for the commission of any crime, gross immorality, gross misbehavior, persistent disobedience, or for violation of written rules and promulgated regulations established by the district board, county board, or the State Board of Education, or when the presence of the pupil is detrimental to the best interest of the school. Each expelled pupil has the right to petition for readmission for the succeeding school year. Expulsion or suspension must be construed to prohibit a pupil from entering the school or school grounds, except for a prearranged conference with an administrator, attending any day or night school functions, or riding a school bus. The provisions of this section do not preclude enrollment and attendance in any adult or night school.

(B) A district board of trustees shall not authorize or order the expulsion, suspension, or transfer of any pupil for a violation of Section 59-150-250(B).

59-63-217. Barring enrollment of student; grounds; notice and hearing; duration of bar.

(A) In determining whether or not a student meets the standards of conduct and behavior promulgated by the board of trustees necessary for first time enrollment and attendance in a school in the district, the board shall consider nonschool records, the student's disciplinary records in any school in which the student was previously enrolled as these records relate to the adjudication of delinquency in any jurisdiction, within or without this State, of violations or activities which constitute violent crimes under Section 16 1 60, adjudications for assault and battery of a high and aggravated nature, the unlawful use or possession of weapons, or the unlawful sale of drugs whether or not considered to be drug trafficking. Based on this consideration of the student's record, the board may bar his enrollment in the schools of the district.

(B) If the board bars a student from enrolling pursuant to this section, notice must be provided to the student's parent or legal guardian and the student is entitled to a hearing and all other procedural rights afforded under state law to a student subject to expulsion.

(C) The bar to enrollment allowed by this section applies for a maximum of one year. After the bar is lifted, a student may reapply for enrollment and the board shall order the student enrolled if he otherwise meets enrollment criteria.

Use of restraint and seclusion

No relevant statutes found.

Alternative placements

STATUTES

59-63-210. Grounds for which trustees may expel, suspend or transfer pupils; petition for readmission.

(A) Any district board of trustees may authorize or order the expulsion, suspension, or transfer of any pupil for the commission of any crime, gross immorality, gross misbehavior, persistent disobedience, or for violation of written rules and promulgated regulations established by the district board, county board, or the State Board of Education, or when the presence of the pupil is detrimental to the best interest of the school. Each expelled pupil has the right to petition for readmission for the succeeding school year. Expulsion or suspension must be construed to prohibit a pupil from entering the school or school grounds, except for a prearranged conference with an administrator, attending any day or night school functions, or riding a school bus. The provisions of this section do not preclude enrollment and attendance in any adult or night school.

(B) A district board of trustees shall not authorize or order the expulsion, suspension, or transfer of any pupil for a violation of Section 59-150-250(B).

59-63-1300. Alternative school programs established.

The General Assembly finds that a child who does not complete his education is greatly limited in obtaining employment, achieving his full potential, and becoming a productive member of society. It is, therefore, the intent of this article to encourage district school boards throughout the State to establish alternative school programs. These programs shall be designed to provide appropriate services to students who for behavioral or academic reasons are not benefiting from the regular school program or may be interfering with the learning of others. It is further the intent of this article that cooperative agreements may be developed among school districts in order to implement innovative exemplary programs.

59-63-1320. Referral or placement of students in alternative school programs.

Eligible alternative school programs shall be provided for, but not limited to, students in grades 6 12 as follows:

(1) Students referred for voluntary attendance at the alternative school program and meeting the district criteria to attend based upon a documented need for the attention and assistance beyond that of a traditional program as established by the academic history of the student, including the student's academic plan as required in Section 59 18 500, and following other policies and procedures for documenting need established by the district board of trustees.

(2) Students referred for voluntary attendance at the alternative school program and meeting the district criteria to attend based upon a documented need for the program due to habitual exhibitions of disruptive behavior in violation of the student conduct policies and behavior codes approved by the school board of trustees.

Districts must establish clear guidelines and procedures for the referral of any student into an alternative school program and before a decision is made to assign a student to an alternative school program, a determination must be made that the written and distributed academic and disciplinary policies of the district have been followed.

(3) Students placed in an alternative school program by the district board of trustees as an option to suspension or expulsion or by the dispositive order of a family court judge, with the consent of the local board of trustees. However, before a student may be placed in an alternative school program, a determination must be made by the local board that the written and distributed disciplinary policy of the district has been followed. Districts must establish clear guidelines and procedures for the placement of any student into an alternative school program and at a minimum they shall prescribe due process procedures for placement actions.

When students are being considered for placement in an alternative school program, districts must consider the requirements of the Federal Individuals with Disabilities Education Act (IDEA).

If a student placed by the board of trustees in an alternative school program enrolls in another school district before the expiration of the period of placement, the board of trustees of the district requiring the placement shall provide to the district in which the student enrolls, at the same time other records of the student are provided, information concerning the student's placement in an alternative school program. Upon review of the information, the district in which the student enrolls may continue an alternative education program placement or may allow the student to attend regular classes without completing the period of the placement.

59-63-1330. Discretion of school board.

Nothing in this article shall abrogate the authority of any public school district and its governing board to take such disciplinary action as it is otherwise empowered by law to take against any student for misconduct including, but not limited to, expulsion, and nothing in this chapter shall require that any student be assigned to such an alternative school. These decisions shall rest solely in the discretion of the district and school board, regardless of the offense, record of the child, or other information presented from any source.

Disciplinary Approaches Addressing Specific Infractions and Conditions

Firearms (as required by the Guns-Free Schools Act)

STATUTES

16-23-420. Possession of firearm on school property; concealed weapon.

(A) It is unlawful for a person to possess a firearm of any kind on any premises or property owned, operated, or controlled by a private or public school, college, university, technical college, other post-secondary institution, or in any publicly owned building, without the express permission of the authorities in charge of the premises or property. The provisions of this subsection related to any premises or property owned, operated, or controlled by a private or public school, college, university, technical college, or other post-secondary institution, do not apply to a person who is authorized to carry a concealed weapon pursuant to Article 4, Chapter 31, Title 23 when the weapon remains inside an attended or locked motor vehicle and is secured in a closed glove compartment, closed console, closed trunk, or in a closed container secured by an integral fastener and transported in the luggage compartment of the vehicle."

(B) It is unlawful for a person to enter the premises or property described in subsection (A) and to display, brandish, or threaten others with a firearm.

(C) A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than five years, or both.

(D) This section does not apply to a guard, law enforcement officer, or member of the armed forces, or student of military science. A married student residing in an apartment provided by the private or public school whose presence with a weapon in or around a particular building is authorized by persons legally responsible for the security of the buildings is also exempted from the provisions of this section.

(E) For purposes of this section, the terms 'premises' and 'property' do not include state or locally owned or maintained roads, streets, or rights-of-way of them, running through or adjacent to premises or property owned, operated, or controlled by a private or public school, college, university, technical college, or other post-secondary institution, which are open full time to public vehicular traffic.

(F) This section does not apply to a person who is authorized to carry concealed weapons pursuant to Article 4, Chapter 31 of Title 23 when upon any premises, property, or building that is part of an interstate highway rest area facility."

16-23-460. Carrying concealed weapons; forfeiture of weapons.

Any person carrying a deadly weapon usually used for the infliction of personal injury concealed about his person is guilty of a misdemeanor, must forfeit to the county, or, if convicted in a municipal court, to the municipality the concealed weapon, and must be fined not less than two hundred dollars nor more than five hundred dollars or imprisoned not less than thirty days nor more than ninety days. Nothing herein contained may be construed to apply to (1) persons carrying concealed weapons upon their own premises or pursuant to and in compliance with Article 4 of Chapter 31 of Title 23, or (2) peace officers in the actual discharge of their duties. The provisions of this section do not apply to rifles, shotguns, dirks, slingshots, metal knuckles, or razors unless they are used with the intent to commit a crime or in furtherance of a crime.

59-63-235. Expulsion of student determined to have brought firearm to school.

The district board must expel for no less than one year a student who is determined to have brought a firearm to a school or any setting under the jurisdiction of a local board of trustees. The expulsion must follow the procedures established pursuant to Section 59-63-240. The one-year expulsion is subject to modification by the district superintendent of education on a case-by-case basis. Students expelled pursuant to this section are not precluded from receiving educational services in an alternative setting. Each local board of trustees is to establish a policy which requires the student to be referred to the local county office of the Department of Juvenile Justice or its representative.

Other weapons

STATUTES

16-23-430. Carrying weapon on school property; concealed weapons.

(A) It shall be unlawful for any person, except state, county, or municipal law enforcement officers or personnel authorized by school officials, to carry on his person, while on any elementary or secondary school property, a knife, with a blade over two inches long, a blackjack, a metal pipe or pole, firearms, or any other type of weapon, device, or object which may be used to inflict bodily injury or death.

(B) This section does not apply to a person who is authorized to carry a concealed weapon pursuant to Article 4, Chapter 31, Title 23 when the weapon remains inside an attended or locked motor vehicle and is secured in a closed glove compartment, closed console, closed trunk, or in a closed container secured by an integral fastener and transported in the luggage compartment of the vehicle.

(C) A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than five years, or both. Any weapon or object used in violation of this section may be confiscated by the law enforcement division making the arrest."

16-23-460. Carrying concealed weapons; forfeiture of weapons.

Any person carrying a deadly weapon usually used for the infliction of personal injury concealed about his person is guilty of a misdemeanor, must forfeit to the county, or, if convicted in a municipal court, to the municipality the concealed weapon, and must be fined not less than two hundred dollars nor more than five hundred dollars or imprisoned not less than thirty days nor more than ninety days. Nothing herein contained may be construed to apply to (1) persons carrying concealed weapons upon their own premises or pursuant to and in compliance with Article 4 of Chapter 31 of Title 23, or (2) peace officers in the actual discharge of their duties. The provisions of this section do not apply to rifles, shotguns, dirks, slingshots, metal knuckles, or razors unless they are used with the intent to commit a crime or in furtherance of a crime.

Students with chronic disciplinary issues

ADMINISTRATIVE CODE

43-274.1. At-risk students.

II. At-Risk Student Indicators, Predictors, and Barriers

The South Carolina Education and Economic Development Act mandates the promulgation of State Board of Education regulations outlining specific objective criteria for districts to use in identifying students who may be poorly prepared for the next level of study or who are at risk of dropping out of

school. The Act calls for these criteria to include diagnostic assessments for districts to use in order to identify the strengths and weaknesses of individual students in the core academic areas.

B. The following are among the specific behaviors and characteristics that school districts must consider as indicators, predictors, and barriers in identifying at-risk students:

4. having a history of discipline problems leading to suspension, expulsion, and/or probation;

III. At-Risk Student Model, Initiative, and Program Selection

By the 2007-08 school year each high school of the state must implement one or more model programs approved by the South Carolina Department of Education (SCDE).

Schools must select at-risk student models, initiatives, and programs that meet the needs of the at-risk populations to be served and must ensure that models, initiatives, and programs selected provide students with the opportunity to graduate with a high school diploma. The SCDE will provide an implementation document that will include a tiered matrix of approved evidence-based models, initiatives, and programs to facilitate the selection process in accordance with the Education and Economic Development Act requirements for implementing evidence-based models, initiatives, and programs. The document will also contain a more extensive list of indicators, predictors, and barriers as well as one-page descriptions for each evidence-based model, initiative, and program included in the matrix.

IV. Population and Model, Initiative, and Program Identification Parameters

Each high school either must implement a model, initiative, or program that is chosen from a list provided by the SCDE or must submit to the SCDE for approval a specific dropout prevention model, comprehensive initiative, or multifaceted program that it wants to use. High schools may explore and implement newly developed models with approval from the SCDE. One criterion for SCDE approval of any newly developed model will be evidence presented by the district and/or school that the model is centered in research-based dropout-prevention strategies.

A. Implementation efforts related to any model, initiative, or program (or combination of models, initiatives, and programs) must ensure that students are properly identified and provided timely, appropriate guidance and assistance and must ensure that no group is disproportionately represented.

B. When subpopulations are identified, high schools must ensure that these groups reflect the demographics of populations identified as at risk of dropping out of school.

C. When no subpopulations are identified, high schools implementing comprehensive initiatives will not have to address the disproportionate representation of any one group of students. In such cases, methods of determining the effectiveness of the at-risk initiative must be given careful consideration with regard to collecting data and preparing necessary reports.

D. Parental involvement must be part of final placement decisions in any model, initiative, or program where small groups of students are identified for services in a particular school or district.

E. The target population must reflect the demographics of the population identified in Section II, above, as being at risk of dropping out of school.

F. High schools must provide relevant data related to identifying the at-risk student population and to addressing the needs of these at-risk students as required for SCDE reports.

V. Building-Level Program Evaluation

A. Evaluation Criteria. All high schools must annually evaluate their dropout-prevention models, initiatives, and/or programs using, at a minimum, the following criteria:

1. an identification process, including (where appropriate and based on the particular model, initiative, or program) the number of at-risk students identified and the specific risk factors identified;

2. the extent of parental involvement in the school's dropout-prevention efforts;

3. the number of students served;

4. a formative assessment of strengths and weaknesses of the model, initiative, and/or program; and
5. a qualitative assessment of desired outcomes (see item B, immediately below).

B. Desired Outcomes. Schools should establish desired outcomes or performance criteria based on the specific needs of the at-risk population identified and on the nature and structure of the particular model, initiative, and/or program they are implementing. Examples of desired outcomes among the target population include, but are not limited to, the following:

1. decreased percentages of truancy, absenteeism, discipline problems, and retentions;
2. increases in students' grade point averages; and
3. increased percentages of students who are on grade level and students who graduate on time.

Model-, initiative-, and/or program-specific data and PowerSchoolTM data elements should be used to assess desired outcomes on the basis of specific evaluation criteria. The state's PowerSchoolTM data management system can be used to collect, sort, and report data related to each student's attendance record; age and grade level; gender; ethnicity; grade point average; and retention, truancy, and dropout status.

C. Teacher and/or counselor assessments may be used to provide supplemental anecdotal documentation and insights related to the effectiveness of the model, initiative, and/or program implemented. A district or school checklist may be beneficial in the evaluation process.

VI. Model, Initiative, and/or Program Evaluation and Assessment Reporting

All high schools must annually provide reports requested by the SCDE that relate to the implementation and effectiveness of models, initiatives, and/or programs addressing the needs of students at risk of dropping out of school. District and school report card contents must contain information on the disciplinary climate, promotion and retention ratios, dropout ratios, dropout reduction data, and attendance data. Districts and schools must be prepared to provide accurate and relevant data to the SCDE.

Attendance and truancy

STATUTES

59-65-50. Nonattendance reported to court having jurisdiction of juveniles.

If the board of trustees of a school district or its designee is unable to obtain the school attendance of a child in the age group specified in Section 59-65-10, the board or its designee shall report such nonattendance in writing to the juvenile court or such other court in the county as may have jurisdiction of juveniles but exclusive of magistrate's courts notwithstanding the provisions of Section 22-3-540; provided, that no one except the board of trustees or its designee shall have the authority to institute the proceedings herein.

59-65-60. Procedure upon receipt by court of report of nonattendance.

(a) Upon receipt of such report, the court may forthwith order the appearance before such court of the responsible parent or guardian and if it deems necessary, the minor involved, for such action as the court may deem necessary to carry out the provisions of this article.

(b) The court may, after hearing upon ten days notice, order such parent or guardian to require such child to attend school and upon failure of such parent to comply with such order may punish such parent or guardian as by contempt, provided, that punishment for such contempt cannot exceed fifty dollars or thirty days imprisonment for each offense.

The procedure herein provided shall be alternative to the penalties provided in Section 59-65-20.

59-65-70. Court empowered to declare child delinquent.

If the court determines that the reported absence occurred without the knowledge, consent or connivance of the responsible parent or guardian or that a bona fide attempt has been made to control and keep the child in school, the court may declare such child to be a delinquent and subject to the provisions of law in such cases.

59-65-80. Enrollment or attendance of expelled or suspended child not authorized.

Nothing herein shall be construed as granting authority to require enrollment or attendance of a child who has been or may be expelled or suspended by the board of trustees of the district or any other person acting with authority from the board of trustees.

59-65-90. Rules and regulations.

The State Board of Education shall establish regulations defining lawful and unlawful absences beyond those specifically named in this article and additional regulations as are necessary for the orderly enrollment of pupils so as to provide for uniform dates of entrance. These regulations shall require: (1) that school officials shall immediately intervene to encourage the student's future attendance when the student has three consecutive unlawful absences or a total of five unlawful absences and (2) that the district board of trustees or its designee shall promptly approve or disapprove any student absence in excess of ten days. As used in this section, "intervene" means to identify the reasons for the child's continued absence and to develop a plan in conjunction with the student and his parent or guardian to improve his future attendance.

Provided, However, That nothing within this section shall interfere with the Board's authority to at any time refer a child to a truancy prevention program or to the court pursuant to Section 59-65-50.

ADMINISTRATIVE CODE

43-274. Student Attendance.

II. Truancy

The State Board of Education recognizes that truancy is primarily an educational issue and that all reasonable, educationally sound, corrective actions should be undertaken by the school district prior to resorting to the juvenile justice system.

(A) Truant. A child ages 6 to 17 years meets the definition of a truant when the child has three consecutive unlawful absences or a total of five unlawful absences.

(B) Habitual Truant. A "habitual" truant is a child age 12 to 17 years who fails to comply with the intervention plan developed by the school, the child, and the parent(s) or guardian(s) and who accumulates two or more additional unlawful absences. This child may need court intervention and an initial truancy petition may be filed. The written intervention plan, and documentation of non-compliance, must be attached to the truancy petition asking for court intervention.

(C) Chronic Truant. A "chronic" truant is a child ages 12 to 17 years who has been through the school intervention process, has reached the level of a "habitual" truant, has been referred to Family Court and placed on an order to attend school, and continues to accumulate unlawful absences. Should other community alternatives and referrals fail to remedy the attendance problem, the "chronic" truant may be referred to the Family Court for violation of a previous court order. All school intervention plans existing to this point for this child and family must accompany the Contempt of Court petition as well as a written recommendation from the school to the court on action the court should take.

III. Intervention Plans

(A) Each district must develop a policy relating to requirements for intervention. The district plan for improving students' attendance must be in accordance with any applicable statutes.

(B) Once a child is determined to be truant as defined in Section II(A), school officials must make every reasonable effort to meet with the parent(s) or guardian(s) to identify the reasons for the student's continued absence. These efforts should include telephone calls and home visits, both during and after normal business hours, as well as written messages and e-mails. School officials must develop a written "intervention plan" to address the student's continued absence in conjunction with the student and parent(s) or guardian(s).

(C) The intervention plan must include but is not limited to

(1) Designation of a person to lead the intervention team. The team leader may be someone from another agency.

(2) Reasons for the unlawful absences.

(3) Actions to be taken by the parent(s) or guardian(s) and student to resolve the causes of the unlawful absences.

(4) Documentation of referrals to appropriate service providers and, if available, alternative school and community-based programs.

(5) Actions to be taken by intervention team members.

(6) Actions to be taken in the event unlawful absences continue.

(7) Signature of the parent(s) or guardian(s) or evidence that attempts were made to involve the parents(s) or guardian(s).

(8) Documentation of involvement of team members.

(9) Guidelines for making revisions to the plan.

(D) School officials may utilize a team intervention approach. Team members may include representatives from social services, community mental health, substance abuse and prevention, and other persons the district deems appropriate to formulate the written intervention plans.

IV. Referrals and Judicial Intervention

At no time should a child ages 6 to 17 years be referred to the Family Court to be placed on an order to attend school prior to the written intervention planning being completed with the parent(s) or guardian(s) by the school. A consent order must not be used as an intervention plan from any local school or school district. Should the parent(s) or guardian(s) refuse to cooperate with the intervention planning to remedy the attendance problem, the school district has the authority to refer the student to Family Court in accordance with S.C. Code Ann. Section 59-65-50 (1990), and a report shall be filed against the parent(s) or guardian(s) with the Department of Social Services in compliance with S.C. Code Ann. Section 20-7-490 (2)(c)(Supp. 2002).

(A) Petition for a School Attendance Order. If the intervention plan is not successful and further inquiry by school officials fails to cause the truant student and/or parent(s) or guardian(s) to comply with the written intervention plan or if the student and/or parent(s) or guardian(s) refuses to participate in intervention and the student accumulates two or more additional unlawful absences, the student is considered an "habitual" truant. Each referral must include a copy of the plan and specify any corrective action regarding the student and/or the parent(s) or guardian(s) that the district recommends that the court adopt as well as any other available programs or alternatives identified by the school district. The intervention plan must be attached to the petition to the Family Court and served on the student and the parent(s) or guardian(s).

(B) Petition for Contempt of Court. Once a school attendance order has been issued by the Family Court and the student continues to accumulate unlawful absences, the student is considered to be a

"chronic" truant and school officials may refer the case back to Family Court. The school and district must exhaust all reasonable alternatives prior to petitioning the Family Court to hold the student and/or the parent(s) or guardian(s) in contempt of court. Any petition for contempt of court must include a written report indicating the corrective actions that were attempted by the school district and what graduated sanctions or alternatives to incarceration are available to the court in the community. The school district must include in the written report its recommendation to the court should the student and/or parent(s) or guardian(s) be found in contempt of court.

V. Coordination with the South Carolina Department of Juvenile Justice

Each school district should coordinate with the local office of the South Carolina Department of Juvenile Justice to establish a system of graduated sanctions and alternatives to incarceration in truancy cases.

VI. Transfer of Plans

If a student transfers to another public school in South Carolina, intervention plans shall be forwarded to the receiving school. School officials will contact the parent(s) or guardian(s) and local team members to review the plan and revise as appropriate. Court ordered plans may be amended through application to the court.

VII. Approval of Absences in Excess of Ten Days and Approval of Credit

(A) Approval or Disapproval of Absences. The district board of trustees, or its designee, shall approve or disapprove any student's absence in excess of ten days, whether lawful, unlawful, or a combination thereof, for students in grades K-12.

For the purpose of awarding credit for the year, school districts must approve or disapprove absences in excess of ten days regardless as to whether those absences are lawful, unlawful, or a combination of the two.

(B) High School Credit. In order to receive one Carnegie unit of credit, a student must be in attendance at least 120 hours, per unit, regardless of the number of days missed. Students whose absences are approved should be allowed to make up any work missed in order to satisfy the 120-hour requirement. Local school boards should develop policies governing student absences giving appropriate consideration to unique situations that may arise within their districts when students do not meet the minimum attendance requirements.

Therefore, districts should allow students, whose excessive absences are approved in part 1 of this section, to make-up work missed to satisfy the 120-hours requirement.

Examples of make-up work may include

(1) after-school and/or weekend make-up programs that address both time and academic requirements of the course(s), or

(2) extended-year programs that address both time and academic requirements of the course(s).

All make-up time and work must be completed within thirty days from the last day of the course(s). The district board of trustees or its designee may extend the time for student's completion of the requirements due to extenuating circumstances as prescribed by State Board of Education Guidelines.

VIII. Reporting Requirements

The State Department of Education will develop and implement a standard reporting system for the adequate collection and reporting of truancy rates on a school-by-school basis.

IX. Guidelines

Additional information relating to the implementation of this regulation will be contained in State Department of Education Guidelines. The State Department of Education will review and update these guidelines as needed.

Substance use

ADMINISTRATIVE CODE

43-279. Minimum Standards of Student Conduct and Disciplinary Enforcement Procedures to be Implemented by Local School Districts.

I. Expectations for Student Conduct in South Carolina Public Schools

Students in the public schools of South Carolina enjoy the same basic rights of United States citizenship as do other United States citizens. The rights of students are supported by the responsibility to insure that the rights of others are respected. This regulation is adopted with the intent to better assure that the opportunity to enjoy the benefits of public education is available to all those attending the public schools of the state of South Carolina.

II. Previously Adopted School District Discipline Policies

This regulation is established as a uniform system of minimum disciplinary enforcement for the school districts of South Carolina. School districts, which previously have adopted discipline policies that are consistent with and contain the elements included in this regulation, may retain their local policies as adopted.

III. Levels of Student Misconduct

A. The levels of student misconduct considered in this regulation are arranged by degrees of seriousness. The levels are arranged from the least serious to the most serious.

B. Three levels of student misconduct are identified: disorderly conduct, disruptive conduct, and criminal conduct. The levels are defined in this regulation.

C. This regulation includes a listing of possible sanctions for the three levels of student misconduct. As the levels increase in seriousness, the severity of possible disciplinary sanctions increases.

D. Suggested sanctions within the Level I misconduct category range from verbal reprimand to in-school suspension. Level II misconduct includes sanctions ranging from temporary removal from class to expulsion, while Level III misconduct includes sanctions ranging from out-of-school suspension to appropriate action within the criminal justice system.

E. A local school board, in its discretion, may authorize more stringent standards than those contained in this regulation.

IV. Minimum Standards

A. Disorderly Conduct--Level I

1. Disorderly conduct is defined as those activities engaged in by student(s) which tend to impede orderly classroom procedures or instructional activities, orderly operation of the school, or the frequency or seriousness of which disturb the classroom or school. The provisions of this regulation apply not only to within-school activities, but also to student conduct on school bus transportation vehicles, and other school sponsored activities.

2. Acts of disorderly conduct may include, but are not limited to:

a. Classroom tardiness;

b. Cheating on examinations or classroom assignments;

c. Lying;

d. Acting in a manner so as to interfere with the instructional process;

e. Abusive language between or among students;

f. Failure to complete assignments or carry out directions;

g. Use of forged notes or excuses;

h. Cutting class;

i. School tardiness;

j. Truancy;

k. Other disorderly acts as determined by local school authorities.

3. The basic enforcement procedures to be followed in instances of disorderly conduct are:

a. Upon observation or notification and verification of an offense, the staff member should take immediate action to rectify the misconduct. The staff member should apply an appropriate sanction, and should maintain a record of the misconduct and the sanction.

b. If, either in the opinion of the staff member or according to local school board policy, a certain misconduct is not immediately rectifiable, the problem should be referred to the appropriate administrator for action specified by local school board policy.

c. The administrator should meet with the reporting staff member, and, if necessary, the student and the parent or guardian, and should effect the appropriate disciplinary action.

d. A complete record of the procedures should be maintained.

4. Possible sanctions to be applied in cases of disorderly conduct may include, but are not limited to:

a. Verbal reprimand;

b. Withdrawal of privileges;

c. Demerits;

d. Detention;

e. Corporal punishment;

f. In-school suspension;

g. Other sanctions as approved by local school authorities.

B. Disruptive Conduct--Level II

1. Disruptive conduct is defined as those activities engaged in by student(s) which are directed against persons or property, and the consequences of which tend to endanger the health or safety of oneself or others in the school. Some instances of disruptive conduct may overlap certain criminal offenses, justifying both administrative sanctions and court proceedings. Disorderly conduct (Level I) may be reclassified as disruptive conduct (Level II) if it occurs three or more times. The provisions of this regulation apply not only to within school activities, but also to student conduct on school bus transportation vehicles, and other school sponsored activities.

2. Acts of disruptive conduct may include, but are not limited to:

a. Use of an intoxicant;

b. Fighting;

c. Vandalism (minor);

d. Stealing;

e. Threats against others;

f. Trespass;

g. Abusive language to staff;

h. Refusal to obey school personnel or agents (such as volunteer aides or chaperones) whose responsibilities include supervision of students;

i. Possession or use of unauthorized substances, as defined by law or local school board policy;

j. Illegally occupying or blocking in any way school property with the intent to deprive others of its use;

k. Unlawful assembly;

l. Disrupting lawful assembly;

m. Other acts as determined by local school authorities.

3. The basic enforcement procedures to be followed in instances of disruptive conduct are:

a. Upon observation or notification and verification of an offense, the administrator should investigate the circumstances of the misconduct and should confer with staff on the extent of the consequences.

b. The administrator should notify the parent or guardian of the student's misconduct and related proceedings. The administrator should meet with the student and, if necessary, the parent or guardian, confer with them about the student's misconduct, and effect the appropriate disciplinary action.

c. A complete record of the procedures should be maintained.

4. Possible sanctions to be applied in cases of disruptive conduct may include, but are not limited to:

a. Temporary removal from class;

b. Alternative education program;

c. In-school suspension;

d. Out-of-school suspension;

e. Transfer;

f. Referral to outside agency;

g. Expulsion;

h. Restitution of property and damages, where appropriate, should be sought by local school authorities;

i. Other sanctions as approved by local school authorities.

C. Criminal Conduct--Level III

1. Criminal conduct is defined as those activities engaged in by student(s) which result in violence to oneself or another's person or property or which pose a direct and serious threat to the safety of oneself or others in the school. These activities usually require administrative actions which result in the immediate removal of the student from the school, the intervention of law enforcement authorities, and/or action by the local school board. The provisions of this regulation apply not only to within-school activities, but also to student conduct on school bus transportation vehicles, and other school sponsored activities.

2. Acts of criminal conduct may include, but are not limited to:

a. Assault and battery;

b. Extortion;

c. Bomb threat;

d. Possession, use, or transfer of dangerous weapons;

e. Sexual offenses;

f. Vandalism (major);

g. Theft, possession, or sale of stolen property;

h. Arson;

i. Furnishing or selling unauthorized substances, as defined by local school board policy;

j. Furnishing, selling, or possession of controlled substances (drugs, narcotics, or poisons).

3. The basic enforcement procedures to be followed in instances of criminal conduct are:

a. Upon observation or notification and verification of an offense, the administrator should confer with the staff involved, should effect the appropriate disciplinary action, and, if appropriate, should meet with the student.

b. If warranted, the student should be removed immediately from the school environment. A parent or guardian should be notified as soon as possible.

c. If appropriate, school officials should contact law enforcement authorities.

d. Established due process procedures shall be followed when applicable.

e. A complete record of the procedures should be maintained.

4. Possible sanctions to be applied in cases of criminal conduct may include, but are not limited to:

a. Out-of-school suspension;

b. Assignment to alternative schools;

c. Expulsion;

d. Restitution of property and damages, where appropriate, should be sought by local school authorities;

e. Other sanctions as approved by local school authorities.

D. Extenuating, Mitigating or Aggravating Circumstances. A local school board may confer upon the appropriate administrator the authority to consider extenuating, mitigating or aggravating circumstances which may exist in a particular case of misconduct. Such circumstances should be considered in determining the most appropriate sanction to be used.

Bullying, harassment, or hazing

STATUTES

59-63-110. This article may be cited as the 'Safe School Climate Act'.

59-63-120.

As used in this article:

(1) 'Harassment, intimidation, or bullying' means a gesture, an electronic communication, or a written, verbal, physical, or sexual act that is reasonably perceived to have the effect of:

(a) harming a student physically or emotionally or damaging a student's property, or placing a student in reasonable fear of personal harm or property damage; or

(b) insulting or demeaning a student or group of students causing substantial disruption in, or substantial interference with, the orderly operation of the school.

(2) 'School' means in a classroom, on school premises, on a school bus or other school-related vehicle, at an official school bus stop, at a school-sponsored activity or event whether or not it is held on school premises, or at another program or function where the school is responsible for the child.

59-63-130.

(A) A person may not engage in:

(1) harassment, intimidation, or bullying; or

(2) reprisal, retaliation, or false accusation against a victim, witness, or one with reliable information about an act of harassment, intimidation, or bullying.

(B) A school employee, student, or volunteer who witnesses, or has reliable information that a student has been subject to harassment, intimidation, or bullying shall report the incident to the appropriate school official.

59-63-140.

(A) Before January 1, 2007, each local school district shall adopt a policy prohibiting harassment, intimidation, or bullying at school. The school district shall involve parents and guardians, school employees, volunteers, students, administrators, and community representatives in the process of creating the policy.

(B) The policy must include, but not be limited to, the following components:

(1) a statement prohibiting harassment, intimidation, or bullying of a student;

(2) a definition of harassment, intimidation, or bullying no less inclusive than the definition in

59-63-120;

(3) a description of appropriate student behavior;

(4) consequences and appropriate remedial actions for persons committing acts of harassment, intimidation, or bullying, and for persons engaging in reprisal or retaliation;

(5) procedures for reporting acts of harassment, intimidation, or bullying, to include a provision for reporting anonymously. However, formal disciplinary action must not be taken solely on the basis of an anonymous report. The procedures must identify the appropriate school personnel responsible for taking the report and investigating the complaint;

(6) procedures for prompt investigation of reports of serious violations and complaints;

(7) a statement that prohibits reprisal or retaliation against a person who reports an act of harassment, intimidation, or bullying;

(8) consequences and appropriate remedial action for persons found to have falsely accused another;

(9) a process for discussing the district's harassment, intimidation, or bullying policy with students; and

(10) a statement of how the policy is to be publicized, including notice that the policy applies to participation in school-sponsored functions.

(C) To assist local school districts in developing policies for the prevention of harassment, intimidation, or bullying, the State Board of Education shall develop model policies applicable to grades kindergarten through twelve. Additionally, the State Board of Education shall develop teacher preparation program standards on the identification and prevention of bullying. The model policies and standards must be developed no later than September 1, 2006.

(D) The local school board shall ensure that the school district's policy developed pursuant to this article is included in the school district's publication of the comprehensive rules, procedures, and standards of conduct for schools and in the student's handbook.

(E) Information regarding a local school district policy against harassment, intimidation, or bullying must be incorporated into a school's employee training program. Training also should be provided to school volunteers who have significant contact with students.

(F) Schools and school districts are encouraged to establish bullying prevention programs and other initiatives involving school staff, students, administrators, volunteers, parents, law enforcement, and community members.

59-63-150.

(A) This article must not be interpreted to prevent a victim from seeking redress pursuant to another available civil or criminal law. This section does not create or alter tort liability.

(B) A school employee or volunteer who promptly reports an incident of harassment, intimidation, or bullying to the appropriate school official designated by the local school district's policy, and who makes this report in compliance with the procedures in the district's policy, is immune from a cause of action for damages arising from failure to remedy the reported incident."

59-63-210. Grounds for which trustees may expel, suspend or transfer pupils; petition for readmission.

(A) Any district board of trustees may authorize or order the expulsion, suspension, or transfer of any pupil for the commission of any crime, gross immorality, gross misbehavior, persistent disobedience, or for violation of written rules and promulgated regulations established by the district board, county board, or the State Board of Education, or when the presence of the pupil is detrimental to the best interest of the school. Each expelled pupil has the right to petition for readmission for the succeeding school year. Expulsion or suspension must be construed to prohibit a pupil from entering the school or school grounds, except for a prearranged conference with an administrator, attending any day or night school functions, or riding a school bus. The provisions of this section do not preclude enrollment and attendance in any adult or night school.

(B) A district board of trustees shall not authorize or order the expulsion, suspension, or transfer of any pupil for a violation of Section 59-150-250(B).

59-63-217. Barring enrollment of student; grounds; notice and hearing; duration of bar.

(A) In determining whether or not a student meets the standards of conduct and behavior promulgated by the board of trustees necessary for first time enrollment and attendance in a school in the district, the board shall consider nonschool records, the student's disciplinary records in any school in which the student was previously enrolled as these records relate to the adjudication of delinquency in any jurisdiction, within or without this State, of violations or activities which constitute violent crimes under Section 16-1-60, adjudications for assault and battery of a high and aggravated nature, the unlawful use or possession of weapons, or the unlawful sale of drugs whether or not considered to be drug trafficking. Based on this consideration of the student's record, the board may bar his enrollment in the schools of the district.

(B) If the board bars a student from enrolling pursuant to this section, notice must be provided to the student's parent or legal guardian and the student is entitled to a hearing and all other procedural rights afforded under state law to a student subject to expulsion.

(C) The bar to enrollment allowed by this section applies for a maximum of one year. After the bar is lifted, a student may reapply for enrollment and the board shall order the student enrolled if he otherwise meets enrollment criteria.

59-63-275. Hazing prohibited at all public education institutions.

(A) For purposes of this section:

(1) 'Student' means a person enrolled in a public education institution.

(2) 'Superior student' means a student who has attended a state university, college, or other public education institution longer than another student or who has an official position giving authority over another student.

(3) 'Subordinate student' means a person who attends a public education institution who is not defined as a 'superior student' in item (2).

(4) 'Hazing' means the wrongful striking, laying open hand upon, threatening with violence, or offering to do bodily harm by a superior student to a subordinate student with intent to punish or injure the subordinate student, or other unauthorized treatment by the superior student of a subordinate student of a tyrannical, abusive, shameful, insulting, or humiliating nature.

(B) Hazing at all public education institutions is prohibited. When an investigation has disclosed substantial evidence that a student has committed an act or acts of hazing, the student may be dismissed, expelled, suspended, or punished as the principal considers appropriate.

(C) The provisions of this section are in addition to the provisions of Article 6, Chapter 3 of Title 16.

Other special infractions or conditions

STATUTES

59-63-280. Possession of paging devices by public school students under age eighteen prohibited.

(A) For purposes of this section, 'paging device' means a telecommunications, to include mobile telephones, device that emits an audible signal, vibrates, displays a message, or otherwise summons or delivers a communication to the possessor.

(B) The board of trustees of each school district shall adopt a policy that addresses student possession of paging devices as defined in subsection (A). This policy must be included in the district's written student conduct standards. If the policy includes confiscation of a paging device, as defined in subsection (A), it should also provide for the return of the device to the owner.

Prevention and Behavioral Interventions (Non-Punitive)

Prevention

STATUTES

59-17-135. Character education.

(A) The General Assembly finds:

(1) the schools of South Carolina must provide the safest environment possible for students to learn;

(2) teaching positive character traits is essential to improving the learning environment, promoting student achievement, reducing disciplinary problems, and developing civic-minded students;

(3) schools must be encouraged to instill the highest character and academic excellence in each student, in close cooperation with the student's parents; and

(4) elected officials, community and civic leaders, business leaders, religious institutions, youth organizations, government, media, and citizens-at-large must be encouraged to become actively involved in creating an atmosphere which encourages positive character development through every sector of the community.

(B) Each local school board of trustees of the State must develop a policy addressing character education. Any character education program implemented by a district as a result of an adopted policy must, to the extent possible, incorporate character traits including, but not limited to, the following: respect for authority and respect for others, honesty, self-control, cleanliness, courtesy, good manners, cooperation, citizenship, patriotism, courage, fairness, kindness, self-respect, compassion, diligence, good work ethics, sound educational habits, generosity, punctuality, cheerfulness, patience, sportsmanship, loyalty, and virtue. Local school boards must include all sectors of the community, as referenced in subsection (A)(4), in the development of a policy and in the development of any program implemented as a result of the policy. As part of any policy and program developed by the local school board, an evaluation component must be included.

(C) Beginning with the 2000-2001 school year, each school district board of trustees is encouraged to require students in the public schools under the jurisdiction of the board to exhibit appropriate conduct, as required in subsection (D) of this section.

(D) When a public school student is speaking with a public school employee while on school property or at a school sponsored event, the student may be encouraged to address and respond to the public school employee by using terms indicative of or reflecting courtesy and respect for a public school's employees position of authority including, but not limited to, sir, ma'am, thank you, and please.

(E) Each school district board of trustees is encouraged to provide for incorporation of the requirements of subsections (C) and (D) into any existing discipline policy or policies or any code of conduct of the school district or of each school within its jurisdiction.

(F) No school board may provide suspension or expulsion from school as an appropriate punishment for violation of subsection (D).

(G) Upon request, the State Department of Education must provide to the school districts of the State information on currently available programs, curriculums, and resources. In addition, the State Department of Education must provide to the school districts of the State information on best practices and successful programs currently being implemented.

59-63-140. Local school districts to adopt policies prohibiting harassment; required components; model policies by State Board of Education; bullying prevention programs.

(F) Schools and school districts are encouraged to establish bullying prevention programs and other initiatives involving school staff, students, administrators, volunteers, parents, law enforcement, and community members.

Behavioral interventions and student support services

ADMINISTRATIVE CODE

43-274.1. At-risk students.

II. At-Risk Student Indicators, Predictors, and Barriers

The South Carolina Education and Economic Development Act mandates the promulgation of State Board of Education regulations outlining specific objective criteria for districts to use in identifying students who may be poorly prepared for the next level of study or who are at risk of dropping out of school. The Act calls for these criteria to include diagnostic assessments for districts to use in order to identify the strengths and weaknesses of individual students in the core academic areas.

B. The following are among the specific behaviors and characteristics that school districts must consider as indicators, predictors, and barriers in identifying at-risk students:

4. having a history of discipline problems leading to suspension, expulsion, and/or probation;

III. At-Risk Student Model, Initiative, and Program Selection

By the 2007-08 school year each high school of the state must implement one or more model programs approved by the South Carolina Department of Education (SCDE).

Schools must select at-risk student models, initiatives, and programs that meet the needs of the at-risk populations to be served and must ensure that models, initiatives, and programs selected provide students with the opportunity to graduate with a high school diploma. The SCDE will provide an implementation document that will include a tiered matrix of approved evidence-based models, initiatives, and programs to facilitate the selection process in accordance with the Education and Economic Development Act requirements for implementing evidence-based models, initiatives, and programs. The document will also contain a more extensive list of indicators, predictors, and barriers as well as one-page descriptions for each evidence-based model, initiative, and program included in the matrix.

IV. Population and Model, Initiative, and Program Identification Parameters

Each high school either must implement a model, initiative, or program that is chosen from a list provided by the SCDE or must submit to the SCDE for approval a specific dropout prevention model, comprehensive initiative, or multifaceted program that it wants to use. High schools may explore and implement newly developed models with approval from the SCDE. One criterion for SCDE approval of any newly developed model will be evidence presented by the district and/or school that the model is centered in research-based dropout-prevention strategies.

A. Implementation efforts related to any model, initiative, or program (or combination of models, initiatives, and programs) must ensure that students are properly identified and provided timely, appropriate guidance and assistance and must ensure that no group is disproportionately represented.

B. When subpopulations are identified, high schools must ensure that these groups reflect the demographics of populations identified as at risk of dropping out of school.

C. When no subpopulations are identified, high schools implementing comprehensive initiatives will not have to address the disproportionate representation of any one group of students. In such cases,

methods of determining the effectiveness of the at-risk initiative must be given careful consideration with regard to collecting data and preparing necessary reports.

D. Parental involvement must be part of final placement decisions in any model, initiative, or program where small groups of students are identified for services in a particular school or district.

E. The target population must reflect the demographics of the population identified in Section II, above, as being at risk of dropping out of school.

F. High schools must provide relevant data related to identifying the at-risk student population and to addressing the needs of these at-risk students as required for SCDE reports.

V. Building-Level Program Evaluation

A. Evaluation Criteria. All high schools must annually evaluate their dropout-prevention models, initiatives, and/or programs using, at a minimum, the following criteria:

1. an identification process, including (where appropriate and based on the particular model, initiative, or program) the number of at-risk students identified and the specific risk factors identified;
2. the extent of parental involvement in the school's dropout-prevention efforts;
3. the number of students served;
4. a formative assessment of strengths and weaknesses of the model, initiative, and/or program; and
5. a qualitative assessment of desired outcomes (see item B, immediately below).

B. Desired Outcomes. Schools should establish desired outcomes or performance criteria based on the specific needs of the at-risk population identified and on the nature and structure of the particular model, initiative, and/or program they are implementing. Examples of desired outcomes among the target population include, but are not limited to, the following:

1. decreased percentages of truancy, absenteeism, discipline problems, and retentions;
2. increases in students' grade point averages; and
3. increased percentages of students who are on grade level and students who graduate on time.

Model-, initiative-, and/or program-specific data and PowerSchoolTM data elements should be used to assess desired outcomes on the basis of specific evaluation criteria. The state's PowerSchoolTM data management system can be used to collect, sort, and report data related to each student's attendance record; age and grade level; gender; ethnicity; grade point average; and retention, truancy, and dropout status.

C. Teacher and/or counselor assessments may be used to provide supplemental anecdotal documentation and insights related to the effectiveness of the model, initiative, and/or program implemented. A district or school checklist may be beneficial in the evaluation process.

VI. Model, Initiative, and/or Program Evaluation and Assessment Reporting

All high schools must annually provide reports requested by the SCDE that relate to the implementation and effectiveness of models, initiatives, and/or programs addressing the needs of students at risk of dropping out of school. District and school report card contents must contain information on the disciplinary climate, promotion and retention ratios, dropout ratios, dropout reduction data, and attendance data. Districts and schools must be prepared to provide accurate and relevant data to the SCDE.

Professional development

STATUTES

59-5-65. Powers and responsibilities of State Board of Education.

The State Board of Education shall have the power and responsibility to:

(15) Develop by regulation a model safe schools checklist to be used by school districts on a regular basis to assess their schools' safety strengths and weaknesses. The checklist must include:

(a) the existence of a comprehensive safety plan;

(b) communication of discipline policies and procedures;

(c) intraagency and interagency emergency planning;

(d) recording of disruptive incidents;

(e) training of staff and students;

(f) assessment of buildings and grounds;

(g) procedures for handling visitors;

(h) assignment of personnel in emergencies;

(i) emergency communication and management procedures; and

(j) transportation rules and accident procedures.

(16) consult with the Department of Agricultural Education of Clemson University at all steps in the development of any state plan prepared to satisfy any federal requirement related to the Carl Perkins Vocational and Applied Technology and Education Act or any successor federal law, including, but not limited to, the allocation or distribution of funds under this federal act.

59-63-140. Local school districts to adopt policies prohibiting harassment; required components; model policies by State Board of Education; bullying prevention programs.

(C) To assist local school districts in developing policies for the prevention of harassment, intimidation, or bullying, the State Board of Education shall develop model policies applicable to grades kindergarten through twelve. Additionally, the State Board of Education shall develop teacher preparation program standards on the identification and prevention of bullying. The model policies and standards must be developed no later than September 1, 2006.

(E) Information regarding a local school district policy against harassment, intimidation, or bullying must be incorporated into a school's employee training program. Training also should be provided to school volunteers who have significant contact with students.

59-63-1150. Compliance with case law; training of school administrators.

Notwithstanding any other provision of this article, all searches conducted pursuant to this article must comply fully with the "reasonableness standard" set forth in New Jersey v. T.L.O., 469 U.S. 328 (1985). All school administrators must receive training in the "reasonableness standard" under existing case law and in district procedures established to be followed in conducting searches of persons entering the school premises and of the students attending the school.

ADMINISTRATIVE CODE

R43-166. Student and school safety.

A. School Safety Assessment

1. The State Department of Education shall develop a Model Safe Schools Checklist designed to assess schools' safety strengths and weaknesses. The checklist must include items addressing the following topics:

a. the existence of a comprehensive safety plan;

b. communication of discipline policies and procedures;

c. intra-agency and interagency emergency planning;

d. recording of disruptive incidents;

e. training of staff and students;

f. assessment of buildings and grounds;

g. procedures for handling visitors;

h. assignment of personnel in emergencies;

i. emergency communication and management procedures; and

j. transportation rules and accident procedures.

2. The State Department of Education shall submit the checklist to the State Board of Education for approval prior to dissemination to the school districts. The checklist may be revised on an annual basis by the State Board of Education in compliance with relevant provisions of the Safe Schools Act of 1990.

3. Prior to September 30 of each school year, the State Department of Education shall disseminate a copy of the model safe schools checklist to every public school district in the state.

4. School districts shall be advised by the Department of Education of the requirement to use a safe schools checklist in compliance with Section 59-5-65, S.C. Code of Laws, 1976. This safety assessment should be part of the comprehensive needs assessment conducted for school improvement purposes in compliance with Section 59-20-60(4)(d), S.C. Code of Laws, 1976. In particular, a safe schools check list should be utilized in determining "school climate" needs, one of the six indicators of school effectiveness.

B. First Aid Supplies

Each school shall provide adequate first aid supplies and equipment.

C. Support for Authorities

The Board urges all citizens to continue their active and vigorous support of the local school and civil authorities in insuring the personal safety and security of all students and teachers.

D. Emergency and Disaster Plans

A plan shall be designed to provide for the protection and welfare of students in the event of any disaster (tornado, hurricane, fire, etc.) which threatens to involve the school community. Each school shall conduct at least one emergency drill within the first month of school to insure safety against such disasters.

E. Guidelines will be developed by the State Department of Education which will refer to statutory provisions relating to school safety, as well as additional information. The State Department of Education will review and update these guidelines as needed.

Monitoring and Accountability

Formal incident reporting of conduct violations

STATUTES

59-63-320. Reporting form.

By December 31, 1990, the State Department of Education, after consultation with the State Law Enforcement Division, shall develop a standard school crime reporting form which must be used by all school districts in the State. The form must define what constitutes criminal activity required to be reported and must include, but is not limited to, the following:

(1) types and frequency of criminal incident;

(2) crimes against the person, including:

(a) description of crime;

(b) age and sex of offender and whether the offender is a student. If the offender is a student, whether he attended the school where the crime occurred or a different school, and whether he was under school suspension or expulsion at the time of the offense;

(c) age and sex of the victim and whether the victim is a student. If the victim is a student, whether he attended the school where the crime occurred or a different school. If the victim is not a student, whether he was employed at the school and, if so, in what capacity;

(d) where, at what time, and under what circumstances the incident occurred;

(e) the cost of the crime to the school and to the victim;

(f) what action was taken by the school administration;

(3) crimes against property, including:

(a) description of the crime;

(b) where, at what time, and under what circumstances the crime occurred;

(c) the cost of the crime to the school and to the victim;

(d) what action was taken by the school administration.

59-63-330. Quarterly and annual reports.

On forms prepared and supplied by the State Department of Education, each school district in the State shall report school related crime quarterly to the State Department of Education. The department shall compile the information received from the districts and annually, not later than January thirty first of the year following the districts' final quarterly reports of the school year, make a report to the General Assembly on the findings. In addition, the State Department of Education shall, upon receipt, forward all information concerning school related crime to the Attorney General's Office. This information shall be used by the Attorney General in the supervision of the prosecution of school crime.

59-63-333. School crime requirements to conform to federal "No Child Left Behind Act".

The State Department of Education shall conform the requirements of Sections 59 63 310 through 59 63 340 on school crime so as to fulfill the provisions of the 'No Child Left Behind Act of 2001' (20 U.S.C. Section 7912) which includes reports on persistently dangerous schools and on the frequency, seriousness, and incidence of violence and drug related offenses resulting in suspensions and expulsions in elementary and secondary schools. A summary of the provisions of Article 4, Chapter 63 of Title 59

required to be included in the school's student handbook each year must be revised to conform with the requirements of this section.

59-63-335. Failure of school administrator to report criminal conduct; liability.

Failure of a school administrator to report criminal conduct as set forth in Section 59 24 60 or failure to report information concerning school related crime pursuant to Section 59 63 330 shall subject the administrator and the school district to liability for payment of a party's attorney's fees and the costs associated with an action to seek a writ of mandamus to compel the administrator and school district to comply with Section 59 24 60 or 59 63 330.

59-63-380. School official reporting school-related crimes; immunity.

A person affiliated with a school in an official capacity is granted immunity from criminal prosecution and civil liability when making a report of school-related crime in good faith, to the extent that the exposure to criminal prosecution or civil liability arises from the same report of school-related crime.

Parental notification

STATUTES

59-63-230. Notices of suspensions; conferences with parents or guardian.

When a pupil is suspended from a class or a school, the administrator shall notify, in writing, the parents or legal guardian of the pupil, giving the reason for such suspension and setting a time and place when the administrator shall be available for a conference with the parents or guardian. The conference shall be set within three days of the date of the suspension. After the conference the parents or legal guardian may appeal the suspension to the board of trustees or to its authorized agent.

59-63-240. Expulsion for remainder of year; hearings.

The board may expel for the remainder of the school year a pupil for any of the reasons listed in Section 59-63-210. If procedures for expulsion are initiated, the parents or legal guardian of the pupil shall be notified in writing of the time and the place of a hearing either before the board or a person or committee designated by the board. At the hearing the parents or legal guardian shall have the right to legal counsel and to all other regular legal rights including the right to question all witnesses. If the hearing is held by any authority other than the board of trustees, the right to appeal the decision to the board is reserved to either party. The hearing shall take place within fifteen days of the written notification at a time and place designated by the board and a decision shall be rendered within ten days of the hearing. The pupil may be suspended from school and all school activities during the time of the expulsion procedures. The action of the board may be appealed to the proper court. The board may permanently expel any incorrigible pupil.

Reporting and referrals between schools and law enforcement

STATUTES

59-63-320. Reporting form.

By December 31, 1990, the State Department of Education, after consultation with the State Law Enforcement Division, shall develop a standard school crime reporting form which must be used by all school districts in the State. The form must define what constitutes criminal activity required to be reported and must include, but is not limited to, the following:

(1) types and frequency of criminal incident;

(2) crimes against the person, including:

(a) description of crime;

(b) age and sex of offender and whether the offender is a student. If the offender is a student, whether he attended the school where the crime occurred or a different school, and whether he was under school suspension or expulsion at the time of the offense;

(c) age and sex of the victim and whether the victim is a student. If the victim is a student, whether he attended the school where the crime occurred or a different school. If the victim is not a student, whether he was employed at the school and, if so, in what capacity;

(d) where, at what time, and under what circumstances the incident occurred;

(e) the cost of the crime to the school and to the victim;

(f) what action was taken by the school administration;

(3) crimes against property, including:

(a) description of the crime;

(b) where, at what time, and under what circumstances the crime occurred;

(c) the cost of the crime to the school and to the victim;

(d) what action was taken by the school administration.

59-63-335. Failure of school administrator to report criminal conduct; liability.

Failure of a school administrator to report criminal conduct as set forth in Section 59 24 60 or failure to report information concerning school related crime pursuant to Section 59 63 330 shall subject the administrator and the school district to liability for payment of a party's attorney's fees and the costs associated with an action to seek a writ of mandamus to compel the administrator and school district to comply with Section 59 24 60 or 59 63 330.

59-63-350. Local law enforcement.

Local law enforcement officials are required to contact the Attorney General's "school safety phone line" when any felony, assault and battery of a high and aggravated nature, crime involving a weapon, or drug offense is committed on school property or at a school sanctioned or school sponsored activity or any crime reported pursuant to Section 59 24 60.

59-63-360. Attorney General; representation of school districts.

The Attorney General shall monitor all reported school crimes. The Attorney General or his designee may represent the local school district when a criminal case is appealed to an appellate court of competent jurisdiction.

59-63-380. School official reporting school related crimes; immunity.

A person affiliated with a school in an official capacity is granted immunity from criminal prosecution and civil liability when making a report of school related crime in good faith, to the extent that the exposure to criminal prosecution or civil liability arises from the same report of school related crime.

ADMINISTRATIVE CODE

43-279. Minimum Standards of Student Conduct and Disciplinary Enforcement Procedures to be Implemented by Local School Districts.

C. Criminal Conduct--Level III

1. Criminal conduct is defined as those activities engaged in by student(s) which result in violence to oneself or another's person or property or which pose a direct and serious threat to the safety of oneself or others in the school. These activities usually require administrative actions which result in the immediate removal of the student from the school, the intervention of law enforcement authorities, and/or action by the local school board. The provisions of this regulation apply not only to within-school activities, but also to student conduct on school bus transportation vehicles, and other school sponsored activities.

2. Acts of criminal conduct may include, but are not limited to:

a. Assault and battery;

b. Extortion;

c. Bomb threat;

d. Possession, use, or transfer of dangerous weapons;

e. Sexual offenses;

f. Vandalism (major);

g. Theft, possession, or sale of stolen property;

h. Arson;

i. Furnishing or selling unauthorized substances, as defined by local school board policy;

j. Furnishing, selling, or possession of controlled substances (drugs, narcotics, or poisons).

3. The basic enforcement procedures to be followed in instances of criminal conduct are:

a. Upon observation or notification and verification of an offense, the administrator should confer with the staff involved, should effect the appropriate disciplinary action, and, if appropriate, should meet with the student.

b. If warranted, the student should be removed immediately from the school environment. A parent or guardian should be notified as soon as possible.

c. If appropriate, school officials should contact law enforcement authorities.

d. Established due process procedures shall be followed when applicable.

e. A complete record of the procedures should be maintained.

4. Possible sanctions to be applied in cases of criminal conduct may include, but are not limited to:

a. Out-of-school suspension;

b. Assignment to alternative schools;

c. Expulsion;

d. Restitution of property and damages, where appropriate, should be sought by local school authorities;

e. Other sanctions as approved by local school authorities.

D. Extenuating, Mitigating or Aggravating Circumstances

A local school board may confer upon the appropriate administrator the authority to consider extenuating, mitigating or aggravating circumstances which may exist in a particular case of misconduct. Such circumstances should be considered in determining the most appropriate sanction to be used.

Disclosure of school records

STATUTES

59-63-370. Student's conviction or delinquency adjudication for certain offenses; notification of senior administrator at student's school; placement of information in permanent school records.

Notwithstanding any other provision of law:

(1) When a student who is convicted of or adjudicated delinquent for assault and battery against school personnel, as defined in Section 16-3-612, assault and battery of a high and aggravated nature committed on school grounds or at a school-sponsored event against any person affiliated with the school in an official capacity, a violent offense as defined in Section 16-1-60, an offense in which a weapon as defined in Section 59-63-370 was used, or for distribution or trafficking in unlawful drugs as defined in Article 3, Chapter 53 of Title 44 is assigned to the Department of Juvenile Justice, the Department of Corrections, or to the Department of Probation, Parole, and Pardon Services, that agency is required to provide immediate notice of the student's conviction or adjudication to the senior administrator of the school in which the student is enrolled, intends to be enrolled, or was last enrolled. These agencies are authorized to request information concerning school enrollment from a student convicted of or adjudicated delinquent for an offense listed in this item.

(2) When a student convicted of or adjudicated delinquent for an offense listed in item (1) of this section is not sentenced to incarceration or probation, the presiding judge shall as part of his sentence order the clerk of the municipal, magistrate, or general sessions court to provide, within ten days, notification of the student's sentence to the appropriate school district for inclusion in the student's permanent record. If the student is under the jurisdiction of the family court and is not referred to the Department of Juvenile Justice, the prosecuting agency must provide notification within ten days to the appropriate school district.

(3) An administrator notified pursuant to this section is required to notify each teacher or instructor in whose class the student is enrolled of a student's conviction of or adjudication for an offense listed in item (1) of this section. This notification must be made to the appropriate teachers or instructors every year the student is enrolled in school.

(4) If a student is convicted of or adjudicated delinquent for an offense listed in item (1) of this section, information concerning the conviction or adjudication and sentencing must be placed in the student's permanent school record and must be forwarded with the student's permanent school records if the student transfers to another school or school district.

A "weapon", as used in this section, means a firearm, knife with a blade-length of over two inches, dirk, razor, metal knuckles, slingshot, bludgeon, or any other deadly instrument used for the infliction of bodily harm or death.

Data collection, review, and reporting of disciplinary policies and actions

STATUTES

59-5-65. Powers and responsibilities of State Board of Education.

The State Board of Education shall have the power and responsibility to:

(15) Develop by regulation a model safe schools checklist to be used by school districts on a regular basis to assess their schools' safety strengths and weaknesses. The checklist must include:

(a) the existence of a comprehensive safety plan;

(b) communication of discipline policies and procedures;

(c) intraagency and interagency emergency planning;

(d) recording of disruptive incidents;

(e) training of staff and students;

(f) assessment of buildings and grounds;

(g) procedures for handling visitors;

(h) assignment of personnel in emergencies;

(i) emergency communication and management procedures; and

(j) transportation rules and accident procedures.

(16) consult with the Department of Agricultural Education of Clemson University at all steps in the development of any state plan prepared to satisfy any federal requirement related to the Carl Perkins Vocational and Applied Technology and Education Act or any successor federal law, including, but not limited to, the allocation or distribution of funds under this federal act.

59-63-333. School crime requirements to conform to federal "No Child Left Behind Act".

The State Department of Education shall conform the requirements of Sections 59-63-310 through 59-63-340 on school crime so as to fulfill the provisions of the 'No Child Left Behind Act of 2001' (20 U.S.C. Section 7912) which includes reports on persistently dangerous schools and on the frequency, seriousness, and incidence of violence and drug-related offenses resulting in suspensions and expulsions in elementary and secondary schools. A summary of the provisions of Article 4, Chapter 63 of Title 59 and Section 16-3-612 required to be included in the school's student handbook each year must be revised to conform with the requirements of this section.

59-63-360. Attorney General; representation of school districts.

The Attorney General shall monitor all reported school crimes. The Attorney General or his designee may represent the local school district when a criminal case is appealed to an appellate court of competent jurisdiction.

59-63-390. Inclusion of school crime report act summary in student handbooks.

The senior administrator of each school is responsible for including an accurate summary of the provisions of this article and Section 16-3-612 in the school's student handbook each year.

ADMINISTRATIVE CODE

R43-166. Student and school safety.

A. School Safety Assessment

1. The State Department of Education shall develop a Model Safe Schools Checklist designed to assess schools' safety strengths and weaknesses. The checklist must include items addressing the following topics:

a. the existence of a comprehensive safety plan;

b. communication of discipline policies and procedures;

c. intra-agency and interagency emergency planning;

d. recording of disruptive incidents;

e. training of staff and students;

f. assessment of buildings and grounds;

g. procedures for handling visitors;

h. assignment of personnel in emergencies;

i. emergency communication and management procedures; and

j. transportation rules and accident procedures.

2. The State Department of Education shall submit the checklist to the State Board of Education for approval prior to dissemination to the school districts. The checklist may be revised on an annual basis by the State Board of Education in compliance with relevant provisions of the Safe Schools Act of 1990.

3. Prior to September 30 of each school year, the State Department of Education shall disseminate a copy of the model safe schools checklist to every public school district in the state.

4. School districts shall be advised by the Department of Education of the requirement to use a safe schools checklist in compliance with Section 59-5-65, S.C. Code of Laws, 1976. This safety assessment should be part of the comprehensive needs assessment conducted for school improvement purposes in compliance with Section 59-20-60(4)(d), S.C. Code of Laws, 1976. In particular, a safe schools check list should be utilized in determining “school climate” needs, one of the six indicators of school effectiveness.

B. First Aid Supplies

Each school shall provide adequate first aid supplies and equipment.

C. Support for Authorities

The Board urges all citizens to continue their active and vigorous support of the local school and civil authorities in insuring the personal safety and security of all students and teachers.

D. Emergency and Disaster Plans

A plan shall be designed to provide for the protection and welfare of students in the event of any disaster (tornado, hurricane, fire, etc.) which threatens to involve the school community. Each school shall conduct at least one emergency drill within the first month of school to insure safety against such disasters.

E. Guidelines will be developed by the State Department of Education which will refer to statutory provisions relating to school safety, as well as additional information. The State Department of Education will review and update these guidelines as needed.

School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers

Authority and power to implement school arrest

STATUTES

5-7-12. Designation of school resource officer; jurisdiction; employment rights.

(A) The governing body of a municipality or county may upon the request of any other governing body or of any other political subdivision of the State, including school districts, designate certain officers to be assigned to the duty of a school resource officer and to work within the school systems of the municipality or county. The person assigned as a school resource officer shall have statewide jurisdiction to arrest persons committing crimes in connection with a school activity or school-sponsored event. When acting pursuant to this section and outside of the sworn municipality or county of the school resource officer, the officer shall enjoy all authority, rights, privileges, and immunities, including coverage under the workers' compensation laws that he would have enjoyed if operating in his sworn jurisdiction.

(B) For purposes of this section, a "school resource officer" is defined as a person who is a sworn law enforcement officer pursuant to the requirements of any jurisdiction of this State, who has completed the basic course of instruction for School Resource Officers as provided or recognized by the National Association of School Resource Officers or the South Carolina Criminal Justice Academy, and who is assigned to one or more school districts within this State to have as a primary duty the responsibility to act as a law enforcement officer, advisor, and teacher for that school district.

Certification or training

STATUTES

5-7-12. Designation of school resource officer; jurisdiction; employment rights.

(A) The governing body of a municipality or county may upon the request of any other governing body or of any other political subdivision of the State, including school districts, designate certain officers to be assigned to the duty of a school resource officer and to work within the school systems of the municipality or county. The person assigned as a school resource officer shall have statewide jurisdiction to arrest persons committing crimes in connection with a school activity or school-sponsored event. When acting pursuant to this section and outside of the sworn municipality or county of the school resource officer, the officer shall enjoy all authority, rights, privileges, and immunities, including coverage under the workers' compensation laws that he would have enjoyed if operating in his sworn jurisdiction.

(B) For purposes of this section, a "school resource officer" is defined as a person who is a sworn law enforcement officer pursuant to the requirements of any jurisdiction of this State, who has completed the basic course of instruction for School Resource Officers as provided or recognized by the National Association of School Resource Officers or the South Carolina Criminal Justice Academy, and who is assigned to one or more school districts within this State to have as a primary duty the responsibility to act as a law enforcement officer, advisor, and teacher for that school district.

MOUs, authorization, and/or funding

STATUTES

5-7-12. Designation of school resource officer; jurisdiction; employment rights.

(A) The governing body of a municipality or county may upon the request of any other governing body or of any other political subdivision of the State, including school districts, designate certain officers to be assigned to the duty of a school resource officer and to work within the school systems of the municipality or county. The person assigned as a school resource officer shall have statewide jurisdiction to arrest persons committing crimes in connection with a school activity or school-sponsored event. When acting pursuant to this section and outside of the sworn municipality or county of the school resource officer, the officer shall enjoy all authority, rights, privileges, and immunities, including coverage under the workers' compensation laws that he would have enjoyed if operating in his sworn jurisdiction.

(B) For purposes of this section, a "school resource officer" is defined as a person who is a sworn law enforcement officer pursuant to the requirements of any jurisdiction of this State, who has completed the basic course of instruction for School Resource Officers as provided or recognized by the National Association of School Resource Officers or the South Carolina Criminal Justice Academy, and who is assigned to one or more school districts within this State to have as a primary duty the responsibility to act as a law enforcement officer, advisor, and teacher for that school district.

State Education Agency Support

State model policies and implementation support

STATUTES

59-5-65. Powers and responsibilities of State Board of Education.

The State Board of Education shall have the power and responsibility to:

(15) Develop by regulation a model safe schools checklist to be used by school districts on a regular basis to assess their schools' safety strengths and weaknesses. The checklist must include:

(a) the existence of a comprehensive safety plan;

(b) communication of discipline policies and procedures;

(c) intraagency and interagency emergency planning;

(d) recording of disruptive incidents;

(e) training of staff and students;

(f) assessment of buildings and grounds;

(g) procedures for handling visitors;

(h) assignment of personnel in emergencies;

(i) emergency communication and management procedures; and

(j) transportation rules and accident procedures.

(16) consult with the Department of Agricultural Education of Clemson University at all steps in the development of any state plan prepared to satisfy any federal requirement related to the Carl Perkins Vocational and Applied Technology and Education Act or any successor federal law, including, but not limited to, the allocation or distribution of funds under this federal act.

59-63-140. Local school districts to adopt policies prohibiting harassment; required components; model policies by State Board of Education; bullying prevention programs.

(A) Before January 1, 2007, each local school district shall adopt a policy prohibiting harassment, intimidation, or bullying at school. The school district shall involve parents and guardians, school employees, volunteers, students, administrators, and community representatives in the process of creating the policy.

(B) The policy must include, but not be limited to, the following components:

(1) a statement prohibiting harassment, intimidation, or bullying of a student;

(2) a definition of harassment, intimidation, or bullying no less inclusive than the definition in Section 59 63 120;

(3) a description of appropriate student behavior;

(4) consequences and appropriate remedial actions for persons committing acts of harassment, intimidation, or bullying, and for persons engaging in reprisal or retaliation;

(5) procedures for reporting acts of harassment, intimidation, or bullying, to include a provision for reporting anonymously. However, formal disciplinary action must not be taken solely on the basis of an anonymous report. The procedures must identify the appropriate school personnel responsible for taking the report and investigating the complaint;

(6) procedures for prompt investigation of reports of serious violations and complaints;

(7) a statement that prohibits reprisal or retaliation against a person who reports an act of harassment, intimidation, or bullying;

(8) consequences and appropriate remedial action for persons found to have falsely accused another;

(9) a process for discussing the district's harassment, intimidation, or bullying policy with students; and

(10) a statement of how the policy is to be publicized, including notice that the policy applies to participation in school sponsored functions.

(C) To assist local school districts in developing policies for the prevention of harassment, intimidation, or bullying, the State Board of Education shall develop model policies applicable to grades kindergarten through twelve. Additionally, the State Board of Education shall develop teacher preparation program standards on the identification and prevention of bullying. The model policies and standards must be developed no later than September 1, 2006.

(D) The local school board shall ensure that the school district's policy developed pursuant to this article is included in the school district's publication of the comprehensive rules, procedures, and standards of conduct for schools and in the student's handbook.

(E) Information regarding a local school district policy against harassment, intimidation, or bullying must be incorporated into a school's employee training program. Training also should be provided to school volunteers who have significant contact with students.

(F) Schools and school districts are encouraged to establish bullying prevention programs and other initiatives involving school staff, students, administrators, volunteers, parents, law enforcement, and community members.

ADMINISTRATIVE CODE

R43-166. Student and school safety.

A. School Safety Assessment

1. The State Department of Education shall develop a Model Safe Schools Checklist designed to assess schools' safety strengths and weaknesses. The checklist must include items addressing the following topics:

   a. the existence of a comprehensive safety plan;

   b. communication of discipline policies and procedures;

   c. intra-agency and interagency emergency planning;

   d. recording of disruptive incidents;

   e. training of staff and students;

   f. assessment of buildings and grounds;

   g. procedures for handling visitors;

   h. assignment of personnel in emergencies;

   i. emergency communication and management procedures; and

   j. transportation rules and accident procedures.

2. The State Department of Education shall submit the checklist to the State Board of Education for approval prior to dissemination to the school districts. The checklist may be revised on an annual basis by the State Board of Education in compliance with relevant provisions of the Safe Schools Act of 1990.

3. Prior to September 30 of each school year, the State Department of Education shall disseminate a copy of the model safe schools checklist to every public school district in the state.

4. School districts shall be advised by the Department of Education of the requirement to use a safe schools checklist in compliance with Section 59-5-65, S.C. Code of Laws, 1976. This safety assessment should be part of the comprehensive needs assessment conducted for school improvement purposes in compliance with Section 59-20-60(4)(d), S.C. Code of Laws, 1976. In particular, a safe schools check list should be utilized in determining “school climate” needs, one of the six indicators of school effectiveness.

B. First Aid Supplies

Each school shall provide adequate first aid supplies and equipment.

C. Support for Authorities

The Board urges all citizens to continue their active and vigorous support of the local school and civil authorities in insuring the personal safety and security of all students and teachers.

D. Emergency and Disaster Plans

A plan shall be designed to provide for the protection and welfare of students in the event of any disaster (tornado, hurricane, fire, etc.) which threatens to involve the school community. Each school shall conduct at least one emergency drill within the first month of school to insure safety against such disasters.

E. Guidelines will be developed by the State Department of Education which will refer to statutory provisions relating to school safety, as well as additional information. The State Department of Education will review and update these guidelines as needed.

Funding appropriations

STATUTES

59-66-20. School safety coordinator grant program; funding; requirements.

(A) The General Assembly annually shall provide funds in the general appropriations act to be awarded to school districts which choose to employ safety coordinators in accordance with this section. State funds may be awarded for not more than one safety coordinator for each county. The amount of the award for a county for fiscal year 1995-96 may not exceed twenty-five thousand dollars, except for counties which are designated as economically distressed pursuant to Section 41-43-180. Economically distressed counties participating in the program shall receive additional state funds for fiscal year 1995-96 in the amount of five thousand five hundred dollars. The amount which may be awarded for a county, including the additional state funds for economically distressed counties, must be increased each fiscal year after 1995-96 by the same percentage as the average teacher salary.

(B) An award of state funds to school districts under this program is contingent upon a district or group of districts jointly matching the state grant with an equal amount of funds and in-kind contributions; however, school districts located primarily within an economically distressed county are not required to match any portion of the state grant. Additionally, funds only may be awarded where the duties of the safety coordinator relate exclusively to school and district safety functions. It is the intent of the General Assembly that the safety coordinator have a strong background in law enforcement, safety matters, or coordination of relevant services.

(C) If a county consists of more than one school district, any or all school districts within the county may apply jointly for funds for a safety coordinator. Each participating school district must provide a portion of the local matching funds based upon the relationship the district’s student membership bears to the total student membership of all participating districts within the county. Nonparticipating school districts

in multi-district counties may begin participation in the program by contributing to the local match in the same manner as those school districts originally participating in the program.

(D) When more than one school district in a multi-district county is provided funds under this section, the safety coordinator must be an employee of the school district with the largest student membership during the immediately preceding school year, unless the participating school districts have a memorandum of agreement providing otherwise; however, the safety coordinator must provide services to all participating school districts.

(E) For purposes of this section, “student membership” means the cumulative one hundred thirty-five day average daily membership during the immediately preceding school year.

(F) The State Board of Education, through the State Department of Education, shall develop and implement regulations establishing the safety coordinator grant program.

Other/Uncategorized

Professional immunity or liability

STATUTES

59-63-380. School official reporting school-related crimes; immunity.

A person affiliated with a school in an official capacity is granted immunity from criminal prosecution and civil liability when making a report of school-related crime in good faith, to the extent that the exposure to criminal prosecution or civil liability arises from the same report of school-related crime.

Community input or involvement

STATUTES

59-63-140. Local school districts to adopt policies prohibiting harassment; required components; model policies by State Board of Education; bullying prevention programs.

(A) Before January 1, 2007, each local school district shall adopt a policy prohibiting harassment, intimidation, or bullying at school. The school district shall involve parents and guardians, school employees, volunteers, students, administrators, and community representatives in the process of creating the policy.

Other/Uncategorized

STATUTES

59-66-30. Public middle schools and high schools to be equipped with metal detector; training; regulations.

(A) Using funds appropriated by the General Assembly, each public middle, junior high, and high school in the State must be equipped with one hand-held metal detector.

(B) In consultation and cooperation with the Office of the Attorney General and the State Law Enforcement Division, the State Department of Education shall provide training in the use of hand-held metal detectors to school officials who shall use the equipment.

(C) The State Board of Education, through the State Department of Education, shall promulgate regulations to implement this section.

59-67-240. Other duties of driver; discipline of pupils for misconduct.

The driver of each school bus shall cooperate with the teachers in their work in the school to which he is transporting pupils by being on time in the mornings and waiting in the afternoons until all his pupils are dismissed by the school faculty and safely aboard his bus. He also shall take particular notice along his route in the mornings and give pupils within sight a reasonable time in which to board his bus. The driver shall be responsible for maintaining good conduct upon his bus and shall report promptly to the governing head of the school to or from which the pupils are transported any misconduct or any violation of the driver's instructions by any person riding in his bus.

District boards of school trustees in this State may authorize school administrators to suspend or expel pupils from riding a school bus for misconduct on the bus or for violating instructions of the driver.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by South Carolina provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
Website		
No relevant resources found		
Documents		
Policies and Practices on the Use of Restraint, Seclusion, and Timeout in South Carolina Public Schools: A Cause for Concern	Report by the Center for Disability Resources examining the use of restraint and seclusion practices in South Carolina schools.	http://pandasc.org/wp-content/uploads/2011/07/2009-SC-Report-Policies-and-Practices-on-the-Use-of-Restraint-Seclusion-and-Timeout-in-SC-Public-Schools1.pdf
Other Resources		
No relevant resources found		

South Dakota Compilation of School Discipline Laws and Regulations

Prepared: August 12, 2013

Introduction

This compilation presents school discipline-related state statutes, school discipline-related regulations, and, where available, links to state-sponsored websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSLE). For example, one major category encompasses all state laws or regulations mandating specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of state legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in each state.

Discipline categories were not mutually exclusive. Statutes and regulations often appeared across multiple categories. For states with more extensive statutes covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. State laws, ordered by chapter and section number, appear first within each category followed by state regulations. All statutes and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists statutes by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to state-sponsored websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of May 2013, with the exception of the state laws related to seclusion and restraint, which are complete and current as of December 2012. Readers should also note that the information in this document was compiled from individual state sources that are created by each state and which are maintained and updated with varying frequencies. Readers should consult the source information provided for each state directly in order to check for updates to this state's laws and regulations or conduct further research.

Note: This compilation was reviewed by the South Dakota Department of Education but is not officially endorsed by the South Dakota Department of Education.

For further information, including definitions of the different policy categories, please refer to the Discipline Laws and Regulations Compendium posted on the Center's website.

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Safe Supportive Learning
Engagement | Safety | Environment

Table of Contents

South Dakota State Codes Cited **1**

General Provisions **4**

Authority to develop and establish rules of conduct 4
Scope 4
Communication of policy 4

In-School Discipline **5**

Use of multi-tiered discipline approaches 5
Teacher authority to remove students from classrooms 5
Alternatives to suspension 5
Use of corporal punishment 5
Use of student and locker searches 5
Other in-school disciplinary approaches 5

Out-of-School and Exclusionary Discipline: Suspension, Expulsion, Restraint and Seclusion, and Alternative Placements **6**

Grounds for possible suspension or expulsion 6
Grounds for mandatory suspension or expulsion 7
Limitations, conditions, or exclusions for use of suspension and expulsion 7
Administrative procedures related to suspension and expulsion 8
In-school suspension 20
Return to school following removal 20
Use of restraint and seclusion 21
Alternative placements 21

Disciplinary Approaches Addressing Specific Infractions and Conditions **24**

Firearms (as required by the Guns-Free Schools Act) 24
Other weapons 25
Students with chronic disciplinary issues 25
Attendance and truancy 25
Substance use 27
Bullying, harassment, or hazing 28
Other special infractions or conditions 30

Prevention and Behavioral Interventions (Non-Punitive) **31**

Prevention 31
Behavioral interventions and student support services 31
Professional development 31

Monitoring and Accountability **32**

Formal incident reporting of conduct violations 32
Parental notification 33
Reporting and referrals between schools and law enforcement 35
Disclosure of school records 36
Data collection, review, and reporting of disciplinary policies and actions 36

Student Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers 37
Authority and power to implement school arrest 37
Certification or training 38
MOUs, authorization, and/or funding 38
State Education Agency Support 39
State model policies and implementation support 39
Funding appropriations 40
Other/Uncategorized 41
Professional immunity or liability 41
Community input or involvement 41
Other/Uncategorized 41
State-Sponsored, Publicly Available Websites or Other Resources on School Discipline 42

South Dakota State Codes Cited

South Dakota Codified Laws

Title 13. Education

Chapter 13-27. Compulsory School Attendance

13-27-11.	Failure to send child to school as misdemeanor
13-27-12.	Enforcement powers and duties of secretary
13-27-14.	Truancy officer employed by district--Duties--President of board acting where no officer employed
13-27-15.	Attendance records maintained by superintendent or president of board--Reports required
13-27-16.	Warnings by school boards to send children to school--Report to truancy officer
13-27-17.	Investigations and records of truancy officer
13-27-18.	Neglect of duty by superintendent, president of board, school board, or truancy officer--Harboring or employment of truant child--Hindering attendance by child—Misdemeanor
13-27-19.	Power of truancy officers to apprehend truant children--Supervisory control by secretary
13-27-20.	Complaints against persons responsible for truancy--Contents of complaint—Verification
13-27-21.	Warrant for arrest of parent, guardian, or responsible person--Summons of witnesses
13-27-23.	Penalties invoked on finding of guilty
13-27-28.	Disobedience of circuit court order as contempt

Chapter 13-32. Supervision of Students and Conduct of School

13-32-1.	Disciplinary authority over students on school premises
13-32-2.	Physical force authorized when reasonable and necessary--Attendance at school functions away from premises--Authority of bus drivers
13-32-3.	Reference for psychiatric treatment prohibited without parents' consent
13-32-4.	School board to assist in discipline--Suspension and expulsion of pupils--Report to local authorities--Hearings--Alternative settings
13-32-4.1.	Attendance policy--Adoption by school board--Suspension and expulsion power unaffected
13-32-4.2.	Procedure for suspension--Appeal—Hearing
13-32-4.3.	Effect of student's suspension or expulsion on enrollment
13-32-4.4.	Early reinstatement of expelled student
13-32-4.5.	Conditions for early reinstatement
13-32-4.6.	Return to school upon fulfillment of conditions--Revocation of early reinstatement
13-32-4.7.	Due process procedures--Promulgation of early reinstatement rules
13-32-5.	Injury to school property as ground for suspension or expulsion
13-32-6.	Disturbance of school as misdemeanor
13-32-7.	Possession of firearms on elementary or secondary school premises or vehicle as misdemeanor—Exceptions
13-32-9.	Suspension from extracurricular activities for controlled substances violation--Unified Judicial System to give certain notices
13-32-14.	Adoption of bullying policy

13-32-15. Bullying defined
13-32-16. Bullying policy requirements
13-32-17. Action for damages from bullying--Immunity for reporting
13-32-18. Incidents involving electronic devices
13-32-19. Model bullying policy

Chapter 13-33. Curriculum and Courses Of Instruction

13-33-6.1. Character development instruction

South Dakota Administrative Code

Department of Education

Article 24:05. Special education

Chapter 24:05:26. Suspension

24:05:26:01. Suspension from school
24:05:26:01.01. Suspension from school -- Definitions
24:05:26:01.02. Case-by-case determination
24:05:26:02. Short-term suspension procedure
24:05:26:02.01. Change of placement for disciplinary removals
24:05:26:02.02. Removals -- Ten school days or less
24:05:26:02.03. Required services -- No change of placement
24:05:26:03. Written report required
24:05:26:04. Right to request hearing -- Notice of hearing
24:05:26:05. Right of waiver
24:05:26:06. Hearing procedure
24:05:26:07. Right of appeal
24:05:26:08. Attendance policies
24:05:26:08.01. Authority of school personnel -- Weapons, drugs, and serious bodily injury
24:05:26:08.02. Authority of hearing officer
24:05:26:08.03. Parental notification
24:05:26:09. Referral to IEP team for long-term suspension of pupils
24:05:26:09.02. Determination of interim alternative educational setting
24:05:26:09.03. Manifestation determination review requirement
24:05:26:09.04. Determination that behavior was a manifestation
24:05:26:09.05. Determination that behavior was not manifestation of disability -- Additional authority of school personnel
24:05:26:09.06. Appeal
24:05:26:09.08. Expedited hearing -- Procedures
24:05:26:14. Protections for students not yet eligible
24:05:26:15. Referral to and action by law enforcement and judicial authorities

Chapter 24:05:26.01. Expulsion

24:05:26.01:01. Expulsion from school
24:05:26.01:01.01. Case-by-case determination
24:05:26.01:02. Written report required
24:05:26.01:03. Request and notice of hearing
24:05:26.01:04. Right of waiver
24:05:26.01:05. Hearing procedure

24:05:26.01:06. Right of appeal
24:05:26.01:07. Attendance policies
24:05:26.01:07.01. Authority of school personnel -- Weapons, drugs, and serious bodily injury
24:05:26.01:07.03. Parental notification
24:05:26.01:08. Referral to IEP team for expulsion of students
24:05:26.01:08.01. Applicability of suspension procedure
24:05:26.01:13. Protections for students not yet eligible
24:05:26.01:14. Referral to and action by law enforcement and judicial authorities

Chapter 24:05:29. Confidentiality of Information

Article 24:07. Student Due Process

Chapter 24:07:01. General provisions

24:07:01:01. Definitions

Chapter 24:07:02. Short-term suspension procedure

24:07:02:01. Short-term suspension procedure

Chapter 24:07:03. Long-term suspension procedure

24:07:03:01. Written report required
24:07:03:02. Right to request hearing -- Notice of hearing
24:07:03:03. Right of waiver
24:07:03:04. Hearing procedure
24:07:03:06. Right of appeal
24:07:03:07. Attendance policies
24:07:03:08. Referral to placement committee of pupils in need of special education

Chapter 24:07:04. Expulsion procedure

24:07:04:01. Written report required
24:07:04:02. Notice of hearing
24:07:04:04. Hearing procedure
24:07:04:05. Right of appeal
24:07:04:06. Attendance policies

General Provisions

Authority to develop and establish rules of conduct

STATUTES

§ 13-32-1. Disciplinary authority of school personnel over students

Superintendents, principals, supervisors, and teachers have disciplinary authority over all students while the students are in school or participating in or attending school sponsored activities whether on or off school premises. Superintendents and principals may also discipline students for aggressive or violent behavior that disrupts school or that affects a health or safety factor of the school or its programs.

Scope

STATUTES

§ 13-32-1. Disciplinary authority of school personnel over students

Superintendents, principals, supervisors, and teachers have disciplinary authority over all students while the students are in school or participating in or attending school sponsored activities whether on or off school premises. Superintendents and principals may also discipline students for aggressive or violent behavior that disrupts school or that affects a health or safety factor of the school or its programs.

§ 13-32-2. Supervisory control -- Use of physical force when reasonable and necessary -- Delegated authority at student functions away from premises

Superintendents, principals, supervisors, and teachers and their aids and assistants, have the authority, to use the physical force that is reasonable and necessary for supervisory control over students. Like authority over students is given any person delegated to supervise children who have been authorized to attend a school function away from their school premises and to school bus drivers while students are riding, boarding, or leaving the buses.

Communication of policy

No relevant statutes found.

In-School Discipline

Use of multi-tiered discipline approaches

No relevant statutes found.

Teacher authority to remove students from classrooms

No relevant statutes found.

Alternatives to suspension

No relevant statutes found.

Use of corporal punishment

STATUTES

§ 13-32-2. Supervisory control -- Use of physical force when reasonable an necessary -- Delegated authority at student functions away from premises

Superintendents, principals, supervisors, and teachers and their aids and assistants, have the authority, to use the physical force that is reasonable and necessary for supervisory control over students. Like authority over students is given any person delegated to supervise children who have been authorized to attend a school function away from their school premises and to school bus drivers while students are riding, boarding, or leaving the buses.

Use of student and locker searches

No relevant statutes found.

Other in-school disciplinary approaches

No relevant statutes found.

Out-of-School and Exclusionary Discipline: Suspension, Expulsion, Restraint and Seclusion, and Alternative Placements

Grounds for possible suspension or expulsion

STATUTES

§ 13-32-4. School board cooperation in enforcement of discipline -- Suspension and expulsion by the board -- Grounds -- Length of firearm-related suspension -- Due process -- Local authorities Alternative solutions

The school board of every school district shall assist and cooperate with the administration and teachers in the government and discipline of the schools. The board may suspend or expel from school any student for violation of rules or policies or for insubordination or misconduct, and the superintendent or principal in charge of the school may temporarily suspend any student in accordance with § 13-32-4.2. The rules or policies may include prohibiting the following:

(1) The consumption or possession of beer or alcoholic beverages on the school premises or at school activities;

(2) The use or possession of a controlled substance, without a valid prescription, on the school premises or at school activities; and

(3) The use or possession of a firearm, as provided in § 13-32-7, on or in any elementary or secondary school premises, vehicle, or building or any premises, vehicle, or building used or leased for elementary or secondary school functions or activities.

In addition to administrative and school board disciplinary action, any violation of § 13-32-7 shall be reported to local law enforcement authorities.

The period of expulsion may extend beyond the semester in which the violation, insubordination, or misconduct occurred. Any expulsion for consumption or possession of beer or alcoholic beverages may not extend beyond ninety school days. If a student has intentionally brought a firearm onto school premises, the expulsion may not be for less than twelve months.

However, the superintendent or chief administering officer of each local school district or system may increase or decrease the length of a firearm-related expulsion on a case-by-case basis. The South Dakota Board of Education shall promulgate rules pursuant to chapter 1-26 to establish administrative due process procedures for the protection of a student's rights. The administrative due process procedures shall include a requirement that the school give notice of a student's due process rights to the parent or guardian of the student at the time of suspension or expulsion. Each school district board shall provide a procedural due process hearing, if requested, for a student in accordance with such rules if the suspension or expulsion of the student extends into the eleventh school day.

This section does not preclude other forms of discipline which may include suspension or expulsion from a class or activity.

This section does not prohibit a local school district from providing educational services to an expelled student in an alternative setting.

§ 13-32-5. School property defacement ground for suspension or expulsion

Any student, who cuts, defaces, or otherwise injures any schoolhouse, equipment, or outbuilding thereof, is liable to suspension or expulsion.

Grounds for mandatory suspension or expulsion

STATUTES

§ 13-32-4. School board cooperation in enforcement of discipline -- Suspension and expulsion by the board -- Grounds -- Length of firearm-related suspension -- Due process -- Local authorities Alternative solutions

The school board of every school district shall assist and cooperate with the administration and teachers in the government and discipline of the schools. The board may suspend or expel from school any student for violation of rules or policies or for insubordination or misconduct, and the superintendent or principal in charge of the school may temporarily suspend any student in accordance with § 13-32-4.2. The rules or policies may include prohibiting the following:

(1) The consumption or possession of beer or alcoholic beverages on the school premises or at school activities;

(2) The use or possession of a controlled substance, without a valid prescription, on the school premises or at school activities; and

(3) The use or possession of a firearm, as provided in § 13-32-7, on or in any elementary or secondary school premises, vehicle, or building or any premises, vehicle, or building used or leased for elementary or secondary school functions or activities.

In addition to administrative and school board disciplinary action, any violation of § 13-32-7 shall be reported to local law enforcement authorities.

The period of expulsion may extend beyond the semester in which the violation, insubordination, or misconduct occurred. Any expulsion for consumption or possession of beer or alcoholic beverages may not extend beyond ninety school days. If a student has intentionally brought a firearm onto school premises, the expulsion may not be for less than twelve months [...].

Limitations, conditions, or exclusions for use of suspension and expulsion

STATUTES

§ 13-32-4. School board cooperation in enforcement of discipline -- Suspension and expulsion by the board -- Grounds -- Length of firearm-related suspension -- Due process -- Local authorities Alternative solutions

[…] The period of expulsion may extend beyond the semester in which the violation, insubordination, or misconduct occurred. Any expulsion for consumption or possession of beer or alcoholic beverages may not extend beyond ninety school days. If a student has intentionally brought a firearm onto school premises, the expulsion may not be for less than twelve months.

However, the superintendent or chief administering officer of each local school district or system may increase or decrease the length of a firearm-related expulsion on a case-by-case basis. The South Dakota Board of Education shall promulgate rules pursuant to chapter 1-26 to establish administrative due process procedures for the protection of a student's rights. The administrative due process procedures shall include a requirement that the school give notice of a student's due process rights to the parent or guardian of the student at the time of suspension or expulsion. Each school district board shall provide a procedural due process hearing, if requested, for a student in accordance with such rules if the suspension or expulsion of the student extends into the eleventh school day.

This section does not preclude other forms of discipline which may include suspension or expulsion from a class or activity.

This section does not prohibit a local school district from providing educational services to an expelled student in an alternative setting.

ADMINISTRATIVE CODE

24:07:03:07. Attendance policies

The attendance policy of a school district may not exclude a pupil from a class or from school for more than ten days without providing due process procedures pursuant to this chapter.

24:07:04:06. Attendance policies

The attendance policy of a school district may not exclude a student from one more classes or from a school for more than ten consecutive school days without providing the due process procedures in chapter or chapter 24:07:03.

24:05:26:08. Attendance policies

The attendance policy of a school district may not exclude a pupil from a class or from a school for more than ten days without providing due process pursuant to this chapter.

24:05:26.01:07. Attendance policies

The attendance policy of a school district may not exclude a student from one or more classes or from a school for more than ten consecutive school days without providing the due process procedures in this chapter or chapter 24:07:03.

Administrative procedures related to suspension and expulsion

STATUTES

§ 13-32-4. School board cooperation in enforcement of discipline -- Suspension and expulsion by the board -- Grounds -- Length of firearm-related suspension -- Due process -- Local authorities Alternative solutions

The school board of every school district shall assist and cooperate with the administration and teachers in the government and discipline of the schools. The board may suspend or expel from school any student for violation of rules or policies or for insubordination or misconduct, and the superintendent or principal in charge of the school may temporarily suspend any student in accordance with § 13-32-4.2. The rules or policies may include prohibiting the following:

(1) The consumption or possession of beer or alcoholic beverages on the school premises or at school activities;

(2) The use or possession of a controlled substance, without a valid prescription, on the school premises or at school activities; and

(3) The use or possession of a firearm, as provided in § 13-32-7, on or in any elementary or secondary school premises, vehicle, or building or any premises, vehicle, or building used or leased for elementary or secondary school functions or activities.

In addition to administrative and school board disciplinary action, any violation of § 13-32-7 shall be reported to local law enforcement authorities.

The period of expulsion may extend beyond the semester in which the violation, insubordination, or misconduct occurred. Any expulsion for consumption or possession of beer or alcoholic beverages may not extend beyond ninety school days. If a student has intentionally brought a firearm onto school premises, the expulsion may not be for less than twelve months.

However, the superintendent or chief administering officer of each local school district or system may increase or decrease the length of a firearm-related expulsion on a case-by-case basis. The South Dakota Board of Education shall promulgate rules pursuant to chapter 1-26 to establish administrative due process procedures for the protection of a student's rights. The administrative due process procedures shall include a requirement that the school give notice of a student's due process rights to the parent or guardian of the student at the time of suspension or expulsion. Each school district board shall provide a procedural due process hearing, if requested, for a student in accordance with such rules if the suspension or expulsion of the student extends into the eleventh school day

This section does not preclude other forms of discipline which may include suspension or expulsion from a class or activity.

This section does not prohibit a local school district from providing educational services to an expelled student in an alternative setting.

§ 13-32-4.2. Suspension by school authorities -- Rights of student -- Appeal to board -- Treatment of student pending hearing

The school board in any district may authorize the summary suspension of pupils by principals of schools for not more than ten school days and by the superintendent of schools for not more than ninety school days. In case of a suspension by the superintendent for more than ten school days, the pupil or his parents or others having his custodial care may appeal the decision of the superintendent to the board of education. Any suspension by a principal shall be immediately reported to the superintendent who may revoke the suspension at any time. In event of an appeal to the board, the superintendent shall promptly transmit to the board a full report in writing of the facts relating to the suspension, the action taken by him and the reasons for such action; and the board, upon request, shall grant a hearing to the appealing party. No pupil may be suspended unless:

(1) The pupil is given oral or written notice of the charges against him;

(2) The pupil is given an oral or written explanation of the facts that form the basis of the proposed suspension; and

(3) The pupil is given an opportunity to present his version of the incident.

In the event of a suspension for more than ten school days, if the pupil gives notice that he wishes to appeal the suspension to the board, the suspension shall be stayed until the board renders its decision, unless in the judgment of the superintendent of schools, the pupil's presence poses a continuing danger to persons or property or an ongoing threat of disrupting the academic process, in which case the pupil may be immediately removed from school, and the notice and hearing shall follow as soon as practicable.

§ 13-32-4.7. Administrative due process -- Rules -- Procedures

The administrative due process procedures established in ARSD 24:07:04 for the protection of students' rights in an expulsion procedure apply to the early reinstatement process established in §§ 13-32-4.4 to 13-32-4.7, and the South Dakota Board of Education may promulgate rules pursuant to chapter 1-26 to establish additional procedures for the early reinstatement process, including the development of early reinstatement conditions by school boards.

ADMINISTRATIVE CODE

24:07:01:01. Definitions

Terms used in this article mean:

(1) "Expulsion," the action of the school board that terminates a pupil's membership in school for not more than 12 consecutive months;

(2) "Long-term suspension," the exclusion of a pupil by the superintendent or school board from a class or classes or from school for more than 10 but not more than 90 school days;

(3) "Parent," a parent, guardian, or person in charge of a pupil;

(4) "Policy," a rule, regulation, or standard enacted by a school district board;

(5) "Short-term suspension," the exclusion of a pupil by a principal or superintendent from a class or from school for not more than 10 school days.

24:07:02:01. Short-term suspension procedure

If a short-term suspension from a class, classes, or school is anticipated because of a pupil's violation of a policy, the principal or superintendent shall give oral or written notice to the pupil as soon as possible after discovery of the alleged violation, stating the facts that form the basis for the suspension. The pupil must be given the opportunity to answer the charges. If a pupil is suspended, the principal or superintendent shall give the parent oral notice, if possible, and shall send the parent or a pupil who is 18 years of age or older or an emancipated minor a written notice which provides information regarding the pupil's due process rights. A pupil who is an unemancipated minor may not be removed from the school premises before the end of the school day without contacting a parent unless the pupil's presence poses a continuing threat or danger, in which case the pupil may be immediately removed from the school and transferred into the custody of a parent or law enforcement.

24:07:03:01. Written report required

The superintendent must file a sealed, written report with the school board by the end of the fifth school day following the first day of the long-term suspension and may request that a hearing be held before the school board. The report must include the facts of the situation, the action taken, the reasons for the action, and the superintendent's decision or recommendation. The report must remain in the possession of the school board secretary or business manager, sealed and unavailable for review by individual school board members, until the time set for a hearing. The superintendent must send a copy of the report to the pupil's parent or to the pupil if the pupil is 18 years of age or older or an emancipated minor at the same time the report is filed with the school board's secretary or business manager.

24:07:03:02. Right to request hearing -- Notice of hearing

If the superintendent finds grounds for a long-term suspension from a class or classes, the superintendent may exclude the pupil from a class or classes by using the short-term suspension procedure in § 24:07:02:01. The superintendent shall give a written notice to the pupil's parent or to a pupil who is 18 years of age or older or an emancipated minor and may schedule a hearing. The notice shall contain the following minimum information:

(1) The policy allegedly violated;

(2) The reason for the disciplinary proceedings;

(3) Notice of the right to request a hearing or waive the right to a hearing.

(4) A description of the hearing procedure;

(5) A statement that the pupil's records are available at the school for examination by the pupil's parent or authorized representative; and

(6) A statement that the pupil may present witnesses.

If a hearing is requested, the superintendent shall give notice to each school board member of an appeal to the board for a hearing. The superintendent shall set the date, time, and place for the hearing and send notice by first class mail to each school board member and by certified mail, return receipt requested, to the pupil's parent or to a pupil who is 18 years of age or older or an emancipated minor.

If no hearing is requested or the hearing is waived, the action of the superintendent is final.

24:07:03:03. Right of waiver

The pupil, if of the age of majority or emancipated, or the pupil's parent may waive the right to a hearing in writing to the superintendent. If the hearing is not waived, the hearing shall be held on the date, time, and place set in the notice unless a different date, time, and place are agreed to by the parties.

24:07:03:04. Hearing procedure

The school board is the hearing board and shall conduct the hearing in the following manner:

(1) The school board shall appoint a school board member or a person who is not an employee of the school district as the hearing officer;

(2) Each party may make an opening statement;

(3) Each party may introduce evidence, present witnesses, and examine and cross-examine witnesses;

(4) Each party may be represented by an attorney;

(5) The school administration shall present its case first;

(6) The hearing is closed to the public. A verbatim record of the hearing will be made and will be sealed pending court order;

(7) Witnesses may be present only when testifying. All witnesses must take an oath or affirmation administered by the school board president or business manager;

(8) Each party may raise objections; however, objections are limited to relevancy and scope of the question;

(9) All relevant evidence must be admitted; however, unproductive or repetitious evidence may be limited by the hearing officer;

(10) The hearing officer may ask questions of witnesses and may allow other school board members to interrogate witnesses;

(11) Each party may make a closing statement;

(12) After the hearing, the school board shall continue to meet in executive session for deliberation. No one other than the hearing officer may meet with the school board during deliberation. The school board may seek advice during deliberation from an attorney. Consultation with any other person during deliberation may occur only if a representative of the pupil is present; and

(13) The decision of the school board must be based solely on the evidence presented at the hearing and must be formalized by a motion made in open meeting. The motion must omit the name of the pupil and must state the reason for the board's action. The school board shall notify the pupil or the pupil's parents in writing of the decision. The notice must state the length of the suspension or expulsion.

24:07:03:06. Right of appeal

The student may appeal an adverse decision by the school board to the circuit court.

24:07:03:08. Referral to placement committee of pupils in need of special education

If a pupil identified as in need of special education or special education and related services pursuant to SDCL 13-37-1 is expelled or subjected to long-term suspension, the procedure in § 24:05:26:09 applies.

24:07:04:01. Written report required

If expulsion is anticipated because of a student's violation of a rule or policy or for insubordination or misconduct, the superintendent must file a sealed written report with the school board no later than the end of the fifth school day following the first day of the student's removal; from one or more classes or from school and schedule a hearing before the school board. The report must include the facts of the situation, the action, the reasons for the action and the superintendent's recommendation. The report must remain in the possession of the school board secretary sealed and unavailable for review by individual school board members, until the time set for a hearing.

At the same time that the report is filed with the school board's secretary, the superintendent must send a copy of the report to the student's parent or to the student if the student is 18 years of age or older or is an emancipated minor.

24:07:04:02. Notice of Hearing

If the Superintendent finds grounds for expulsion from one or more classes or from school, the superintendent may exclude the student immediately by using the short-term suspension procedure in § 24:07:02:01. The superintendent shall give a written notice to one or both of student's parents or to a student who is 18 years of age or older or an emancipated minor. The notice must contain the following information at a minimum:

(1) The rule, regulation, or policy allegedly violated;

(2) The reason for the disciplinary proceedings;

(3) Notice of the right to request a hearing;

(4) A description of the hearing procedure;

(5) A statement that the student's records are available at the school for examination by the student's parent or parents or another authorized representative;

(6) A statement that the student may present witnesses; and

(7) A statement that the student may be represented by an attorney.

The superintendent shall set the date, time, and place for the school board hearing. The superintendent shall send notice of the hearing to each school board member by first class mail and to the student's parent or to a student who is 18 years of age or older or an emancipated minor by certified mail, return receipt requested. If the superintendent recommend expulsion, the school board must act on the recommendation before it is implemented.

24:07:04:04. Hearing Procedure

The school board is the hearing board and shall conduct the hearing in the following manner:

(1) The school board shall appoint a school board member or a person who is not an employee of the school district as the hearing officer;

(2) Each party may make an opening statement;

(3) Each party may introduce evidence, present witnesses, and examine and cross-examine witnesses;

(4) Each party may be represented by an attorney;

(5) The school administration shall present its case first;

(6) The hearing is closed to the public. The school board shall make a verbatim record of the hearing by means of an electronic or mechanical device or by court reporter. This record and any exhibits must be sealed and must remain with the hearing officer until the appeal process has been completed;

(7) Witnesses may present only when testifying. All witnesses must take an oath or affirmation administered by the school board president, hearing officer or other person authorized by law to take oaths and affirmations;

(8) Each party may rise any legal objection to evidence;

(9) The hearing officer shall admit all relevant evidence; however, the hearing officer may limit unproductive or repetitious evidence;

(10) The hearing officer may ask questions of witnesses and may allow other school board members to interrogate witnesses;

(11) Each party may take a statement;

(12) After the hearing, the school board shall continue to meet in executive session for deliberation. No one other that the hearing officer may meet with the school board during deliberation. The school board may seek advice during deliberation from an attorney who has not represented any if the parties to the hearing. Consultation with any other person during deliberation may occur only of a representative of the student is present; and

(13) The decision of the school board must be based solely on the evidence presented at the hearing and must be formalized by a motion made in open reason for the board's action. The school board shall notify the student's parent or parents or a student who is 18 years of age or older or who is an emancipated minor in writing of the decision. The notice shall state the length of the expulsion.

24:07:04:05. Right of Appeal

The student may appeal an adverse decision by the school board to the circuit Court.

24:07:04:07. Referral to placement committee of students in need of special education or special education and related services.

If a student identified as in need of special education or special education and related services pursuant to SDCl 13-37-1 is a subject of proposed expulsion, the procedure in § 24:06:26.01:08 applies.

24:05:26:01. Suspension from school

The suspension of pupils in need of special education or special education and related services includes the general due process procedures used for all pupils and the additional steps in the process specified in this chapter that a district must take if the student is receiving special education or special education and related services under an individualized education program.

24:05:26:01.01. Suspension from school -- Definitions

Terms used in this chapter and chapter 24:05:26.01 mean:

(1) "Controlled substance," a drug or other substance identified under SDCL 34-20B-11 to 34-20B-26, inclusive;

(2) "Dangerous weapon," a weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury. The term does not include a pocket knife with a blade of less than 2 1/2 inches in length;

(3) "Illegal drug," a controlled substance, but does not include such a substance that is legally possessed or used under the supervision of a licensed health-care professional or that is legally possessed or used under any other authority under SDCL 34-20B-11 to 34-20B-26, inclusive, or under any provision of federal law; and

(4) "Serious bodily injury," bodily injury that involves:

(a) A substantial risk of death;

(b) Extreme physical pain;

(c) Protracted and obvious disfigurement; or

(d) Protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

24:05:26:01.02. Case-by-case determination

School personnel may consider any unique circumstances on a case-by-case basis when determining whether a change in placement, consistent with the other requirements of this chapter, is appropriate for a student with a disability who violates a code of student conduct.

24:05:26:02. Short-term suspension procedure

If a short-term suspension from a class, classes, or school is anticipated because of a pupil's violation of a policy, the procedure in § 24:07:02:01 applies.

24:05:26:02.01. Change of placement for disciplinary removals

For purposes of removal of a student with a disability from the student's current educational placement under this chapter, a change of placement occurs if:

(1) The removal is for more than ten consecutive school days; or

(2) The student is subjected to a series of removals that constitute a pattern because:

(a) They cumulate to more than ten school days in a school year;

(b) Of factors such as the length of each removal, the total amount of time the student is removed, and the proximity of the removals to one another; and

(c) The student's behavior is substantially similar to the student's behavior in previous incidents that resulted in the series of removals.

The public agency determines on a case-by-case basis whether a pattern of removals constitutes a change of placement. This determination is subject to review through due process and judicial proceedings.

24:05:26:02.02. Removals -- Ten school days or less

To the extent removal would be applied to students without disabilities, including alternative settings, school personnel may order the removal of a student with a disability from the student's current placement to an appropriate interim alternative educational setting or another setting, or they may order suspension for not more than ten consecutive school days, for any violation of a code of student conduct. Additional removals of not more than ten consecutive school days in that same school year may be ordered for separate incidents of misconduct if those removals do not constitute a change of placement under § 24:05:26:02.01.

24:05:26:02.03. Required services -- No change of placement

A school district need not provide services during periods of removal under § 24:05:26:02.02 to a student with a disability who has been removed from his or her current placement for ten school days or less in that school year, if services are not provided to a student without disabilities who has been similarly removed. If a student with a disability has been removed from his or her current placement for more than ten school days in that school year, and the removal is not for more than ten consecutive school days and is not a change in placement, the district, for the remainder of the removals, shall provide services to the extent necessary to enable the student to participate in the general curriculum and to progress toward

meeting the goals set out in the student's IEP. School personnel, in consultation with at least one of the student's teachers, shall determine the extent to which services are necessary to enable the student to participate in the general curriculum and to progress toward meeting the goals set out in the student's IEP.

24:05:26:03. Written report required

If a long-term suspension is anticipated because of a pupil's violation of a policy, the procedure in § 24:07:03:01 applies.

24:05:26:04. Right to request hearing -- Notice of hearing

If the superintendent finds grounds for a long-term suspension from a class or classes, the procedure in § 24:07:03:02 applies.

24:05:26:05. Right of waiver

The pupil, if of the age of majority or emancipated, or the pupil's parent may waive the right to a hearing in writing to the superintendent. If the hearing is not waived, the hearing shall be held on the date, time, and place set in the notice unless a different date, time, and place are agreed to by the parties.

24:05:26:06. Hearing procedure

The school board is the hearing board and shall conduct the hearing in the following manner:

(1) The school board shall appoint a school board member or a person who is not an employee of the school district as the hearing officer;

(2) Each party may make an opening statement;

(3) Each party may introduce evidence, present witnesses, and examine and cross-examine witnesses;

(4) Each party may be represented by an attorney;

(5) The school administration shall present its case first;

(6) The hearing is closed to the public. The school board shall make a verbatim record of the hearing by means of an electronic or mechanical device;

(7) Witnesses may be present only when testifying. All witnesses must take an oath or affirmation administered by the school board president or business manager;

(8) Each party may raise objections; however, objections are limited to relevancy and scope of the question;

(9) The hearing officer shall admit all relevant evidence; however, the hearing officer may limit unproductive or repetitious evidence;

(10) The hearing officer may ask questions of witnesses and may allow other school board members to interrogate witnesses;

(11) Each party may make a closing statement;

(12) After the hearing, the school board shall continue to meet in executive session for deliberation. No one other than the hearing officer may meet with the school board during deliberation. The school board may seek advice during deliberation from an attorney who has not represented any of the parties to the hearing. Consultation with any other person during deliberation may occur only if a representative of the pupil is present; and

(13) The decision of the school board must be based solely on the evidence presented at the hearing and must be formalized by a motion made in open meeting. The motion shall omit the name of the pupil and shall state the reason for the board's action. The school board shall notify the pupil's parents or a

pupil who is 18 years of age or older or an emancipated minor in writing of the decision. The notice shall state the length of the suspension.

24:05:26:07. Right of appeal

The pupil may appeal an adverse decision by the school board to the circuit court.

24:05:26:08.02. Authority of hearing officer

A hearing officer under this article hears and makes a determination regarding an appeal under this chapter. In making the determination under this section, the hearing officer may:

(1) Return the student with a disability to the placement from which the student was removed if the hearing officer determines that the removal was a violation of this chapter or that the student's behavior was a manifestation of the student's disability; or

(2) Order a change of placement of the student with a disability to an appropriate interim alternative educational setting for not more than 45 school days if the hearing officer determines that maintaining the current placement of the student is substantially likely to result in injury to the student or to others.

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

24:05:26:09.03. Manifestation determination review requirement

Within ten school days of any decision to change the placement of a student with a disability because of a violation of a code of student conduct, the school district, the parent, and relevant members of the student's IEP team, as determined by the parent and the district, shall review all relevant information in the student's file, including the student's IEP, any teacher observations, and any relevant information provided by the parents to determine:

(1) Whether the conduct in question was caused by, or had a direct and substantial relationship to, the student's disability; or

(2) Whether the conduct in question was the direct result of the school district's failure to implement the IEP.

The conduct must be determined to be a manifestation of the student's disability if the district, the parent, and relevant members of the student's IEP team determine that a condition in either subdivision (1) or (2) of this section was met.

If the district, the parent, and relevant members of the student's IEP team determine that the condition described in subdivision (2) of this section was met, the district shall take immediate steps to remedy those deficiencies.

24:05:26:09.04. Determination that behavior was a manifestation

If the school district, the parent, and relevant members of the IEP team determine that the conduct was a manifestation of the student's disability, the IEP team shall either:

(1) Conduct a functional behavioral assessment, unless the district had conducted a functional behavioral assessment before the behavior that resulted in the change of placement occurred, and implement a behavioral intervention plan for the student; or

(2) If a behavioral intervention plan already has been developed, review the behavioral intervention plan and modify it, as necessary, to address the behavior.

In addition, and except as provided in § 24:05:26:08.01, the IEP team shall return the student to the placement from which the student was removed, unless the parent and the district agree to a change of placement as part of the modification of the behavioral intervention plan.

24:05:26:09.05. Determination that behavior was not manifestation of disability -- Additional authority of school personnel

For disciplinary changes in placement that would exceed ten consecutive school days, if the behavior that gave rise to the violation of the school code is determined not to be a manifestation of the student's disability pursuant to this chapter, school personnel may apply the relevant disciplinary procedures to students with disabilities in the same manner and for the same duration as the procedures would be applied to students without disabilities, except as provided in this section.

A student with a disability who is removed from the student's current placement pursuant to this section or § 24:05:26:08.01 must:

(1) Continue to receive educational services, as provided in this article, so as to enable the student to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the student's IEP; and

(2) Receive, as appropriate, a functional behavioral assessment, and behavioral intervention services and modifications, that are designed to address the behavior violation so that it does not recur.

24:05:26:09.06. Appeal

The parent of a student with a disability who disagrees with any decision regarding placement under this chapter or with the manifestation determination, or a school district that believes that maintaining the current placement of the student is substantially likely to result in injury to the student or others, may appeal the decision by requesting a hearing. The hearing is requested by filing a complaint pursuant to this article.

24:05:26:09.08. Expedited hearing -- Procedures

If a hearing is requested under this chapter, the parents or the school district involved in the dispute must have an opportunity for an impartial due process hearing consistent with the requirements of this article, except as provided in this section.

The department shall arrange the expedited due process hearing, which must occur within 20 school days of the date of the complaint requesting the hearing is filed. The hearing officer shall make a determination within ten school days after the hearing.

Unless the parents and school district agree in writing to waive the resolution meeting described in this section, or agree to use the mediation process described in chapter 24:05:30:

(1) A resolution meeting must occur within seven days of receiving notice of the due process complaint; and

(2) The due process hearing may proceed unless the matter has been resolved to the satisfaction of both parties within 15 days of the receipt of the due process complaint.

The decisions on expedited due process hearings are appealable consistent with chapter 24:05:30.

24:05:26:14. Protections for students not yet eligible

A student who has not been determined to be eligible for special education and related services under this article and who has engaged in behavior that violated any rule or code of conduct of the school district, including any behavior described in this chapter, may assert any of the protections provided for in this article if the school district had knowledge that the student was a student with a disability before the behavior that precipitated the disciplinary action occurred. A school district is deemed to have knowledge that a student is a student with a disability if:

(1) The parent of the student has expressed concern in writing to supervisory or administrative personnel of the appropriate educational agency, or a teacher of the student, that the student is in need of special education and related services;

(2) The parent of the student has requested an evaluation of the student pursuant to this article; or

(3) The teacher of the student, or other personnel of the district or other public agency has expressed specific concerns about a pattern of behavior demonstrated by the student directly to the director of special education of the district or to other supervisory personnel of the district.

A district is not deemed to have knowledge that the student is a student with a disability under this section, if the parent of the student has not allowed an evaluation of the student pursuant to this article, or has refused services under this article, or the district conducted an evaluation consistent with this article and determined that the student was not a student with a disability.

If the district does not have knowledge that a student is a student with a disability before taking disciplinary measures against the student, the student may be subjected to the same disciplinary measures as measures applied to students without disabilities who engaged in comparable behaviors consistent with this chapter.

If a request is made for an evaluation of a student during the time period in which the student is subjected to disciplinary measures under this chapter, the evaluation must be conducted in an expedited manner. Until the evaluation is completed, the student shall remain in the educational placement determined by school authorities, which can include suspension or expulsion without educational services. If the student is determined to be a student with a disability taking into consideration information from the evaluation conducted by the district and information provided by the parents, the district shall provide special education and related services in accordance with the provisions of this article including the discipline procedures and free appropriate public education requirements.

24:05:26.01:01. Expulsion from school

The expulsion of students in need of special education or special education and related services includes the general due process procedures used for all students and the additional steps in the process specified in this chapter that a district must take when the student is receiving special education or related services under an individual education plan.

24:05:26.01:01.01. Case-by-case determination.

School personnel may consider any unique circumstances on a case-by-case basis when determining whether a change in placement, consistent with the other requirements of this chapter, is appropriate for a student with a disability who violates a code of student conduct.

24:05:26.01:02. Written report required

If an expulsion is anticipated because of a student's violation of rules or policies or for insubordination or misconduct, the procedure in § 24:07:04:01 applies

24:05:26.01:03. Request and notice of hearing

If the superintendent finds grounds for expulsion from school, the procedure in § 24:07:04:02 applies.

24:05:26.01:04. Right to waiver

A competent student, if of the age of majority or emancipated, or the student's parent may waive the right to a hearing in writing to the superintendent. If the hearing is not waived, the hearing shalll be held on the date and at the time and place set in the hearing notice unless a different date, time, and place are agreed to by the parties. If the hearing is waived in writing, the school board may consider the matter at a regular or special meeting without further notice to the student or student's parents.

24:05:26.01:05. Hearing procedure

The school board is the hearing board and shall conduct the hearing in the following manner:

(1) The school board shall appoint a school board member or a person who is not an employee of the school district as the hearing officer;

(2) Each party may make an opening statement;

(3) Each party may introduce evidence, present witnesses, and examine and cross-examine witnesses;

(4) Each party may be represented by an attorney;

(5) The school administration shall present its case first;

(6) The hearing is closed to the public. The school board shall make a verbatim record of the hearing by means of an electronic or mechanical device or by court reporter. This record and any exhibits must be sealed and must remain with the hearing officer until the appeal process has been completed;

(7) Witnesses may be present only when testifying. All witnesses must take an oath or affirmation administered by the school board president, hearing officer, or other person authorized by law to take oaths or affirmations;

(8) Each party may raise any legal objections to evidence;

(9) The hearing officer shall admit all relevant evidence; however, the hearing officer may limit unproductive or repetitious evidence;

(10) The hearing officer may ask questions of witnesses and may allow other school board members to interrogate witnesses;

(11) Each party may make a closing statement;

(12) After the hearing, the school board shall continue to meet in executive session for deliberation. No one other than the hearing officer may meet with the school board during deliberation. The school board may seek advice during hearing . Consultation with any other person during deliberation may occur only if a representative of the student is present; and

(13) The decision of the school board must be based soley on the evidence presented at the hearing and must be formalized by a motion made in open meeting. The motion shall omit the name of the student and shall state the reason for the board's action. The school board shall notify the student's parent or parents or a student who is 18 years of age or older or who is an emancipated minor in writing of the decision. The notice shall state the length of the expulsion.

24:05:26.01:06. Right of appeal

The student may appeal an adverse decision by the school board to the circuit court.

24:05:26.01:07.01. Authority of school personnel

Weapons, drugs, and serious bodily injury. School district personnel shall follow the procedures under § 24:05:26:08.01 if an expulsion is anticipated because of a student's violation of rules or policies pertaining to weapons and drugs.

24:05:26.01:08.01. Applicability of suspension procedures.

The suspension procedures described in §§ 24:05:26:09.02 to 24:05:26:09.08, inclusive, apply if an expulsion is anticipated.

24:05:26.01:13. Protections for students not yet eligible.

The procedures under § 24:05:26:14 apply for students who have not been determined eligible for special education or special education and related services if an expulsion is anticipated.

In-school suspension

No relevant statutes found.

Return to school following removal

STATUTES

§ 13-32-4.3. Enrollment in other school after suspension or expulsion -- Duties of sending and receiving schools

If any student is under suspension or expulsion in a school district, the student may not enroll in any school district until the suspension or expulsion has expired. The superintendent or school administrator of any school district may prohibit a student from enrolling in that school district if the student is under suspension or expulsion in a school in another state or in a nonpublic school in this state. Upon receiving a request for a student's permanent school records from the receiving district, the sending school shall provide the receiving district with written notice of any suspension or expulsion.

§ 13-32-4.4. Early reinstatement of expelled student

If a student is expelled from school as provided in § 13-32-4, the school board may grant the student an early reinstatement allowing the student to return to school before the end of the period of expulsion.

§ 13-32-4.5. Early reinstatement with conditions

Any early reinstatement granted by a school board pursuant to § 13-31-4.4 may include one or more specific conditions established by the school board that the expelled student must meet, either prior to the granting of the early reinstatement or after the early reinstatement is granted and before the end of the period of expulsion. Any early reinstatement conditions established by the school board for an expelled student shall pertain to the reasons why the student was expelled, and the board shall provide notice of any early reinstatement conditions to the student's parent or guardian or to the student, if the student is at least eighteen years of age or is an emancipated minor, at the time the student is expelled.

§ 13-32-4.6. Revocation of early reinstatement

If the superintendent of a school district determines that an expelled student has met the early reinstatement conditions established pursuant to § 13-32-4.5 that the student is required to meet before the student may be granted early reinstatement, the superintendent may grant the student early reinstatement and allow the student to return to school.

If a student violates an early reinstatement condition that the student was required to meet after the student's early reinstatement, but before the end of the expulsion period, the superintendent of the school district may revoke the student's early reinstatement. Within five days after revoking an early reinstatement, the superintendent shall provide written notice of the revocation including any early reinstatement condition that was violated by the student to the student's parent or guardian or to the student, if the student is at least eighteen years of age or an emancipated minor.

If a student's early reinstatement is revoked, the student's expulsion shall continue until the end of the original period of expulsion unless the student's expulsion is firearm-related and the original period of expulsion is modified by the superintendent pursuant to § 13-32-4.

§ 13-32-4.7. Administrative due process -- Rules -- Procedures

The administrative due process procedures established in ARSD 24:07:04 for the protection of students' rights in an expulsion procedure apply to the early reinstatement process established in §§ 13-32-4.4 to 13-32-4.7, and the South Dakota Board of Education may promulgate rules pursuant to chapter 1-26 to

establish additional procedures for the early reinstatement process, including the development of early reinstatement conditions by school boards.

ADMINISTRATIVE CODE

24:05:26:09. Referral to placement committee for long-term suspension of pupils

If a pupil identified as in need of special education or special education and related services pursuant to SDCL 13-37-1 is the subject of long-term suspension, a referral shall be made by the superintendent or chief administering officer to the district's IEP team.

24:05:26.01:08. Referral to placement committee for expulsion of students

If a student identified in need of special education or special education and related services pursuant to SDCL 13-37-1 is the subject of proposed expulsion, the superintendent shall refer the matter to the IEP team.

24:05:26:08.02. Authority of hearing officer

A hearing officer under this article hears and makes a determination regarding an appeal under this chapter. In making the determination under this section, the hearing officer may:

(1) Return the student with a disability to the placement from which the student was removed if the hearing officer determines that the removal was a violation of this chapter or that the student's behavior was a manifestation of the student's disability; or

(2) Order a change of placement of the student with a disability to an appropriate interim alternative educational setting for not more than 45 school days if the hearing officer determines that maintaining the current placement of the student is substantially likely to result in injury to the student or to others.

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

Use of restraint and seclusion

No relevant statutes found.

Alternative placements

STATUTES

§ 13-32-4. School board cooperation in enforcement of discipline -- Suspension and expulsion by the board -- Grounds -- Length of firearm-related suspension -- Due process -- Local authorities Alternative solutions

[...] This section does not prohibit a local school district from providing educational services to an expelled student in an alternative setting.

ADMINISTRATIVE CODE

24:05:26:02.01. Change of placement for disciplinary removals

For purposes of removal of a student with a disability from the student's current educational placement under this chapter, a change of placement occurs if:

(1) The removal is for more than ten consecutive school days; or

(2) The student is subjected to a series of removals that constitute a pattern because:

(a) They cumulate to more than ten school days in a school year;

(b) Of factors such as the length of each removal, the total amount of time the student is removed, and the proximity of the removals to one another; and

(c) The student's behavior is substantially similar to the student's behavior in previous incidents that resulted in the series of removals.

The public agency determines on a case-by-case basis whether a pattern of removals constitutes a change of placement. This determination is subject to review through due process and judicial proceedings.

24:05:26:02.02. Removals -- Ten school days or less

To the extent removal would be applied to students without disabilities, including alternative settings, school personnel may order the removal of a student with a disability from the student's current placement to an appropriate interim alternative educational setting or another setting, or they may order suspension for not more than ten consecutive school days, for any violation of a code of student conduct. Additional removals of not more than ten consecutive school days in that same school year may be ordered for separate incidents of misconduct if those removals do not constitute a change of placement under § 24:05:26:02.01.

24:05:26:02.03. Required services -- No change of placement

A school district need not provide services during periods of removal under § 24:05:26:02.02 to a student with a disability who has been removed from his or her current placement for ten school days or less in that school year, if services are not provided to a student without disabilities who has been similarly removed. If a student with a disability has been removed from his or her current placement for more than ten school days in that school year, and the removal is not for more than ten consecutive school days and is not a change in placement, the district, for the remainder of the removals, shall provide services to the extent necessary to enable the student to participate in the general curriculum and to progress toward meeting the goals set out in the student's IEP. School personnel, in consultation with at least one of the student's teachers, shall determine the extent to which services are necessary to enable the student to participate in the general curriculum and to progress toward meeting the goals set out in the student's IEP.

24:05:26:08.01. Authority of school personnel -- Weapons, drugs, and serious bodily injury

School personnel may remove a student to an appropriate interim alternative setting for not more than 45 school days, without regard to whether the behavior is determined to be a manifestation of the student's disability, if:

(1) The student carries a weapon to or possesses a weapon at school, on school premises, or at school or to a school function under the jurisdiction of a state or local education agency;

(2) The student knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school, on school premises, or at a school function under the jurisdiction of a state or local educational agency; or

(3) The student has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of the state education agency or a school district.

24:05:26:08.02. Authority of hearing officer

A hearing officer under this article hears and makes a determination regarding an appeal under this chapter. In making the determination under this section, the hearing officer may:

(1) Return the student with a disability to the placement from which the student was removed if the hearing officer determines that the removal was a violation of this chapter or that the student's behavior was a manifestation of the student's disability; or

(2) Order a change of placement of the student with a disability to an appropriate interim alternative educational setting for not more than 45 school days if the hearing officer determines that maintaining the current placement of the student is substantially likely to result in injury to the student or to others.

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

24:05:26:09.02. Determination of interim alternative educational setting

The student's IEP team shall determine the interim alternative educational setting in which a student is placed under §§ 24:05:26:08.01, 24:05:26:02.01, and 24:05:26:09.05.

Disciplinary Approaches Addressing Specific Infractions and Conditions

Firearms (as required by the Guns-Free Schools Act)

STATUTES

§ 13-32-4. School board cooperation in enforcement of discipline -- Suspension and expulsion by the board -- Grounds -- Length of firearm-related suspension -- Due process -- Local authorities Alternative solutions

The school board of every school district shall assist and cooperate with the administration and teachers in the government and discipline of the schools. The board may suspend or expel from school any student for violation of rules or policies or for insubordination or misconduct, and the superintendent or principal in charge of the school may temporarily suspend any student in accordance with § 13-32-4.2. The rules or policies may include prohibiting the following:

(3) The use or possession of a firearm, as provided in § 13-32-7, on or in any elementary or secondary school premises, vehicle, or building or any premises, vehicle, or building used or leased for elementary or secondary school functions or activities.

[...] If a student has intentionally brought a firearm onto school premises, the expulsion may not be for less than twelve months.

However, the superintendent or chief administering officer of each local school district or system may increase or decrease the length of a firearm-related expulsion on a case-by-case basis [...]

§ 13-32-7. Presence of firearms on school premises or vehicles prohibited Misdemeanor -- Exception for ceremonial events

Any person, other than a law enforcement officer or school sentinel acting pursuant to section 1 of this Act, who intentionally carries, has in his possession, stores, keeps, leaves, places, or puts into the possession of another person, any firearm, or air gun, whether or not the firearm or air gun is designed, adapted, used, or intended primarily for imitative or noisemaking purposes, or any dangerous weapon, on or in any elementary or secondary school premises, vehicle, or building or any premises, vehicle, or building used or leased for elementary or secondary school functions, whether or not any person is endangered by such actions, is guilty of a Class 1 misdemeanor. This section does not apply to starting guns while in use at athletic events, firearms, or air guns at firing ranges, gun shows, and supervised schools or sessions for training in the use of firearms. This section does not apply to the ceremonial presence of unloaded weapons at color guard ceremonies.

ADMIISTRATIVE CODE

24:05:26.01:07.01. Authority of school personnel

Weapons, drugs, and serious bodily injury. School district personnel shall follow the procedures under § 24:05:26:08.01 if an expulsion is anticipated because of a student's violation of rules or policies pertaining to weapons and drugs.

24:05:26:08.01. Authority of school personnel -- Weapons, drugs, and serious bodily injury

School personnel may remove a student to an appropriate interim alternative setting for not more than 45 school days, without regard to whether the behavior is determined to be a manifestation of the student's disability, if:

(1) The student carries a weapon to or possesses a weapon at school, on school premises, or at school or to a school function under the jurisdiction of a state or local education agency [...]

Other weapons

ADMIISTRATIVE CODE

24:05:26.01:07.01. Authority of school personnel

Weapons, drugs, and serious bodily injury. School district personnel shall follow the procedures under § 24:05:26:08.01 if an expulsion is anticipated because of a student's violation of rules or policies pertaining to weapons and drugs.

24:05:26:08.01. Authority of school personnel -- Weapons, drugs, and serious bodily injury

School personnel may remove a student to an appropriate interim alternative setting for not more than 45 school days, without regard to whether the behavior is determined to be a manifestation of the student's disability, if:

(1) The student carries a weapon to or possesses a weapon at school, on school premises, or at school or to a school function under the jurisdiction of a state or local education agency[...]

Students with chronic disciplinary issues

No relevant statutes found.

Attendance and truancy

STATUTES

§13-27-11. Failure to send child to school as misdemeanor

Any person having control of a child of compulsory school age who fails to have the child attend school as required by the provisions of this title, is guilty of a Class 2 misdemeanor for the first offense. For each subsequent offense, a violator of this section is guilty of a Class 1 misdemeanor.

§13-27-12. Enforcement powers and duties of secretary

The secretary of the Department of Education, or his designee, shall enforce the provisions of this chapter and the laws of this state relating to compulsory attendance of persons of school age. In the performance of these duties he has the same authority granted truancy officers.

§13-27-15. Attendance records maintained by superintendent or president of board--Reports required

Each superintendent, or the president of the school board in districts without a superintendent, is responsible for maintaining an accurate record of the attendance of all persons of compulsory school age. He shall, at regular intervals, report the names of all compulsory school age persons, not excused from school, who do not or who irregularly attend an accredited school to the truancy officer on blanks provided for that purpose. He shall include reasons for the absences in the report.

§13-27-20. Complaints against persons responsible for truancy--Contents of complaint—Verification

Each truancy officer shall make and file truancy complaints, and any teacher, school officer, or any citizen may make and file a truancy complaint, before a circuit court judge, against any person having control of a child of compulsory school age who is not attending school or whose attendance is irregular. The

complaint shall state the name of the parent, guardian, or person responsible for the control of the child. The complaint shall be verified by oath upon belief of the complainant.

§13-27-21. Warrant for arrest of parent, guardian, or responsible person--Summons of witnesses

Upon filing of a complaint, the judge of a circuit court shall issue a warrant of arrest to the sheriff of the county directing him to bring the defendant before the court and to summon witnesses required to ascertain the facts in the case.

§13-27-23. Penalties invoked on finding of guilty

If the judge finds the defendant guilty, he shall invoke the penal provisions of § 13-27-11 upon the defendant.

§13-27-28. Disobedience of circuit court order as contempt

Any parent, guardian, or person in charge of a child, who refuses or neglects to obey any order of a circuit judge made as provided in this chapter, is, in addition to the penal provisions of § 13-27-11, guilty of contempt of court.

§ 13-32-4.1. Adoption of attendance policy -- No limitation of suspension an expulsion power

The school board of every school district may adopt an attendance policy in accordance with procedural due process rules established by the South Dakota board of education pursuant to § 13-32-4. Any attendance policy adopted pursuant to this section is not to be construed as limiting the powers of the school board of a school district to suspend or expel students pursuant to § 13-32-4.

ADMINISTRATIVE CODE

24:07:03:07. Attendance policies

The attendance policy of a school district may not exclude a pupil from a class or from school for more than ten days without providing due process procedures pursuant to this chapter.

24:07:04:06. Attendance policies

The attendance policy of a school district may not exclude a student from one more classes or from a school for more than ten consecutive school days without providing the due process procedures in chapter or chapter 24:07:03.

24:05:26:08. Attendance policies

The attendance policy of a school district may not exclude a pupil from a class or from a school for more than ten days without providing due process pursuant to this chapter.

24:05:26.01:07. Attendance policies

The attendance policy of a school district may not exclude a student from one or more classes or from a school for more than ten consecutive school days without providing the due process procedures in this chapter or chapter 24:07:03.

Substance use

STATUTES

§ 13-32-4. School board cooperation in enforcement of discipline -- Suspension and expulsion by the board -- Grounds -- Length of firearm-related suspension -- Due process -- Local authorities Alternative solutions

The school board of every school district shall assist and cooperate with the administration and teachers in the government and discipline of the schools. The board may suspend or expel from school any student for violation of rules or policies or for insubordination or misconduct, and the superintendent or principal in charge of the school may temporarily suspend any student in accordance with § 13-32-4.2. The rules or policies may include prohibiting the following:

(1) The consumption or possession of beer or alcoholic beverages on the school premises or at school activities;

(2) The use or possession of a controlled substance, without a valid prescription, on the school premises or at school activities;[...]

The period of expulsion may extend beyond the semester in which the violation, insubordination, or misconduct occurred. Any expulsion for consumption or possession of beer or alcoholic beverages may not extend beyond ninety school days [...]

§ 13-32-9. Suspension from extracurricular activities for controlled substance violation -- Notice to South Dakota High School Activities Association

Any person adjudicated, convicted, the subject of an informal adjustment or court-approved diversion program, or the subject of a suspended imposition of sentence or suspended adjudication of delinquency for possession, use, or distribution of controlled drugs or substances or marijuana as defined in chapter 22-42, or for ingesting, inhaling, or otherwise taking into the body any substances as prohibited by § 22-42-15, is ineligible to participate in any extracurricular activity at any secondary school accredited by the Department of Education for one calendar year from the date of adjudication, conviction, diversion, or suspended imposition of sentence. The one-year suspension may be reduced to sixty school days if the person participates in an assessment with a certified chemical dependency counselor or completes an accredited intensive prevention or treatment program. If the assessment indicates the need for a higher level of care, the student is required to complete the prescribed program before becoming eligible to participate in extracurricular activities. Upon a subsequent adjudication, conviction, diversion, or suspended imposition of sentence for possession, use, or distribution of controlled drugs or substances or marijuana as defined in chapter 22-42, or for ingesting, inhaling, or otherwise taking into the body any substances as prohibited by § 22-42-15, by a court of competent jurisdiction, that person is ineligible to participate in any extracurricular activity at any secondary school accredited by the Department of Education. Upon such a determination in any juvenile court proceeding the Unified Judicial System shall give notice of that determination to the South Dakota High School Activities Association and the chief administrator of the school in which the person is participating in any extracurricular activity. The Unified Judicial System shall give notice to the chief administrators of secondary schools accredited by the Department of Education for any such determination in a court proceeding for any person eighteen to twenty-one years of age without regard to current status in school or involvement in extracurricular activities. The notice shall include name, date of birth, city of residence, and offense. The chief administrator shall give notice to the South Dakota High School Activities Association if any such person is participating in extracurricular activities.

Upon placement of the person in an informal adjustment or court-approved diversion program, the state's attorney who placed the person in that program shall give notice of that placement to the South Dakota

High School Activities Association and chief administrator of the school in which the person is participating in any extracurricular activity.

As used in this section, the term, extracurricular activity, means any activity sanctioned by the South Dakota High School Activities Association.

ADMIISTRATIVE CODE

24:05:26.01:07.01. Authority of school personnel

Weapons, drugs, and serious bodily injury. School district personnel shall follow the procedures under § 24:05:26:08.01 if an expulsion is anticipated because of a student's violation of rules or policies pertaining to weapons and drugs.

24:05:26:08.01. Authority of school personnel -- Weapons, drugs, and serious bodily injury

School personnel may remove a student to an appropriate interim alternative setting for not more than 45 school days, without regard to whether the behavior is determined to be a manifestation of the student's disability, if:

(2) The student knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school, on school premises, or at a school function under the jurisdiction of a state or local educational agency[...]

Bullying, harassment, or hazing

STATUTES

§ 13-32-14. School districts required to adopt policy prohibiting bullying

If a school district does not have a bullying policy, the school district shall follow the model bullying policy in § 13-32-19 until such time as the school district adopts its own bullying policy. Nothing in §§ 13-32-14 to 13-32-19, inclusive, supplants or preempts an existing school district policy, except that no school district policy prohibiting bullying, whether it is existing or adopted pursuant to §§ 13-32-14 to 13-32-19, inclusive, may contain any protected classes of students.

§ 13-32-15. "Definition of bullying"

Bullying is a pattern of repeated conduct that causes physical hurt or psychological distress on one or more students that may include threats, intimidation, stalking as defined in chapter 22-19A, physical violence, theft, destruction of property, any threatening use of data or computer software, written or verbal communication, or conduct directed against a student that:

(1) Places a student in reasonable fear of harm to his or her person or damage to his or her property; and either

(2) Substantially interferes with a student's educational performance; or

(3) Substantially disrupts the orderly operation of a school.

For the purposes of §§ 13-32-14 to 13-32-19, inclusive, bullying also includes retaliation against a student for asserting or alleging an act of bullying.

§ 13-32-16. Required contents of bullying policy

Each school district policy developed pursuant to §§ 13-32-14 to 13-32-19, inclusive, shall contain the following provisions:

A statement prohibiting bullying and a definition of bullying that includes the definition listed in § 13-32-15;

A description of the type of behavior expected from each student of the school district, and the consequences for a student of the school district who commits an act of bullying;

(3) A procedure for reporting an act of bullying, including provisions that permit a person to anonymously report such an act, although formal disciplinary action may not be based solely on an anonymous report; and

A procedure for the prompt investigation and response to any report of bullying, including a requirement that an investigation be conducted on any alleged incident of bullying committed against a child while the child is aboard a school bus, at a school bus stop, or at a school-sponsored event.

§ 13-32-17. Immunity from liability for good faith report of bullying -- No cause of action without substantial noncompliance resulting in injury

Any school district employee, school volunteer, student, or parent who promptly reports in good faith an act of bullying to the appropriate school district official as designated in the school district's policy, and who makes the report in compliance with the provisions of the school district's policy is immune from any cause of action for damages arising from failure to remedy the reported incident. Moreover, the provisions of §§ 13-32-14 to 13-32-19, inclusive, do not create a cause of action against any school district, school district employee, school volunteer, student, or parent unless there has been substantial noncomplaince with the school district's policy resulting in injury to a protected person.

§ 13-32-18. Bullying via computers or electronic devices subject to disciplinary action regardless of time or place

Neither the physical location nor the time of day of any incident involving the use of computers or other electronic devices is a defense to any disciplinary action taken by a school district for conduct determined to meet the definition of bullying in § 13-32-15.

§ 13-32-19. Model bullying policy established

The model bullying policy pursuant to §§ 13-32-14 to 13-32-19 is as follows:

PROHIBITION OF HARASSMENT, INTIMIDATION, AND BULLYING

The School District is committed to maintaining a constructive, safe school climate that is conducive to student learning and fostering an environment in which all students are treated with respect and dignity.

Persistent bullying can severely inhibit a student's ability to learn and may have lasting negative effects on a student's life. The bullying of students by students, staff, or third parties is strictly prohibited and will not be tolerated.

Bullying consists of repeated physical, verbal, non-verbal, written, electronic, or any conduct directed toward a student that is so pervasive, severe, and objectively offensive that it:

(1) Has the purpose of creating or resulting in an intimidating, hostile, or offensive academic environment; or

(2) Has the purpose or effect of substantially or unreasonably interfering with a student's academic performance which deprives the student access to educational opportunities.

Any staff member observing or suspecting bullying toward another individual is required to report the issue to his or her building supervisor.

This policy is in effect while students are on property within the jurisdiction of the School Board; while students are in school-owned or school-operated vehicles; and while students are attending or engaged in school-sponsored activities.

The District will act to investigate all complaints (formal or informal, verbal or written) of bullying. A formal complaint may be submitted to the building principal. Any student engaging in an act of bullying is subject to discipline pursuant to the District's student discipline procedure.

This policy may not be interpreted to prohibit civil exchange of opinions or debate protected under the state or federal constitutions if the opinion expressed does not otherwise materially or substantially disrupt the education process or intrude upon the rights of others.

Other special infractions or conditions

STATUTES

§ 13-32-5. School property defacement ground for suspension or expulsion

Any student, who cuts, defaces, or otherwise injures any schoolhouse, equipment, or outbuilding thereof, is liable to suspension or expulsion.

§ 13-32-6. Intentional disturbance of school by students or others Prohibited -- Misdemeanor

A person, whether pupil or not, who intentionally disturbs a public or nonpublic school when in session or who intentionally interferes with or interrupts the proper order or management of a public or nonpublic school by acts of violence, boisterous conduct, or threatening language, so as to prevent the teacher or any pupil from performing his duty, is guilty of a Class 2 misdemeanor.

Prevention and Behavioral Interventions (Non-Punitive)

Prevention

STATUTES

§ 13-33-6.1. Character development instruction mandatory -- Exception -- Content

Unless the governing body elects, by resolution, effective for not less than one or more than four school terms, to do otherwise, character development instruction shall be given in all public and nonpublic elementary and secondary schools in the state to impress upon the minds of the students the importance of citizenship, patriotism, honesty, self discipline, self respect, sexual abstinence, respect for the contributions of minority and ethnic groups to the heritage of South Dakota, regard for the elderly, and respect for authority.

Behavioral interventions and student support services

STATUTES

§ 13-32-3. Psychiatric treatment of student requires parental consent

No public school administrator or teacher shall refer a student for psychiatric treatment within or outside the school without the prior written consent of such student's parent or guardian.

Professional development

No relevant statutes found.

Monitoring and Accountability

Formal incident reporting of conduct violations

STATUTES

§13-27-15. Attendance records maintained by superintendent or president of board--Reports required

Each superintendent, or the president of the school board in districts without a superintendent, is responsible for maintaining an accurate record of the attendance of all persons of compulsory school age. He shall, at regular intervals, report the names of all compulsory school age persons, not excused from school, who do not or who irregularly attend an accredited school to the truancy officer on blanks provided for that purpose. He shall include reasons for the absences in the report.

ADMINISTRATIVE CODE

24:05:26:03. Written report required

If a long-term suspension is anticipated because of a pupil's violation of a policy, the procedure in § 24:07:03:01 applies.

24:07:03:01. Written report required

The superintendent must file a sealed, written report with the school board by the end of the fifth school day following the first day of the long-term suspension and may request that a hearing be held before the school board. The report must include the facts of the situation, the action taken, the reasons for the action, and the superintendent's decision or recommendation. The report must remain in the possession of the school board secretary or business manager, sealed and unavailable for review by individual school board members, until the time set for a hearing. The superintendent must send a copy of the report to the pupil's parent or to the pupil if the pupil is 18 years of age or older or an emancipated minor at the same time the report is filed with the school board's secretary or business manager.

24:07:04:01. Written report required

If expulsion is anticipated because of a student's violation of a rule or policy or for insubordination or misconduct, the superintendent must file a sealed written report with the school board no later than the end of the fifth school day following the first day of the student's removal; from one or more classes or from school and schedule a hearing before the school board. The report must include the facts of the situation, the action, the reasons for the action and the superintendent's recommendation. The report must remain in the possession of the school board secretary sealed and unavailable for review by individual school board members, until the time set for a hearing.

At the same time that the report is filed with the school board's secretary, the superintendent must send a copy of the report to the student's parent or to the student if the student is 18 years of age or older or is an emancipated minor.

Parental notification

STATUTES

§13-27-16. Warnings by school boards to send children to school--Report to truancy officer

Each school board shall warn parents or persons in control of children of compulsory school age that the children must enter school and attend regularly, and shall report the parents or persons in control of the children to the truancy officer for the district if the warning is not heeded. All school board members, superintendents, and teachers shall cooperate in the enforcement of the school attendance laws.

§ 13-32-4. School board cooperation in enforcement of discipline -- Suspension and expulsion by the board -- Grounds -- Length of firearm-related suspension -- Due process -- Local authorities Alternative solutions

[...] The administrative due process procedures shall include a requirement that the school give notice of a student's due process rights to the parent or guardian of the student at the time of suspension or expulsion. Each school district board shall provide a procedural due process hearing, if requested, for a student in accordance with such rules if the suspension or expulsion of the student extends into the eleventh school day [...]

ADMINISTRATIVE CODE

24:05:26:08.03. Parental notification

On the date on which the decision is made to make a removal that constitutes a change of placement of a student with a disability because of a violation of a code of student conduct, the school district shall notify the parents of that decision and provide the parents the procedural safeguards notice described in chapter 24:05:30.

24:05:26.01:07.03. Parental notification

On the date on which the decision is made to make a removal that constitutes a change of placement of a student with a disability because of a violation of a code of student conduct, the school district must notify the parents of that decision and provide the parents the procedural safeguards notice described in chapter 24:05:30.

24:07:02:01. Short-term suspension procedure

If a short-term suspension from a class, classes, or school is anticipated because of a pupil's violation of a policy, the principal or superintendent shall give oral or written notice to the pupil as soon as possible after discovery of the alleged violation, stating the facts that form the basis for the suspension. The pupil must be given the opportunity to answer the charges. If a pupil is suspended, the principal or superintendent shall give the parent oral notice, if possible, and shall send the parent or a pupil who is 18 years of age or older or an emancipated minor a written notice which provides information regarding the pupil's due process rights. A pupil who is an unemancipated minor may not be removed from the school premises before the end of the school day without contacting a parent unless the pupil's presence poses a continuing threat or danger, in which case the pupil may be immediately removed from the school and transferred into the custody of a parent or law enforcement.

24:07:03:01. Written report required

The superintendent must file a sealed, written report with the school board by the end of the fifth school day following the first day of the long-term suspension and may request that a hearing be held before the school board. The report must include the facts of the situation, the action taken, the reasons for the

action, and the superintendent's decision or recommendation. The report must remain in the possession of the school board secretary or business manager, sealed and unavailable for review by individual school board members, until the time set for a hearing. The superintendent must send a copy of the report to the pupil's parent or to the pupil if the pupil is 18 years of age or older or an emancipated minor at the same time the report is filed with the school board's secretary or business manager.

24:07:03:02. Right to request hearing -- Notice of hearing

If the superintendent finds grounds for a long-term suspension from a class or classes, the superintendent may exclude the pupil from a class or classes by using the short-term suspension procedure in § 24:07:02:01. The superintendent shall give a written notice to the pupil's parent or to a pupil who is 18 years of age or older or an emancipated minor and may schedule a hearing. The notice shall contain the following minimum information:

(1) The policy allegedly violated;

(2) The reason for the disciplinary proceedings;

(3) Notice of the right to request a hearing or waive the right to a hearing.

(4) A description of the hearing procedure;

(5) A statement that the pupil's records are available at the school for examination by the pupil's parent or authorized representative; and

(6) A statement that the pupil may present witnesses.

If a hearing is requested, the superintendent shall give notice to each school board member of an appeal to the board for a hearing. The superintendent shall set the date, time, and place for the hearing and send notice by first class mail to each school board member and by certified mail, return receipt requested, to the pupil's parent or to a pupil who is 18 years of age or older or an emancipated minor.

If no hearing is requested or the hearing is waived, the action of the superintendent is final.

24:07:04:01. Written report required

If expulsion is anticipated because of a student's violation of a rule or policy or for insubordination or misconduct, the superintendent must file a sealed written report with the school board no later than the end of the fifth school day following the first day of the students' removal; from one or more classes or from school and schedule a hearing before the school board. The report must include the facts of the situation, the action, the reasons for the action and the superintendent's recommendation. The report must remain in the possession of the school board secretary sealed and unavailable for review by individual school board members, until the time set for a hearing.

At the same time that the report is filed with the school board's secretary, the superintendent must send a copy of the report to the student's parent or to the student if the student is 18 years of age or older or is an emancipated minor.

24:07:04:02. Notice of Hearing

If the Superintendent finds grounds for expulsion from one or more classes or from school, the superintendent may exclude the student immediately by using the short-term suspension procedure in § 24:07:02:01. The superintendent shall give a written notice to one or both of student's parents or to a student who is 18 years of age or older or an emancipated minor. The notice must contain the following information at a minimum:

(1) The rule, regulation, or policy allegedly violated;

(2) The reason for the disciplinary proceedings;

(3) Notice of the right to request a hearing;

(4) A description of the hearing procedure;

(5) A statement that the student's records are available at the school for examination by the student's parent or parents or another authorized representative;

(6) A statement that the student may present witnesses; and

(7) A statement that the student may be represented by an attorney.

The superintendent shall set the date, time, and place for the school board hearing. The superintendent shall send notice of the hearing to each school board member by first class mail and to the student's parent or to a student who is 18 years of age or older or an emancipated minor by certified mail, return receipt requested. If the superintendent recommend expulsion, the school board must act on the recommendation before it is implemented.

Reporting and referrals between schools and law enforcement

STATUTES

§ 13-32-9. Suspension from extracurricular activities for controlled substance violation -- Notice to South Dakota High School Activities Association

Any person adjudicated, convicted, the subject of an informal adjustment or court-approved diversion program, or the subject of a suspended imposition of sentence or suspended adjudication of delinquency for possession, use, or distribution of controlled drugs or substances or marijuana as defined in chapter 22-42, or for ingesting, inhaling, or otherwise taking into the body any substances as prohibited by § 22-42-15, is ineligible to participate in any extracurricular activity at any secondary school accredited by the Department of Education for one calendar year from the date of adjudication, conviction, diversion, or suspended imposition of sentence. The one-year suspension may be reduced to sixty school days if the person participates in an assessment with a certified chemical dependency counselor or completes an accredited intensive prevention or treatment program. If the assessment indicates the need for a higher level of care, the student is required to complete the prescribed program before becoming eligible to participate in extracurricular activities. Upon a subsequent adjudication, conviction, diversion, or suspended imposition of sentence for possession, use, or distribution of controlled drugs or substances or marijuana as defined in chapter 22-42, or for ingesting, inhaling, or otherwise taking into the body any substances as prohibited by § 22-42-15, by a court of competent jurisdiction, that person is ineligible to participate in any extracurricular activity at any secondary school accredited by the Department of Education. Upon such a determination in any juvenile court proceeding the Unified Judicial System shall give notice of that determination to the South Dakota High School Activities Association and the chief administrator of the school in which the person is participating in any extracurricular activity. The Unified Judicial System shall give notice to the chief administrators of secondary schools accredited by the Department of Education for any such determination in a court proceeding for any person eighteen to twenty-one years of age without regard to current status in school or involvement in extracurricular activities. The notice shall include name, date of birth, city of residence, and offense. The chief administrator shall give notice to the South Dakota High School Activities Association if any such person is participating in extracurricular activities.

Upon placement of the person in an informal adjustment or court-approved diversion program, the state's attorney who placed the person in that program shall give notice of that placement to the South Dakota High School Activities Association and chief administrator of the school in which the person is participating in any extracurricular activity.

As used in this section, the term, extracurricular activity, means any activity sanctioned by the South Dakota High School Activities Association.

ADMINISTRATIVE CODE

24:05:26:15. Referral to and action by law enforcement and judicial authorities

Nothing in Part B of the Individuals with Disabilities Education Act prohibits a school district or other public agency from reporting a crime committed by a student with a disability to appropriate authorities or to prevent state law enforcement and judicial authorities from exercising their responsibilities with regard to the application of federal and state law to crimes committed by a student with a disability.

A school district or other public agency reporting a crime committed by a student with a disability shall ensure that copies of the special education and disciplinary records of the student are transmitted for consideration by the appropriate authorities to whom it reports the crime. A school district reporting a crime under this chapter may transmit copies of the student's special education and disciplinary records only to the extent that the transmission is permitted by the Family Educational Rights and Privacy Act, as amended to January 8, 2009.

24:05:26.01:14. Referral to and action by law enforcement and judicial authorities

Reporting a crime committed by a student with a disability and the transmission of student records shall be implemented consistent with § 24:05:26:15.

Disclosure of school records

For information on disclosure of school records, see Chapter 24:05:29: Confidentiality of Information.

Data collection, review, and reporting of disciplinary policies and actions

No relevant statutes found.

Student Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers

Authority and power to implement school arrest

STATUTES

§13-27-15. Attendance records maintained by superintendent or president of board--Reports required

Each superintendent, or the president of the school board in districts without a superintendent, is responsible for maintaining an accurate record of the attendance of all persons of compulsory school age. He shall, at regular intervals, report the names of all compulsory school age persons, not excused from school, who do not or who irregularly attend an accredited school to the truancy officer on blanks provided for that purpose. He shall include reasons for the absences in the report.

§13-27-16. Warnings by school boards to send children to school--Report to truancy officer

Each school board shall warn parents or persons in control of children of compulsory school age that the children must enter school and attend regularly, and shall report the parents or persons in control of the children to the truancy officer for the district if the warning is not heeded. All school board members, superintendents, and teachers shall cooperate in the enforcement of the school attendance laws.

§13-27-17. Investigations and records of truancy officer

Each truancy officer shall carefully check the attendance and nonattendance of all persons required by law to attend school in the district or districts within his jurisdiction and shall keep an accurate record of those persons not in attendance or whose attendance is irregular.

§13-27-18. Neglect of duty by superintendent, president of board, school board, or truancy officer--Harboring or employment of truant child--Hindering attendance by child—Misdemeanor

Any superintendent or school board president who fails to make prompt reports on attendance as required by law; any person who harbors or employs a child of compulsory school age not legally excused during the school term; the members of any school board who neglect or refuse to provide school facilities for children of their school district for at least nine months during the school year, or neglect to perform any other duties enumerated under the compulsory school attendance laws of this state; any truancy officer who neglects to perform the duties of his office; or any person who hampers or hinders a child of compulsory school age from attending a school which meets all legal requirements, or who interferes or attempts to interfere with the child's attendance is guilty of a Class 2 misdemeanor.

§13-27-20. Complaints against persons responsible for truancy--Contents of complaint—Verification

Each truancy officer shall make and file truancy complaints, and any teacher, school officer, or any citizen may make and file a truancy complaint, before a circuit court judge, against any person having control of a child of compulsory school age who is not attending school or whose attendance is irregular. The complaint shall state the name of the parent, guardian, or person responsible for the control of the child. The complaint shall be verified by oath upon belief of the complainant.

§13-27-19. Power of truancy officers to apprehend truant children--Supervisory control by secretary

Each truancy officer has the powers of a deputy sheriff in the exercise of his duties, and shall apprehend without warrant children of compulsory school age who absent themselves from the place where the children are required to attend without an excuse, and place the children in the custody of the person having charge of the place where the children are by law required to attend. In the administration of his duties, each truancy officer is subject to the general supervisory control of the secretary of the Department of Education.

Certification or training

No relevant statutes found.

MOUs, authorization, and/or funding

STATUTES

§ 13-27-14. Truancy officer employed by district--Duties--President of board acting where no officer employed

The school board of each school district shall annually appoint and provide for the remuneration of one or more truancy officers, to enforce, under the school board's direction, the compulsory attendance laws within the district. In a school district failing to provide a truancy officer, the president of the school board is the truancy officer and is responsible for the enforcement of the compulsory attendance laws within the school district.

State Education Agency Support

State model policies and implementation support

STATUTES

§ 13-32-14. School districts required to adopt policy prohibiting bullying

If a school district does not have a bullying policy, the school district shall follow the model bullying policy in § 13-32-19 until such time as the school district adopts its own bullying policy. Nothing in §§ 13-32-14 to 13-32-19, inclusive, supplants or preempts an existing school district policy, except that no school district policy prohibiting bullying, whether it is existing or adopted pursuant to §§ 13-32-14 to 13-32-19, inclusive, may contain any protected classes of students.

§ 13-32-16. Required contents of bullying policy

Each school district policy developed pursuant to §§ 13-32-14 to 13-32-19, inclusive, shall contain the following provisions:

A statement prohibiting bullying and a definition of bullying that includes the definition listed in § 13-32-15;

A description of the type of behavior expected from each student of the school district, and the consequences for a student of the school district who commits an act of bullying;

(3) A procedure for reporting an act of bullying, including provisions that permit a person to anonymously report such an act, although formal disciplinary action may not be based solely on an anonymous report; and

A procedure for the prompt investigation and response to any report of bullying, including a requirement that an investigation be conducted on any alleged incident of bullying committed against a child while the child is aboard a school bus, at a school bus stop, or at a school-sponsored event.

§ 13-32-19. Model bullying policy established

The model bullying policy pursuant to §§ 13-32-14 to 13-32-19 is as follows:

PROHIBITION OF HARASSMENT, INTIMIDATION, AND BULLYING

The School District is committed to maintaining a constructive, safe school climate that is conducive to student learning and fostering an environment in which all students are treated with respect and dignity.

Persistent bullying can severely inhibit a student's ability to learn and may have lasting negative effects on a student's life. The bullying of students by students, staff, or third parties is strictly prohibited and will not be tolerated.

Bullying consists of repeated physical, verbal, non-verbal, written, electronic, or any conduct directed toward a student that is so pervasive, severe, and objectively offensive that it:

(1) Has the purpose of creating or resulting in an intimidating, hostile, or offensive academic environment; or

(2) Has the purpose or effect of substantially or unreasonably interfering with a student's academic performance which deprives the student access to educational opportunities.

Any staff member observing or suspecting bullying toward another individual is required to report the issue to his or her building supervisor.

This policy is in effect while students are on property within the jurisdiction of the School Board; while students are in school-owned or school-operated vehicles; and while students are attending or engaged in school-sponsored activities.

The District will act to investigate all complaints (formal or informal, verbal or written) of bullying. A formal complaint may be submitted to the building principal. Any student engaging in an act of bullying is subject to discipline pursuant to the District's student discipline procedure.

This policy may not be interpreted to prohibit civil exchange of opinions or debate protected under the state or federal constitutions if the opinion expressed does not otherwise materially or substantially disrupt the education process or intrude upon the rights of others.

Funding appropriations

No relevant statutes found.

Other/Uncategorized

Professional immunity or liability

STATUTES

§ 13-32-17. Immunity from liability for good faith report of bullying -- No cause of action without substantial noncompliance resulting in injury

Any school district employee, school volunteer, student, or parent who promptly reports in good faith an act of bullying to the appropriate school district official as designated in the school district's policy, and who makes the report in compliance with the provisions of the school district's policy is immune from any cause of action for damages arising from failure to remedy the reported incident. Moreover, the provisions of §§ 13-32-14 to 13-32-19, inclusive, do not create a cause of action against any school district, school district employee, school volunteer, student, or parent unless there has been substantial noncompliance with the school district's policy resulting in injury to a protected person.

Community input or involvement

No relevant statutes found.

Other/Uncategorized

No relevant statutes found.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by South Dakota provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
Website		
School Climate	Details on school climate committee	https://doe.sd.gov/secretary/schoolclimate.aspx
Documents		
Discipline in Detail	Guide for school administrators, parents and advocates in South Dakota looking at discipline procedures for students with disabilities	http://doe.sd.gov/oess/documents/StdDisLaw.pdf
Other Resources		
No relevant resources found		

Tennessee Compilation of School Discipline Laws and Regulations

Prepared: August 12, 2013

Introduction

This compilation presents school discipline-related state statutes, school discipline-related regulations, and, where available, links to state-sponsored websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSLE). For example, one major category encompasses all state laws or regulations mandating specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of state legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in each state.

Discipline categories were not mutually exclusive. Statutes and regulations often appeared across multiple categories. For states with more extensive statutes covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. State laws, ordered by chapter and section number, appear first within each category followed by state regulations. All statutes and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists statutes by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to state-sponsored websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of May 2013, with the exception of the state laws related to seclusion and restraint, which are complete and current as of December 2012. Readers should also note that the information in this document was compiled from individual state sources that are created by each state and which are maintained and updated with varying frequencies. Readers should consult the source information provided for each state directly in order to check for updates to this state's laws and regulations or conduct further research.

For further information, including definitions of the different policy categories, please refer to the Discipline Laws and Regulations Compendium posted on the Center's website.

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Safe Supportive Learning
Engagement | Safety | Environment

Table of Contents

Tennessee State Codes Cited **1**

General Provisions **4**

Authority to develop and establish rules of conduct 4
Scope 6
Communication of policy 7

In-School Discipline **8**

Use of multi-tiered discipline approaches 8
Teacher authority to remove students from classrooms 8
Alternatives to suspension 8
Use of corporal punishment 9
Use of student and locker searches 10
Other in-school disciplinary approaches 13

Out-of-School and Exclusionary Discipline: Suspension, Expulsion, Restraint and Seclusion, and Alternative Placements **14**

Grounds for possible suspension or expulsion 14
Grounds for mandatory suspension or expulsion 16
Limitations, conditions, or exclusions for use of suspension and expulsion 17
Administrative procedures related to suspension and expulsion 19
In-school suspension 21
Return to school following removal 21
Use of restraint and seclusion 22
Alternative placements 30

Disciplinary Approaches Addressing Specific Infractions and Conditions **33**

Firearms (as required by the Guns-Free Schools Act) 33
Other weapons 34
Students with chronic disciplinary issues 35
Attendance and truancy 35
Substance use 38
Bullying, harassment, or hazing 40
Other special infractions or conditions 44

Prevention and Behavioral Interventions (Non-Punitive) **46**

Prevention 46
Behavioral interventions and student support services 48
Professional development 48

Monitoring and Accountability **49**

Formal incident reporting of conduct violations 49
Parental notification 50
Reporting and referrals between schools and law enforcement 55
Disclosure of school records 61
Data collection, review, and reporting of disciplinary policies and actions 65

Student Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officer 73
Authority and power to implement school arrest 73
Certification or training 73
MOUs, authorization, and/or funding 74
State Education Agency Support 75
State model policies and implementation support 75
Funding appropriations 75
Other/Uncategorized 76
Professional immunity or liability 76
Community input or involvement 76
Other/Uncategorized 77
State-Sponsored, Publicly Available Websites or Other Resources on School Discipline 78

Tennessee State Codes Cited

Tennessee Revised Statutes

Title 10. Public Libraries, Archives And Records

Chapter 7. Public Records

Part 5. Miscellaneous Provisions

10-7-504. Confidential records – Exceptions*

Title 37. Juveniles

Chapter 1. Juvenile Courts and Proceedings

Part 1. General Provisions

37-1-131. Delinquent child - Disposition - Restitution
37-1-154. Law enforcement records - Inspection limited - Exceptions for certain violent offenders

Title 39. Criminal Offenses

Chapter 13. Offenses Against Person

Part 1. Assaultive Offenses

39-13-114. Communicating a threat concerning a school employee

Chapter 17. Offenses Against Public Health, Safety and Welfare

Part 3. Disorderly Conduct and Riots

39-17-308. Harassment*

Title 49. Education

Chapter 1. State Administration

Part 2. Department of Education

49-1-214. Safe schools - Advisory guidelines

Part 5. Dropout Prevention

49-1-520. Tennessee model dropout prevention program

Chapter 2. Local Administration

Part 2. Boards of Education

49-2-116. School safety zones*
49-2-120. Prohibition against hazing*
49-2-203. Duties and powers*

Chapter 6. Elementary and Secondary Education

Part 10. Curriculum Generally

49-6-1014. Legislative findings - Safety and civility
49-6-1015. Definitions for §§ 49-6-1014 - 49-6-1019

49-6-1016. Development of policy regarding harassment, intimidation, bullying or cyber bullying
49-6-1017. Adoption of policy - Transmission of copy of policy to the commissioner of education
49-6-1018. Reprisal or retaliation prohibited - Reporting harassment, intimidation, bullying or cyber-bullying - Immunity from damages
49-6-1019. Task forces, programs or other initiatives

Part 30. Attendance

49-6-3007. Attendance and truancy reports - Enforcement of compulsory attendance
49-6-3008. Truancy - Inspections and investigations
49-6-3009. Penalty for violations - Alternative program
49-6-3051. Parental or guardian notice to school of child's criminal offenses - List of goals - Confidentiality - Violations and penalties

Part 34. Suspension of Students

49-6-3401. Suspension of students - Expulsion of students
49-6-3402. Alternative schools for suspended or expelled students - Mandated attendance
49-6-3405. Alternative school success*

Part 40. Behavior and Discipline Codes

49-6-4011. Short title
49-6-4012. Formulation and administration of behavior and discipline codes
49-6-4013. Code contents
49-6-4015. Different codes for different classes of schools
49-6-4016. Civil liability
49-6-4017. Code distribution and posting
49-6-4018. Policy regarding teacher's ability to relocate student for safety reasons*
49-6-4019. Student discipline code to include provision prohibiting indecent clothing*

Part 41. School Discipline Act

49-6-4101. Short title
49-6-4102. Students accountable for conduct
49-6-4103. Corporal punishment
49-6-4104. Rules and regulations
49-6-4105. Arrest and prosecution for injury to student
49-6-4106. Disciplinary referrals
49-6-4107. Use of reasonable force*

Part 42. School Security Act of 1981

49-6-4201. Short title
49-6-4202. Part definitions
49-6-4203. Legislative intent
49-6-4204. Search of lockers, vehicles, and other property
49-6-4205. Search of persons and containers
49-6-4207. Use of metal detectors
49-6-4208. Use of animals
49-6-4209. Report of reasonable suspicion by principal to law enforcement officer
49-6-4210. Disposal of contraband
49-6-4212. Training program for school principals - Notice of policies to parents and students

49-6-4213. Testing of students for drugs - Referral information and assistance for students testing positive
49-6-4214. Possession of pagers by students
49-6-4215. Activities of criminal gangs on school property - Promulgation of rules and regulations
49-6-4216. School policies and procedures - Contents - Zero tolerance policy - Notice to students and parents
49-6-4217. Employment standards for school resource officers

Part 43. Reporting Student Offenses

49-6-4301. School officials to report student offenses
49-6-4302. Tennessee school safety center

Part 44. Special School Districts - School Discipline

49-6-4402. Corporal punishment
49-6-4403. Rules and regulations
49-6-4404. Physical examination of student - Student's remedies

Chapter 10. Special Education

49-10-1301. Short title*
49-10-1302. Purpose of part*49-10-1303. Part definitions*
49-10-1304. Isolation or restraint of student -- Reports and record*
49-10-1305. Restrictions on administration of, or use of, isolation or restraint *
49-10-1306. Promulgation of rules and regulations*
49-10-1307. Training and reporting on the use of restraint and isolation*

Chapter 50. Miscellaneous*

49-50-1501. Short title*
49-50-1502. Part definitions*
49-50-1503. Subpoena duces tecum service and filling*
49-50-1504. Production of subpoenaed records*
49-50-1505. Unsealing subpoenaed records – Duties of custodian and issuing attorney*
49-50-1506. Custodian affidavit – Costs*
49-50-1507. Evidentiary value of record copies and affidavits*
49-50-1508. Requiring personal attendance of custodian – Costs*
49-50-1509. Substitution and preparation of record copies*

Tennessee Administrative Code

Chapter 0520. Education

Chapter 01. State Board of Education Rules, Regulations and Minimum Standards for the Operation of the Public School System

0520-01-02. State Board of Education rules, regulations, and minimum standards for the operation of the public school system: Administrative rules and regulations

Chapter 12. Department of Education Office of the Commissioner

0520-12-01. Standards for Infant/Toddler, Preschool and School-Age Extended Care Program

General Provisions

Authority to develop and establish rules of conduct

STATUTES

49-1-214. Safe schools -- Advisory guidelines

(a) The commissioner of education, in consultation with the commissioner of safety, shall develop advisory guidelines for LEAs to use in developing safe and secure learning environments in schools. Such guidelines shall emphasize consultation at the local level with appropriate law enforcement authorities.

(b) The department of education may prepare and distribute to LEAs guidelines for incorporating into local staff development and in-service training the materials and speakers necessary to help educators reduce gang and individual violence, to assist in drug and alcohol abuse prevention and to provide educators with the tools for nonintrusive identification of potentially violent individuals in and around schools. The department may, upon request, assist LEAs in developing comprehensive violence, drug and alcohol abuse prevention in-service training programs. Department guidelines shall encourage the sharing of resources, the development of joint or collaborative programs and the coordination of efforts with local health departments, county and city law enforcement agencies and other public agencies providing health, drug, alcohol, gang violence prevention and other related services.

(c) The department may assist LEAs in qualifying for the receipt of federal and state funds that may support local efforts to provide the in-service training programs in this section. The department shall encourage LEAs to provide written materials to assist teachers and parents working to develop a safe and secure learning environment in system schools. Within available resources, the department may provide technical assistance directly to LEAs seeking to expand teacher and student safety programs.

(d) The state board of education, in consultation with the commissioner of safety, shall develop advisory guidelines for the administration, faculty and staff of the Alvin C. York Institute, the School for the Blind and the School for the Deaf to use in developing a safe and secure learning environment at such schools. The guidelines shall emphasize consultation at the local level with appropriate law enforcement authorities.

49-6-1014. Legislative findings -- Safety and civility

The general assembly finds and declares that:

(1) A safe and civil environment is necessary for students to learn and achieve high academic standards;

(2) Harassment, intimidation, bullying or cyber-bullying, like other disruptive or violent behavior, is conduct that disrupts a student's ability to learn and a school's ability to educate its students in a safe environment;

(3) Students learn by example. School administrators, faculty, staff and volunteers who demonstrate appropriate behavior, treating others with civility and respect and refusing to tolerate harassment, intimidation, bullying or cyber-bullying, encourage others to do so as well; and

(4) The use of telephones, cellular phones or other wireless telecommunication devices, personal digital assistants (PDAs), computers, electronic mail, instant messaging, text messaging, and web sites by students in a manner that is safe and secure is essential to a safe and civil learning environment and is necessary for students to successfully use technology.

49-6-4011. Short title

This part shall be known and may be cited as the "Student and Employee Safe Environment Act of 1996."

49-6-4012. Formulation and administration of behavior and discipline codes

(a) The governing body of each LEA shall be responsible for formulating a code of acceptable behavior and discipline to apply to the students in each school operated by the LEA.

(b) The director of schools or other administrative head of the LEA shall be responsible for overall implementation and supervision, and each school principal shall be responsible for administration and implementation within that school.

(c) In formulating the behavior and discipline codes, the governing body of each LEA shall seek recommendations from parents, employees, law enforcement personnel and youth-related agencies in the community.

49-6-4013. Code contents

(a) Each code shall contain the type of behavior expected from each student, the consequences of failure to obey the standards, and the importance of the standards to the maintenance of a safe learning environment where orderly learning is possible and encouraged. Each code shall address the topics of language used by students, respect for all school employees, fighting, threats, weapons on school property or at school functions, damage to the property or person of others, misuse or destruction of school property, drug or alcohol abuse, the sale or distribution of drugs or alcohol, student conduct on school property, conduct in classes and on school buses and other subjects that the local governing body chooses to include.

(b) Each code shall state that a teacher, principal, school employee or school bus driver may use reasonable force in compliance with § 49-6-4107.

49-6-4014. Uniform and fair application of codes

The principal of each school shall apply the code uniformly and fairly to each student at the school without partiality or discrimination.

49-6-4015. Different codes for different classes of schools

The governing body of the LEA may choose to adopt different but consistent codes of behavior and discipline to apply to different classes of schools, such as elementary, middle, junior high and senior high, under its jurisdiction. The codes shall be uniform to the extent of maximum consideration for the safety and well-being of students and employees.

49-6-4101. Short title

This part shall be known and may be cited as the "School Discipline Act."

49-6-4102. Students accountable for conduct

Every teacher is authorized to hold every pupil strictly accountable for any disorderly conduct in school or on the playground of the school, during intermission or recess period or on any school bus going to or returning from school. Every school bus driver is authorized to hold every pupil strictly accountable for any disorderly conduct on any school bus going to or returning from school or a school activity.

49-6-4201. Short title

This part shall be known and may be cited as the "School Security Act of 1981."

49-6-4203. Legislative intent

(a) It is the intent of the general assembly in enacting this part to secure a safe environment in which the education of the students of this state may occur.

(b) The general assembly recognizes the position of the schools in loco parentis and the responsibility this places on principals and teachers within each school to secure order and to protect students from harm while in their custody.

(c) It is the intent of this part to extend further, rather than limit, the authority of principals and teachers to secure order and provide protection of students within each school.

(d) The general assembly further recognizes that a rising level of violent activity and use of drugs is occurring in some public schools, especially in urban areas, and that these activities threaten the well-being of all students in those schools.

(e) The general assembly further finds that:

(1) The removal of dangerous weapons, drug paraphernalia and drugs from school property is necessary to lessen hazards to students and that removal can only be accomplished by searches of areas of the school buildings or grounds where those materials may be stored;

(2) On occasions when the use of dangerous weapons or drugs has reached a life or health threatening level, searches of students themselves may be necessary to protect the larger student body, and that often the searches must be conducted in emergency situations;

(3) Individual circumstances and local particularities require that individual principals must be relied on to exercise their professionally trained judgments in determining what action is appropriate within this part; and

(4) The presence on school property of students with drugs in their bodies may pose a threat to the safety and well-being of that student and other students, may be disruptive of school classes and other programs and may interfere with the educational opportunities and progress of all students.

49-6-4401. Students accountable for conduct

Every teacher in the special school district created by § 37-5-119 is authorized to hold every juvenile pupil strictly accountable for any disorderly conduct in school.

Scope

STATUTES

49-6-4018. Policy regarding teacher's ability to relocate student for safety reasons

(a) Each local board of education shall adopt a complete policy regarding a teacher's ability to relocate a student from the student's present location to another location for the student's safety or the safety of others. The use of reasonable or justifiable force, as defined in §§ 39-11-603, 39-11-609, 39-11-610, 39-11-612, 39-11-613, 39-11-614, 39-11-621, and 39-11-622, if required to accomplish this task due to the unwillingness of the student to cooperate, is allowed. If steps beyond the use of reasonable or justifiable force are required, the student shall be allowed to remain in place until such a time as local law enforcement officers or school resource officers can be summoned to relocate the student or take the student into custody until such a time as a parent or guardian can retrieve the student. This policy shall also cover teachers' authorization to intervene in a physical altercation between two (2) or more students, or between a student and LEA employees using reasonable or justifiable force upon a student, if necessary to end the altercation by relocating the student to another location.

(b) This policy shall be in effect on school property, as well as at official school functions, including, but not limited to, sporting events and approved field trips, taking place away from the local school property.

Those covered by this policy shall include LEA employees who are directly responsible for the student's education or who otherwise interact with the student on a professional basis while acting within the scope of their assigned duties, including, but not limited to, administrators, teachers, school support staff, bus drivers, cafeteria workers, and school resource officers.

49-6-4102. Students accountable for conduct

Every teacher is authorized to hold every pupil strictly accountable for any disorderly conduct in school or on the playground of the school, during intermission or recess period or on any school bus going to or returning from school. Every school bus driver is authorized to hold every pupil strictly accountable for any disorderly conduct on any school bus going to or returning from school or a school activity.

Communication of policy

STATUTES

49-6-4216. School policies and procedures -- Contents -- Zero tolerance policy -- Notice to students and parents

(a) Each local and county board of education shall file annually with the commissioner of education written policies and procedures developed and adopted by the board:

(1) To ensure safe and secure learning environments free of drugs, drug paraphernalia, violence and dangerous weapons; and

(2) To impose swift, certain and severe disciplinary sanctions on any student:

(A) Who brings a drug, drug paraphernalia or a dangerous weapon onto a school bus, onto school property or to any school event or activity; or

(B) Who, while on a school bus, on school property or while attending any school event or activity:

(i) Is under the influence of a drug;

(ii) Possesses a drug, drug paraphernalia or dangerous weapon; or

(iii) Assaults or threatens to assault a teacher, student or other person.

(c) At the beginning of fall classes each school year, each local and county board of education shall provide students and their parents with written notification of the policies and procedures. Additionally, each school shall conspicuously post a summary of the policies and procedures within each school.

49-6-4017. Code distribution and posting

When a code of behavior and discipline has been adopted by the governing body of an LEA, a copy of the code shall be posted at each school, and school counselors shall be supplied copies for discussion with students. The code shall be referenced in all school handbooks. All teachers, administrative staff and parents shall be provided copies of the code.

In-School Discipline

Use of multi-tiered discipline approaches

No relevant statutes found.

Teacher authority to remove students from classrooms

STATUTES

49-6-4018. Policy regarding teacher's ability to relocate student for safety reasons

(a) Each local board of education shall adopt a complete policy regarding a teacher's ability to relocate a student from the student's present location to another location for the student's safety or the safety of others. The use of reasonable or justifiable force, as defined in §§ 39-11-603, 39-11-609, 39-11-610, 39-11-612, 39-11-613, 39-11-614, 39-11-621, and 39-11-622, if required to accomplish this task due to the unwillingness of the student to cooperate, is allowed. If steps beyond the use of reasonable or justifiable force are required, the student shall be allowed to remain in place until such a time as local law enforcement officers or school resource officers can be summoned to relocate the student or take the student into custody until such a time as a parent or guardian can retrieve the student. This policy shall also cover teachers' authorization to intervene in a physical altercation between two (2) or more students, or between a student and LEA employees using reasonable or justifiable force upon a student, if necessary to end the altercation by relocating the student to another location.

(b) This policy shall be in effect on school property, as well as at official school functions, including, but not limited to, sporting events and approved field trips, taking place away from the local school property. Those covered by this policy shall include LEA employees who are directly responsible for the student's education or who otherwise interact with the student on a professional basis while acting within the scope of their assigned duties, including, but not limited to, administrators, teachers, school support staff, bus drivers, cafeteria workers, and school resource officers.

(c) The policy shall require a teacher to file a brief report with the principal detailing the situation that required the relocation of the student. Either the report shall be kept in a student discipline file and shall not become a part of the student's permanent record or it shall be filed in the student's permanent record, if the student's behavior violated the LEA's zero tolerance policy. The student is then subject to additional disciplinary action that may include suspension or expulsion from the school. The principal or the principal's designee shall notify the teacher involved of the actions taken to address the behavior of the relocated student.

(d) Each principal shall fully support the authority of every teacher in the principal's school to relocate a student under this section. Each school principal shall implement the policies and procedures of the local board of education relating to the authority of every teacher to relocate a student and shall disseminate such policies and procedures to the students, faculty, staff, and parents or guardian of students. The policy shall comply with state and federal laws regarding the placements of students.

Alternatives to suspension

No relevant statutes found.

Use of corporal punishment

STATUTES

49-6-4103. Corporal punishment

Any teacher or school principal may use corporal punishment in a reasonable manner against any pupil for good cause in order to maintain discipline and order within the public schools.

49-6-4104. Rules and regulations

Each local board of education shall adopt rules and regulations it deems necessary to implement and control any form of corporal punishment in the schools in its district.

49-6-4107. Use of reasonable force

(a) A teacher, principal, school employee or school bus driver, in exercising the person's lawful authority, may use reasonable force when necessary under the circumstances to correct or restrain a student or prevent bodily harm or death to another person.

(b) Subsection (a) does not authorize use of corporal punishment by a person not permitted to administer corporal punishment under § 49-6-4103 or chapter 6, part 44 of this title.

(c) Subsection (a) does not authorize restraint or isolation of students for whom restraint or isolation is prohibited under chapter 10, part 13 of this title.

49-6-4402. Corporal punishment

(a) The chief administrative officer, or the chief administrative officer's designee, of any institution in which the schools are located, may use corporal punishment in a reasonable manner and in accordance with this part against any pupil for good cause in order to maintain discipline and order within such schools.

(b) Corporal punishment may be administered only in a classroom situation and only in the presence of the director of schools or chief administrative officer of the school and one (1) other faculty witness.

49-6-4403. Rules and regulations

(a) The department of children's services shall adopt rules and regulations that specifically designate the method of imposing corporal punishment and the circumstances that warrant corporal punishment in the schools within its special school district. The rules and regulations shall provide for only corporal punishment that is reasonably necessary for the proper education of the pupil.

(b) No corporal punishment shall be imposed until the rules and regulations have been promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(c) The rules and regulations shall provide for a written record to be kept of all use of corporal punishment, including the name of the person requesting the punishment and a brief description of the circumstances warranting its use.

49-6-4404. Physical examination of student -- Student's remedies

(a) Within forty-eight (48) hours of the imposition of corporal punishment within the special school district, the pupil shall have the right to be examined by a physician to determine if the punishment was excessive.

(b) In any case in which the punishment is excessive, the pupil shall have the same civil and criminal remedies as any other pupil in the public schools.

Use of student and locker searches

STATUTES

49-6-4204. Search of lockers, vehicles, and other property

(a) When individual circumstances in a school dictate, a principal may order that vehicles parked on school property by students or visitors, containers, packages, lockers or other enclosures used for storage by students or visitors, and other areas accessible to students or visitors be searched in the principal's presence or in the presence of other members of the principal's staff.

(b) Individual circumstances requiring a search may include incidents on school property, including school buses, involving, but not limited to, the use of dangerous weapons, drugs or drug paraphernalia by students that are known to the principal or other staff members, information received from law enforcement, juvenile or other authorities indicating a pattern of drug dealing or drug use by students of that school, any assault or attempted assault on school property with dangerous weapons or any other actions or incidents known by the principal that give rise to reasonable suspicion that dangerous weapons, drugs or drug paraphernalia are held on school property by one (1) or more students.

(c) A notice shall be posted in the school that lockers and other storage areas, containers, and packages brought into the school by students or visitors are subject to search for drugs, drug paraphernalia, dangerous weapons or any property that is not properly in the possession of the student.

(d) A notice shall be posted where it is visible from the school parking lot that vehicles parked on school property by students or visitors are subject to search for drugs, drug paraphernalia or dangerous weapons.

49-6-4205. Search of persons and containers

(a) A student may be subject to physical search because of the results of a locker search, or because of information received from a teacher, staff member, student or other person if such action is reasonable to the principal.

(b) All of the following standards of reasonableness shall be met:

(1) A particular student has violated school policy;

(2) The search will yield evidence of the violation of school policy or will lead to disclosure of a dangerous weapon, drug paraphernalia or drug;

(3) The search is in pursuit of legitimate interests of the school in maintaining order, discipline, safety, supervision and education of students;

(4) The search is not conducted for the sole purpose of discovering evidence to be used in a criminal prosecution; and

(5) The search shall be reasonably related to the objectives of the search and not excessively intrusive in light of the age and sex of the student, as well as the nature of the infraction alleged to have been committed.

49-6-4207. Use of metal detectors

To facilitate a search that is found to be necessary of students, school visitors, containers or packages, metal detectors and other devices designed to indicate the presence of dangerous weapons, drug paraphernalia or drugs may be used in searches, including hand-held models that are passed over or around a student's or visitor's body, and students, visitors, containers and packages may be required to pass through a stationary detector.

49-6-4208. Use of animals

To facilitate a search that is found to be necessary, dogs or other animals trained to detect drugs or dangerous weapons by odor or otherwise may be used in conducting searches, but the animals shall be used only to pinpoint areas needed to be searched and shall not be used to search the persons of students or visitors.

49-6-4209. Report of reasonable suspicion by principal to law enforcement officer

(a) It is the duty of a school principal who has reasonable suspicion to believe, either as a result of a search or otherwise, that any student is committing or has committed any violation of title 39, chapter 17, part 4, § 39-17-1307, or § 39-17-1309 upon the school grounds or within any school building or structure under the principal's supervision, to report the reasonable suspicion to the appropriate law enforcement officer.

(b) School personnel have the duty to report any reasonable suspicion that a student is committing or has committed any violation of title 39, chapter 17, part 4 or § 39-17-1307 to the principal, or, if the principal is not available, to the principal's designee. If neither the principal nor the designee is available, school personnel may report violations of title 39, chapter 17, part 4 or § 39-17-1307 committed on school property to the appropriate authorities.

49-6-4210. Disposal of contraband

Any dangerous weapon or drug located by the principal or other staff member in the course of a search shall be turned over to the appropriate law enforcement officer for proper disposal.

49-6-4212. Training program for school principals -- Notice of policies to parents and students

(a) The LEA and the local law enforcement agency shall establish and maintain an orientation and training program designed to familiarize school principals with this part and with local policies and procedures for implementing and enforcing this part.

(b) The LEA shall provide parents and students with reasonable notice of the local policies and procedures.

49-6-4213. Testing of students for drugs -- Referral information and assistance for students testing positive

(a) (1) A student may be subject to testing for the presence of drugs in the student's body in accordance with this section and the policy of the LEA if there are reasonable indications to the principal that such student may have used or be under the influence of drugs. The need for testing may be brought to the attention of the principal through a search authorized by § 49-6-4204 or § 49-6-4205, observed or reported use of drugs by the student on school property, or other reasonable information received from a teacher, staff member or other student. All of the following standards of reasonableness shall be met:

(A) A particular student has violated school policy;

(B) The test will yield evidence of the violation of school policy or will establish that a student either was impaired due to drug use or did not use drugs;

(C) The test is in pursuit of legitimate interests of the school in maintaining order, discipline, safety, supervision and education of students;

(D) The test is not conducted for the sole purpose of discovering evidence to be used in a criminal prosecution; and

(E) Tests shall be conducted in the presence of a witness. Persons who shall act as witnesses shall be designated in the policy of the local board of education.

(2) A student participating in voluntary extracurricular activities may be subject to random drug testing in the absence of individualized reasonable suspicion provided the standards set forth in subdivisions (a)(1)(B)-(E) are met.

(b) As used in this section and § 49-6-4203, "drugs" means:

(1) Any scheduled drug as specified in §§ 39-17-405 -- 39-17-416; and

(2) Alcohol.

(c) Before a drug testing program is implemented in any LEA, the local board of education in that LEA shall establish policies, procedures and guidelines to implement this section within that LEA. The state board of education shall prepare a model policy, procedure and guidelines that may be adopted by local boards of education.

(d) Tests shall be conducted by properly trained persons in circumstances that ensure the integrity, validity and accuracy of the test results but are minimally intrusive and provide maximum privacy to the tested student. All tests shall be performed by an accredited laboratory. Specimens confirmed as positive shall be retained for at least ten (10) days for possible retesting or reanalysis.

(e) Students shall be advised in writing at the time of their enrollment that they are subject to testing. Notice to each student shall include grounds for testing, the procedures that will be followed and possible penalties. Students shall be advised of their right to refuse to undergo drug testing and the consequences of refusal.

(f) (1) A parent of the student or a person legally responsible for the student shall be notified before any drug test is administered to the student.

(2) If an LEA adopts a policy permitting random drug testing of students in voluntary extracurricular activities, then, prior to a student participating in an extracurricular activity, the LEA shall notify the parents and guardians of any such student that the student may be subjected to random drug testing. A parent or guardian of a student participating in a volunteer extracurricular activity shall provide written consent for random drug testing prior to the student participating in the voluntary extracurricular activity.

(g) The LEA shall pay the cost of any testing required under this section.

(h) In any school where LEA or school policy allows tests provided for by this section, in-service training of principals and teachers will be conducted in signs and symptoms of student drug use and abuse and in the school policy for handling of these students. The department of mental health and substance abuse services shall cause qualified trainers to be available to the schools to conduct this training.

(i) Test reports from laboratories shall include the specimen number assigned by the submitting LEA, the drug testing laboratory accession number and results of the drug tests. Certified copies of all analytical results shall be available from the laboratory when requested by the LEA or the parents of the student. The laboratory shall not be permitted to provide testing results verbally by telephone.

(j) (1) All specimens testing negative on the initial screening test or negative on the confirmatory test shall be reported as negative.

(2) If a student is tested and the results of the test are negative, all records of the test, request for a test or indication a student has been tested shall be expunged from all records, including school records.

(k) (1) If a student is tested in a drug testing program and the results of the test are positive, all records of the test, request for a test or indication a student has been tested shall be confidential student records in accordance with § 10-7-504(a)(4)(A).

(2) No student who is tested under a random drug testing program and who tests positive shall be suspended or expelled from school solely as the result of the positive test.

(3) The principal or school counselor of the school in which a student who tests positive in a drug testing program is enrolled shall provide referral information to the student and to the student's parents

or guardian. The information shall include information on inpatient, outpatient and community-based drug and alcohol treatment programs.

(l) Each LEA participating in the drug testing of students authorized in subsection (a) of this section shall promulgate policies and procedures to ensure that those students testing positive receive the assistance needed. The assistance shall include an assessment to determine the severity of the student's alcohol and drug problem and a recommendation for referral to intervention or treatment resources as appropriate. Nothing in this section shall be construed to require LEAs to administer drug tests to students. Any system that elects to participate shall supply the testing materials and any subsequent counseling within existing local funds.

(m) Malicious use of authority granted by this section may be grounds for dismissal of the person so acting.

Other in-school disciplinary approaches

No relevant statutes found.

Out-of-School and Exclusionary Discipline: Suspension, Expulsion, Restraint and Seclusion, and Alternative Placements

Grounds for possible suspension or expulsion

STATUTES

49-2-203. Duties and powers

(a) It is the duty of the local board of education to:

(7) Suspend, dismiss or alternatively place pupils, when the progress, safety or efficiency of the school makes it necessary or when disruptive, threatening or violent students endanger the safety of other students or school system employees;

49-6-3401. Suspension of students -- Expulsion of students

(a) Any principal, principal-teacher or assistant principal of any public school in this state is authorized to suspend a pupil from attendance at the school, including its sponsored activities, or from riding a school bus, for good and sufficient reasons. Good and sufficient reasons for suspension include, but are not limited to:

(1) Willful and persistent violation of the rules of the school or truancy;

(2) Immoral or disreputable conduct or vulgar or profane language;

(3) Violence or threatened violence against the person of any personnel attending or assigned to any public school;

(4) Willful or malicious damage to real or personal property of the school, or the property of any person attending or assigned to the school;

(5) Inciting, advising or counseling of others to engage in any of the acts enumerated in subdivisions (a)(1)-(4);

(6) Marking, defacing or destroying school property;

(7) Possession of a pistol, gun or firearm on school property;

(8) Possession of a knife and other weapons, as defined in § 39-17-1301 on school property;

(9) Assaulting a principal, teacher, school bus driver or other school personnel with vulgar, obscene or threatening language;

(10) Unlawful use or possession of barbital or legend drugs, as defined in § 53-10-101;

(11) Two (2) or more students initiating a physical attack on an individual student on school property or at a school activity, including travel to and from school;

(12) Making a threat, including a false report, to use a bomb, dynamite, any other deadly explosive or destructive device, including chemical weapons, on school property or at a school sponsored event;

(13) Any other conduct prejudicial to good order or discipline in any public school; and

(14) Off-campus criminal behavior that results in the student being legally charged with a felony and the student's continued presence in school poses a danger to persons or property or disrupts the educational process[...]

(c) (1) Except in an emergency, no principal, principal-teacher or assistant principal shall suspend any student until that student has been advised of the nature of the student's misconduct, questioned about it and allowed to give an explanation.

(2) Upon suspension of any student other than for in-school suspension of one (1) day or less, the principal shall, within twenty-four (24) hours, notify the parent or guardian and the director of schools or the director of schools' designee of:

(A) The suspension, which shall be for a period of no more than ten (10) days;

(B) The cause for the suspension; and

(C) The conditions for readmission, which may include, at the request of either party, a meeting of the parent or guardian, student and principal.

(3) If the suspension is for more than five (5) days, the principal shall develop and implement a plan for improving the behavior, which shall be made available for review by the director of schools upon request.

(4) (A) If, at the time of the suspension, the principal, principal-teacher or assistant principal determines that an offense has been committed that would justify a suspension for more than ten (10) days, the person may suspend a student unconditionally for a specified period of time or upon such terms and conditions as are deemed reasonable.

(B) The principal, principal-teacher or assistant principal shall immediately give written or actual notice to the parent or guardian and the student of the right to appeal the decision to suspend for more than ten (10) days. All appeals must be filed, orally or in writing, within five (5) days after receipt of the notice and may be filed by the parent or guardian, the student or any person holding a teaching license who is employed by the school system if requested by the student.

(C) The appeal from this decision shall be to the board of education or to a disciplinary hearing authority appointed by the board. The disciplinary hearing authority, if appointed, shall consist of at least one (1) licensed employee of the LEA, but no more than the number of members of the local board.

(D) The hearing shall be held no later than ten (10) days after the beginning of the suspension. The local board of education or the disciplinary hearing authority shall give written notice of the time and place of the hearing to the parent or guardian, the student and the school official designated in subdivision (c)(4)(A) who ordered the suspension. Notice shall also be given to the LEA employee referred to in subdivision (c)(4)(B) who requests a hearing on behalf of a suspended student.

(5) After the hearing, the board of education or the disciplinary hearing authority may affirm the decision of the principal, order removal of the suspension unconditionally or upon such terms and conditions as it deems reasonable, assign the student to an alternative program or night school or suspend the student for a specified period of time.

(6) If the decision is determined by a disciplinary hearing authority, a written record of the proceedings, including a summary of the facts and the reasons supporting the decision, shall be made by the disciplinary hearing authority. The student, principal, principal-teacher or assistant principal may, within five (5) days of the decision, request review by the board of education; provided, that local school board policy may require an appeal to the director of schools prior to a request for review to the board. Absent a timely appeal, the decision shall be final. The board of education, based upon a review of the record, may grant or deny a request for a board hearing and may affirm or overturn the decision of the hearing authority with or without a hearing before the board; provided, that the board may not impose a more severe penalty than that imposed by the hearing authority without first providing an opportunity for a hearing before the board. If the board conducts a hearing as a result of a request for review by a student, principal, principal-teacher or assistant principal, then, notwithstanding any provision of the open meetings laws compiled in title 8, chapter 44, or other law to the contrary, the hearing shall be closed to the public, unless the student or student's parent or guardian requests in writing within five (5) days after receipt of written notice of the hearing that the hearing be conducted as an open meeting. If

the board conducts a hearing as a result of a request for review by a student, principal, principal-teacher, or assistant principal that is closed to the public, then the board shall not conduct any business, discuss any subject or take a vote on any matter other than the appeal to be heard. Nothing in this subdivision (c)(6) shall act to exclude the department of children's services from the disciplinary hearings when the department is exercising its obligations under § 37-1-140. The action of the board of education shall be final.

(d) In the event the suspension occurs during the last ten (10) days of any term or semester, the pupil may be permitted to take final examinations or submit required work that is necessary to complete the course of instruction for that semester, subject to the action of the principal, or the final action of the board of education upon any appeal from an order of a principal continuing a suspension[[...]]

(f) Nothing in this title shall require an LEA to enroll a student who is under suspension or expelled in an LEA either in Tennessee or another state. The director of schools for the school system in which the suspended student requests enrollment shall make a recommendation to the local board of education to approve or deny the request. The recommendation shall occur only after investigation of the facts surrounding the suspension from the former school system. If the recommendation is to deny admission and if the local board approves the director of schools' recommendation, the director of schools shall, on behalf of the board of education, notify the commissioner of the decision. Nothing in this subsection (f) shall affect children in state custody or their enrollment in any LEA. Any LEA that accepts enrollment of a student from another LEA may dismiss the student if it is determined subsequent to enrollment that the student had been suspended or expelled by the other LEA.

(g) Notwithstanding this section or any other law to the contrary, a pupil determined to have brought to school or to be in unauthorized possession on school property of a firearm, as defined in 18 U.S.C. § 921, shall be expelled for a period of not less than one (1) calendar year, except that the director may modify this expulsion on a case-by-case basis. In addition to the other provisions of this part, a student committing battery upon any teacher, principal, administrator, any other employee of an LEA or school resource officer, or unlawfully possessing any drug including any controlled substance, as defined in §§ 39-17-403 -- 39-17-415, controlled substance analogue, as defined by § 39-17-454, or legend drug, as defined by § 53-10-101, shall be expelled for a period of not less than one (1) calendar year, except that the director may modify this expulsion on a case-by-case basis. For purposes of this subsection (g), "expelled" means removed from the pupil's regular school program at the location where the violation occurred or removed from school attendance altogether, as determined by the school official. Nothing in this section shall be construed to prohibit the assignment of such students to an alternative school. Disciplinary policies and procedures for all other student offenses, including terms of suspensions and expulsions, shall be determined by local board of education policy.

(h) The commissioner of education shall report on a semi-annual basis to the education committees of the senate and the house of representatives regarding disciplinary actions in Tennessee schools. The reports shall include the reason for the disciplinary action, the number of such students suspended or expelled and the number of such students who have been placed in an alternative educational setting. Data shall be sorted by school as well as by various demographic factors, including grade, race and sex.

Grounds for mandatory suspension or expulsion

STATUTES

49-6-3401. Suspension of students -- Expulsion of students

(g) Notwithstanding this section or any other law to the contrary, a pupil determined to have brought to school or to be in unauthorized possession on school property of a firearm, as defined in 18 U.S.C. § 921, shall be expelled for a period of not less than one (1) calendar year, except that the director may modify

this expulsion on a case-by-case basis. In addition to the other provisions of this part, a student committing battery upon any teacher, principal, administrator, any other employee of an LEA or school resource officer, or unlawfully possessing any drug including any controlled substance, as defined in §§ 39-17-403 -- 39-17-415, controlled substance analogue, as defined by § 39-17-454, or legend drug, as defined by § 53-10-101, shall be expelled for a period of not less than one (1) calendar year, except that the director may modify this expulsion on a case-by-case basis. For purposes of this subsection (g), "expelled" means removed from the pupil's regular school program at the location where the violation occurred or removed from school attendance altogether, as determined by the school official. Nothing in this section shall be construed to prohibit the assignment of such students to an alternative school. Disciplinary policies and procedures for all other student offenses, including terms of suspensions and expulsions, shall be determined by local board of education policy […]

Limitations, conditions, or exclusions for use of suspension and expulsion

STATUTES

49-6-3401. Suspension of students -- Expulsion of students

(c) (1) Except in an emergency, no principal, principal-teacher or assistant principal shall suspend any student until that student has been advised of the nature of the student's misconduct, questioned about it and allowed to give an explanation.

(2) Upon suspension of any student other than for in-school suspension of one (1) day or less, the principal shall, within twenty-four (24) hours, notify the parent or guardian and the director of schools or the director of schools' designee of:

(A) The suspension, which shall be for a period of no more than ten (10) days;

(B) The cause for the suspension; and

(C) The conditions for readmission, which mayinclude, at the request of either party, a meeting of the parent or guardian, student and principal.

(3) If the suspension is for more than five (5) days, the principal shall develop and implement a plan for improving the behavior, which shall be made available for review by the director of schools upon request.

(4) (A) If, at the time of the suspension, the principal, principal-teacher or assistant principal determines that an offense has been committed that would justify a suspension for more than ten (10) days, the person may suspend a student unconditionally for a specified period of time or upon such terms and conditions as are deemed reasonable.

(B) The principal, principal-teacher or assistant principal shall immediately give written or actual notice to the parent or guardian and the student of the right to appeal the decision to suspend for more than ten (10) days. All appeals must be filed, orally or in writing, within five (5) days after receipt of the notice and may be filed by the parent or guardian, the student or any person holding a teaching license who is employed by the school system if requested by the student.

(C) The appeal from this decision shall be to the board of education or to a disciplinary hearing authority appointed by the board. The disciplinary hearing authority, if appointed, shall consist of at least one (1) licensed employee of the LEA, but no more than the number of members of the local board.

(D) The hearing shall be held no later than ten (10) days after the beginning of the suspension. The local board of education or the disciplinary hearing authority shall give written notice of the time and place of the hearing to the parent or guardian, the student and the school official designated in

subdivision (c)(4)(A) who ordered the suspension. Notice shall also be given to the LEA employee referred to in subdivision (c)(4)(B) who requests a hearing on behalf of a suspended student.

(5) After the hearing, the board of education or the disciplinary hearing authority may affirm the decision of the principal, order removal of the suspension unconditionally or upon such terms and conditions as it deems reasonable, assign the student to an alternative program or night school or suspend the student for a specified period of time.

(6) If the decision is determined by a disciplinary hearing authority, a written record of the proceedings, including a summary of the facts and the reasons supporting the decision, shall be made by the disciplinary hearing authority. The student, principal, principal-teacher or assistant principal may, within five (5) days of the decision, request review by the board of education; provided, that local school board policy may require an appeal to the director of schools prior to a request for review to the board. Absent a timely appeal, the decision shall be final. The board of education, based upon a review of the record, may grant or deny a request for a board hearing and may affirm or overturn the decision of the hearing authority with or without a hearing before the board; provided, that the board may not impose a more severe penalty than that imposed by the hearing authority without first providing an opportunity for a hearing before the board. If the board conducts a hearing as a result of a request for review by a student, principal, principal-teacher or assistant principal, then, notwithstanding any provision of the open meetings laws compiled in title 8, chapter 44, or other law to the contrary, the hearing shall be closed to the public, unless the student or student's parent or guardian requests in writing within five (5) days after receipt of written notice of the hearing that the hearing be conducted as an open meeting. If the board conducts a hearing as a result of a request for review by a student, principal, principal-teacher, or assistant principal that is closed to the public, then the board shall not conduct any business, discuss any subject or take a vote on any matter other than the appeal to be heard. Nothing in this subdivision (c)(6) shall act to exclude the department of children's services from the disciplinary hearings when the department is exercising its obligations under § 37-1-140. The action of the board of education shall be final.

(d) In the event the suspension occurs during the last ten (10) days of any term or semester, the pupil may be permitted to take final examinations or submit required work that is necessary to complete the course of instruction for that semester, subject to the action of the principal, or the final action of the board of education upon any appeal from an order of a principal continuing a suspension[…]

(f) Nothing in this title shall require an LEA to enroll a student who is under suspension or expelled in an LEA either in Tennessee or another state. The director of schools for the school system in which the suspended student requests enrollment shall make a recommendation to the local board of education to approve or deny the request. The recommendation shall occur only after investigation of the facts surrounding the suspension from the former school system. If the recommendation is to deny admission and if the local board approves the director of schools' recommendation, the director of schools shall, on behalf of the board of education, notify the commissioner of the decision. Nothing in this subsection (f) shall affect children in state custody or their enrollment in any LEA. Any LEA that accepts enrollment of a student from another LEA may dismiss the student if it is determined subsequent to enrollment that the student had been suspended or expelled by the other LEA[…]

Administrative procedures related to suspension and expulsion

STATUTES

49-6-3401. Suspension of students -- Expulsion of students

(c) (1) Except in an emergency, no principal, principal-teacher or assistant principal shall suspend any student until that student has been advised of the nature of the student's misconduct, questioned about it and allowed to give an explanation.

(2) Upon suspension of any student other than for in-school suspension of one (1) day or less, the principal shall, within twenty-four (24) hours, notify the parent or guardian and the director of schools or the director of schools' designee of:

(A) The suspension, which shall be for a period of no more than ten (10) days;

(B) The cause for the suspension; and

(C) The conditions for readmission, which may include, at the request of either party, a meeting of the parent or guardian, student and principal.

(3) If the suspension is for more than five (5) days, the principal shall develop and implement a plan for improving the behavior, which shall be made available for review by the director of schools upon request.

(4) (A) If, at the time of the suspension, the principal, principal-teacher or assistant principal determines that an offense has been committed that would justify a suspension for more than ten (10) days, the person may suspend a student unconditionally for a specified period of time or upon such terms and conditions as are deemed reasonable.

(B) The principal, principal-teacher or assistant principal shall immediately give written or actual notice to the parent or guardian and the student of the right to appeal the decision to suspend for more than ten (10) days. All appeals must be filed, orally or in writing, within five (5) days after receipt of the notice and may be filed by the parent or guardian, the student or any person holding a teaching license who is employed by the school system if requested by the student.

(C) The appeal from this decision shall be to the board of education or to a disciplinary hearing authority appointed by the board. The disciplinary hearing authority, if appointed, shall consist of at least one (1) licensed employee of the LEA, but no more than the number of members of the local board.

(D) The hearing shall be held no later than ten (10) days after the beginning of the suspension. The local board of education or the disciplinary hearing authority shall give written notice of the time and place of the hearing to the parent or guardian, the student and the school official designated in subdivision (c)(4)(A) who ordered the suspension. Notice shall also be given to the LEA employee referred to in subdivision (c)(4)(B) who requests a hearing on behalf of a suspended student.

(5) After the hearing, the board of education or the disciplinary hearing authority may affirm the decision of the principal, order removal of the suspension unconditionally or upon such terms and conditions as it deems reasonable, assign the student to an alternative program or night school or suspend the student for a specified period of time.

(6) If the decision is determined by a disciplinary hearing authority, a written record of the proceedings, including a summary of the facts and the reasons supporting the decision, shall be made by the disciplinary hearing authority. The student, principal, principal-teacher or assistant principal may, within five (5) days of the decision, request review by the board of education; provided, that local school board policy may require an appeal to the director of schools prior to a request for review to the board. Absent a timely appeal, the decision shall be final. The board of education, based upon a review of the record,

may grant or deny a request for a board hearing and may affirm or overturn the decision of the hearing authority with or without a hearing before the board; provided, that the board may not impose a more severe penalty than that imposed by the hearing authority without first providing an opportunity for a hearing before the board. If the board conducts a hearing as a result of a request for review by a student, principal, principal-teacher or assistant principal, then, notwithstanding any provision of the open meetings laws compiled in title 8, chapter 44, or other law to the contrary, the hearing shall be closed to the public, unless the student or student's parent or guardian requests in writing within five (5) days after receipt of written notice of the hearing that the hearing be conducted as an open meeting. If the board conducts a hearing as a result of a request for review by a student, principal, principal-teacher, or assistant principal that is closed to the public, then the board shall not conduct any business, discuss any subject or take a vote on any matter other than the appeal to be heard. Nothing in this subdivision (c)(6) shall act to exclude the department of children's services from the disciplinary hearings when the department is exercising its obligations under § 37-1-140. The action of the board of education shall be final.

(d) In the event the suspension occurs during the last ten (10) days of any term or semester, the pupil may be permitted to take final examinations or submit required work that is necessary to complete the course of instruction for that semester, subject to the action of the principal, or the final action of the board of education upon any appeal from an order of a principal continuing a suspension[...].

(f) Nothing in this title shall require an LEA to enroll a student who is under suspension or expelled in an LEA either in Tennessee or another state. The director of schools for the school system in which the suspended student requests enrollment shall make a recommendation to the local board of education to approve or deny the request. The recommendation shall occur only after investigation of the facts surrounding the suspension from the former school system. If the recommendation is to deny admission and if the local board approves the director of schools' recommendation, the director of schools shall, on behalf of the board of education, notify the commissioner of the decision. Nothing in this subsection (f) shall affect children in state custody or their enrollment in any LEA. Any LEA that accepts enrollment of a student from another LEA may dismiss the student if it is determined subsequent to enrollment that the student had been suspended or expelled by the other LEA[...].

ADMINISTRATIVE CODE

0520-01-02-.16 Reporting Attendance Relative to Disciplinary Actions

(1) For the purposes of recording and coding student absences from school because of disciplinary actions, the following definitions shall apply:

(a) "Suspension" shall be defined as dismissal from attendance at school for any reason not more than ten (10) consecutive days. The student on suspension shall be included in ADM and will continue to be counted for funding purposes. Multiple suspensions shall not run consecutively nor shall multiple suspensions be applied to avoid expulsion from school.

(b) "Remand" shall be defined as assignment to an alternative school. The student so assigned shall be included in ADA/ADM and will continue to be counted as present for funding purposes. The State Department of Education shall establish a set of codes to be used for reporting reasons for students on remand to an alternative school.

(c) "Expulsion" shall be defined as removal from attendance for more than ten (10) consecutive days or more than fifteen (15) days in a month of school attendance. Multiple suspensions that occur consecutively shall constitute expulsion. The school district shall not be eligible to receive funding for an expelled student.

(2) Students who qualify for services under the Individuals with Disabilities Education Act, 20 U.S.C. 1400, et seq., and 34 C.F.R. 300 et seq., may be suspended, remanded, or expelled only within the provisions of said acts. Removals from school for students receiving services under the act shall not be applied in such a manner so as to constitute a pattern of exclusion of the student nor shall any change of placement occur absent the application of procedural safeguards as defined in the act.

(3) The parents or legal guardians of students who are suspended or expelled in accordance with the provisions of T.C.A. 49-6-3401 shall receive notices provided for therein.

In-school suspension

STATUTES

49-6-3401. Suspension of students -- Expulsion of students

(b) (1) Any principal, principal-teacher or assistant principal may suspend any pupil from attendance at a specific class, classes or school-sponsored activity without suspending the pupil from attendance at school pursuant to an in-school suspension policy adopted by the local board of education. Good and sufficient reasons for in-school suspension include, but are not limited to, behavior:

(A) That adversely affects the safety and well-being of other pupils;

(B) That disrupts a class or school sponsored activity; or

(C) Prejudicial to good order and discipline occurring in class, during school-sponsored activities or on the school campus.

(2) In-school suspension policies shall provide that pupils given an in-school suspension in excess of one (1) day from classes shall attend either special classes attended only by students guilty of misconduct or be placed in an isolated area appropriate for study. Students given in-school suspension shall be required to complete academic requirements[…]

(e) Students under in-school suspension shall be recorded as constituting a part of the public school attendance in the same manner as students who attend regular classes[...]

Return to school following removal

STATUTES

49-6-3402. Alternative schools for suspended or expelled students -- Mandated attendance.

[...](b) [...] All course work completed and credits earned in the alternative schools shall be transferred to and recorded in the student's home school, which shall grant credit earned and progress thereon as if earned in the home school.

[...](h) (1) LEAs establishing alternative schools or contracting for the operation of alternative schools shall develop and implement formal transition plans for the integration of students from regular schools to alternative schools and from alternative schools to regular schools. The plans shall be targeted to improve communication between regular and alternative school staff, provide professional development opportunities shared by regular school staff and alternative school staff, align curricula between regular schools and alternative schools, develop quality in-take procedures for students returning to regular school and provide student follow-up upon return to regular school.

(2) The state board of education shall adopt policies or guidelines to assist LEAs in developing transition plans.

Use of restraint and seclusion

STATUTES

49-10-1301. Short title

This part shall be known and may be cited as the "Special Education Behavioral Supports Act."

49-10-1302. Purpose of part

The purposes of this part are:

(1) To ensure that every student receiving special education services is free from the unreasonable, unsafe and unwarranted uses of isolation and restraint practices;

(2) To encourage the use of positive behavioral interventions and support methods in schools;

(3) To develop properly trained staff in order to promote positive behavioral supports that reduce dependence on isolation and restraint practices; and

(4) To ensure that teachers of students receiving special education services are properly trained to protect the student, teacher and others from physical harm, if isolation or restraint is necessary.

49-10-1303. Part definitions

For the purposes of this part, unless the context otherwise requires:

(1) "Behavior intervention training program" means a training program in positive behavioral supports, crisis intervention and the safe use of restraint and isolation;

(2) "Chemical restraint" means a medication that is prescribed to restrict a student's freedom of movement for the control of extreme violent physical behavior. Chemical restraints are medications used in addition to, or in replacement of, a student's regular drug regimen to control extreme violent physical behavior. The medications that comprise the student's regular medical regimen, including PRN medications, are not considered chemical restraints, even if their purpose is to treat ongoing behavioral symptoms;

(3) "Emergency situation" means that a child's behavior poses a threat to the physical safety of the student or others nearby;

(4) "Isolation" or "seclusion":

(A) Means the confinement of a student alone in a room with or without a door, or other enclosed area or structure pursuant to § 49-10-1305(g) where the student is physically prevented from leaving; and

(B) Does not include time-out, a behavior management procedure in which the opportunity for positive reinforcement is withheld, contingent upon the demonstration of undesired behavior; provided, that time-out may involve the voluntary separation of an individual student from others;

(5) "Isolation room" means any space, structure, or area pursuant to § 49-10-1305(g) used to isolate a student;

(6) "Mechanical restraint" means the application of a mechanical device, material or equipment attached or adjacent to the student's body, including ambulatory restraints, which the student cannot easily remove and that restrict freedom of movement or normal access to the student's body. Mechanical restraint does not include the use of restraints for medical immobilization, adaptive support, or medical protection;

(7) "Noxious substance" means the use of any defense spray or substance as defined by departmental rule;

(8) "Physical holding restraint" means the use of body contact by school personnel with a student to restrict freedom of movement or normal access to the student's body;

(9) "Positive behavioral supports" means a systematic approach using evidence-based practices to improve school environments, and to prevent and respond to problem behavior that:

(A) Is proactive and instructional, rather than reactive and punitive;

(B) Operates on the following three (3) levels:

(i) Individual;

(ii) Group or classroom; and

(iii) The whole school;

(C) Includes a system of continual data collection;

(D) Utilizes data-based decision-making;

(E) Applies research-validated positive behavioral interventions; and

(F) Improves academic and social outcomes for all students, including those with the most complex and intensive behavioral needs; and

(10) "School personnel" means an individual employed on a full-time or part-time basis by a public school.

49-10-1304. Isolation or restraint of student -- Reports and record

(a) A student receiving special education services, as defined by § 49-10-102, may be restrained or isolated only in emergency situations.

(b) Individualized education programs that provide for the use of restraint or isolation in emergency situations shall also contain a data driven functional behavior assessment and a plan for modification of the behavior developed and implemented by a qualified team of professionals.

(c) In the event that restraint or isolation is imposed on a student, it shall be imposed by:

(1) School personnel who have been certified for completing a behavior intervention training program; or

(2) Other school personnel when trained personnel are not immediately available.

(d) (1) If school personnel impose restraints or isolation in an emergency situation, the school shall immediately contact appropriate school personnel who are designated under department rules to authorize the isolation or restraint. Such school personnel authorized by department rules shall see and evaluate the student's condition within a reasonable time after the intervention and the student's parent or guardian shall be notified, orally or by written or printed communication, the same day the isolation or restraint was used. School personnel shall be held harmless for failure to notify if reasonable effort has been made to notify the student's parent or guardian in compliance with this subdivision (d)(1).

(2) If the student's individualized education program does not provide for the use of isolation or restraint for the behavior precipitating such action or if school personnel are required to use isolation or restraint over an extended period of time as determined by department rules, then an individual education program meeting shall be convened within ten (10) days following the use of the isolation or restraint. If the behavior precipitating such action also warrants a change of placement, the child will have all rights provided under applicable state and federal law.

(3) (A) School personnel may report a suspected crime by calling a law enforcement official;

(B) School personnel may file a juvenile petition against a student receiving special education, only after conducting a manifestation determination that results in a determination that the behavior that resulted in the act requiring disciplinary action was not caused by the student's disability; or

(C) A school resource officer (SRO), as defined by § 49-6-4202, may, upon witnessing an offense, take the student into custody.

(e) (1) School personnel who must isolate or restrain a student receiving special education services, as defined by § 49-10-102, shall report the incident to the school principal or the principal's designee who shall record the use of the isolation or restraint and the facts surrounding such use. The state board of education shall promulgate rules that mandate a standard reporting format to be used by LEAs.

(2) Whenever possible, an additional school staff member should serve as an observer to any act of physical restraint performed on a student to monitor the health and safety of all involved. School personnel shall maintain a continuous direct line of sight to a student who is in isolation to monitor the health and well-being of the student.

(f) To the extent possible within the local education agency's funds, the local board of education should address § 49-6-3004(c)(1) by incorporating the following components into its behavior intervention training program:

(1) Training in evidence-based techniques shown to be effective in the prevention of isolation and physical restraint;

(2) Training in evidence-based techniques shown to be effective in keeping both school personnel and students safe when imposing physical restraint or isolation;

(3) Evidence-based skills training on positive behavioral interventions and supports, conflict prevention, functional behavior assessments, de-escalation, and conflict management;

(4) Information describing state statutes, policies, rules, and procedures on restraint and isolation;

(5) Training in the identification and reporting of abuse and neglect in the school setting; and

(6) Certification for school personnel who have completed a behavior intervention training program which should be renewed on a periodic basis.

49-10-1305. Restrictions on administration of, or use of, isolation or restraint

(a) Administering a chemical restraint to a student receiving special education services, as defined by § 49-10-102, is prohibited; provided, that nothing in this subsection (a) shall prohibit the administration of a chemical restraint when administered for therapeutic purposes under the direction of a physician and with the child's parent or guardian's consent to administer such chemical restraint.

(b) Administering a noxious substance to a student receiving special education services, as defined by § 49-10-102, is prohibited.

(c) The use of any mechanical restraint on any student receiving special education services, as defined by § 49-10-102, is prohibited.

(d) Any form of life threatening restraint, including restraint that restricts the flow of air into a person's lungs, whether by chest compression or any other means, to a student receiving special education services, as defined by § 49-10-102, is prohibited.

(e) (1) The use of isolation or physical holding restraint as a means of coercion, punishment, convenience or retaliation on any student receiving special education services, as defined by § 49-10-102, is prohibited.

(2) Removing or disabling any equipment or device that a student requires, including, but not limited to, a power wheelchair, brace, augmentative communication device, or walker, as a means of coercion, punishment, convenience, or retaliation on any student receiving special education services, as defined by § 49-10-102, is prohibited.

(3)(A) The use of physical holding restraint in the following circumstances is not prohibited:

(i) The brief holding by an adult in order to calm or comfort;

(ii) The minimum contact necessary to physically escort a student from one area to another;

(iii) Assisting a student in completing a task or response if the student does not resist, or resistance is minimal in intensity or duration; or

(iv) Holding a student for a brief time in order to prevent any impulsive behavior that threatens the student's immediate safety.

(B) The school is not required to notify the student's parent or guardian pursuant to § 49-10-1304 in any of the circumstances listed in subdivision (e)(3)(A).

(f) The use of a locked door, or any physical structure, mechanism, or device that substantially accomplishes the function of locking a student in a room, structure, or area, is prohibited.

(g) Any space used as an isolation room shall be:

(1) Unlocked and incapable of being locked;

(2) Free of any condition that could be a danger to the student;

(3) Well ventilated and temperature controlled;

(4) Sufficiently lighted for the comfort and well-being of the student;

(5) Where school personnel are in continuous direct visual contact with the student at all times;

(6) At least forty square feet (40 sq. ft.); and

(7) In compliance with all applicable state and local fire, health, and safety codes.

(h) Notwithstanding this section, actions undertaken by school personnel to break up a fight or to take a weapon from a student are not prohibited; however, these acts shall be reported.

49-10-1306. Promulgation of rules and regulations

(a) Each school shall maintain all records of isolation and restraint.

(b) On a semiannual basis, using existing student-level data collection systems to the extent feasible, each school shall submit a report to the local education agency that includes:

(1) The number of incidents involving the use of isolation and restraint since the previous semiannual report;

(2) The number of instances in which the school personnel imposing physical restraint or isolation were not trained and certified;

(3) Any injuries, deaths, or property damage that occurred;

(4) The timeliness of parental notification; and

(5) Demographic information to determine whether disproportionate use of these interventions exists.

(c) The local education agency shall use the information obtained from records of isolation and restraint in developing its behavior intervention training program.

(d) The local education agency shall submit information to the department of education each year on the use of isolation and restraint in the school district.

(e) Annually, this information shall be reported to the state advisory council for the education of students with disabilities established pursuant to § 49-10-105. This information must also be made readily available to the public. The council shall use this information to report annually to the state board of education with recommendations to reduce the use of isolation and restraint in public education programs. The state board of education shall use these recommendations as well as data, documentation and reports to establish policy or strategies or both to reduce or eliminate the use of isolation and restraint in schools.

(f) The state board of education, in consultation with the departments of education, mental health and substance abuse services, intellectual and developmental disabilities, and children's services, shall promulgate rules and regulations concerning the use of isolation or restraint with students who receive special education services so that isolation or restraint is not used when such procedures are unsafe, unreasonable or unwarranted. The rules and regulations shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

49-10-1307. Training and reporting on the use of restraint and isolation

If a private school or agency contracts with an LEA to provide services for students with disabilities, then such private school or agency shall, in the contract for services, certify that the staff of the facility or program has received training in the appropriate use of restraint and isolation. Further, the contracting agency shall report to a designated LEA representative each instance of the use of restraint and isolation to accomplish the parental notification provided in this part.

ADMINISTRATIVE CODE

0520-01-09-.23 Isolation and restraint for students receiving special education services

(1) Definitions

(a) "Extended isolation" means isolation which lasts longer than one (1) minute per year of the student's age or isolation which lasts longer than the time provided in the child's individualized education program (IEP).

(b) "Extended restraint" means a physical holding restraint lasting longer than five (5) minutes or physical holding restraint which lasts longer than the time provided in the child's IEP.

(c) "Noxious substance" means a substance released in proximity to the student's face or sensitive area of the body for the purpose of limiting a student's freedom of movement or action, including but not limited to Mace and other defense sprays.

(2) Local education agencies are authorized to develop and implement training programs that include:

(a) Use of positive behavioral interventions and supports;

(b) Nonviolent crisis prevention and de-escalation;

(c) Safe administration of isolation and restraint; and

(d) Documentation and reporting requirements.

(3) Local education agencies are authorized to determine an appropriate level of training commensurate with the job descriptions and responsibilities of school personnel.

(4) Local education agencies shall develop policies and procedures governing:

(a) Personnel authorized to use isolation and restraint;

(b) Training requirements; and

(c) Incident reporting procedures.

(5) Only the principal, or the principal's designee, may authorize the use of isolation or restraint.

(6) When the use of restraint or isolation is proposed at an IEP meeting, parents/guardians shall be advised of the provisions of T.C.A. § 49-10-1301, et seq., this rule and the IDEA procedural safeguards.

(7) An IEP meeting convened pursuant to T.C.A. § 49-10-1304 may be conducted on at least twenty-four (24) hours notice to the parents.

(8) State agencies providing educational services within a residential therapeutic setting to children in their legal and physical custody shall develop and adhere to isolation andrestraint policies in such educational settings which conform to the TDMHDD (Tennessee Department of Mental Health and

Developmental Disabilities) state standards as applicable and at least one of the following national standards: ACA (American Correctional Association), COA (Council on Accreditation), CMS (Centers for Medicare & Medicaid Services), JCAHO (Joint Commission for Accreditation of Healthcare Organizations), CARF (Commission on Accreditation of Rehabilitation Facilities), as they apply in the educational environment. Development of, and adherence to, such policies shall be overseen by a licensed qualified physician or licensed doctoral level psychologist.

(9) Reports.

School personnel who must isolate or restrain a student shall report the incident to the school principal or the principal's designee. The Department of Education shall develop a report form which shall be used by school personnel when reporting isolation or restraint to the school principal or the principal's designee.

(a) The report form must include the following information:

1. Student's name, age and disability;
2. Student's school and grade level;
3. Date, time and location of the isolation or restraint;
4. Length of time student was isolated or restrained;
5. Names, job titles and signatures of the personnel who administered the isolation or restraint;
6. Whether the personnel who administered the isolation or restraint were certified for completing a behavior intervention training program;
7. Names and job titles of other personnel who observed or witnessed the isolation or restraint;
8. Name of the principal or designee who was notified following the isolation or restraint and time of notification;
9. Description of the antecedents that immediately preceded the use of isolation or restraint and the specific behavior being addressed;
10. A certification that any space used for isolation is at least forty (40) square feet;
11. A certification that school personnel are in continuous direct visual contact at all times with a student who is isolated;
12. How the isolation or restraint ended, including the student's demeanor at the cessation of the isolation or restraint;
13. Physical injury or death to the student, school personnel or both;
14. Medical care provided to the student, school personnel or both;
15. Description of property damage, if relevant; and
16. Date, time and method of parent notification.

(b) A copy of the report form must be provided to the local education agency's director of special education who shall determine whether an Individualized Education Program (IEP) Team meeting must be convened pursuant to T.C.A. § 49-10-1304.

0520-12-01-.14 Care of children with special needs

In addition to the preceding rules, if children with special needs are cared for in the center, the following rules shall be met:

(1) When children with special needs are enrolled, all reasonable and appropriate efforts shall be made to provide those children equal opportunity to participate in the same program activities as their peers.

(2) Parents or other appropriate individual identified by the parent shall provide information and, as appropriate, training to care givers regarding special needs/techniques/emergency measures, as utilized in the child's home to ensure the child's well-being.

(3) Adaptations to the environment shall be directed toward normalizing the lifestyle of the child with a disability by helping him/her become independent and develop self-help skills.

(4) Behavior management techniques or program activities which would tend to demean or isolate the child are prohibited.

(5) The program shall inform parents of any specialized services available from the program, and if the program is aware of any specialized services available through third parties, shall additionally inform the parent of such services.

(6) Efforts to provide specialized service (e.g., speech/hearing therapy, physical therapy, psychological evaluation, or services for mentally retarded) either directly or by referral, shall be conducted only with written permission by the parent in accordance with the Individual Family Service Plan (IFSP) or Individual Education Plan (IEP) and documented in the child's record. Any information exchange regarding these services that is shared with or received from third parties shall also be documented.

(7) Emergency Plans.

(a) The program shall have written individualized emergency plans for each child with a disability who requires more assistance in emergencies than other children of the same age or in the same group.

(b) The program shall maintain documentation that the Emergency Plan is practiced monthly.

(8) Each non-verbal child's daily activities, including, as applicable to the individual child, the time and amount of feeding, elimination, times of diaper changes, sleep patterns, and developmental progress, shall be recorded and shared with the parent(s) daily.

(9) Diapering of School-age Children with special needs shall be completed as required by Rule 0520-12-01-.10(14).

(10) Physical Restraint shall be in accordance with T.C.A. §§ 49-10-1301 through 1305 and rules promulgated by State Board of Education in accordance with T.C.A. § 49-10-1306.

(a) A student receiving special education services, as defined by T.C.A. § 49-10-102(4), may be or isolated, only if such restraint or isolation is provided for in the individual education program, except that such student may be restrained or isolated in emergency situations, if necessary to assure the physical safety of the student or others nearby.

(b) If school personnel impose restraints or isolation in an emergency situation, the school shall immediately contact the school principal or the principal's designee. The principal or principal's designee shall see and evaluate the student's condition within a reasonable time after the intervention and the student's parent or guardian shall be notified, orally or by written or printed communication, the same day the isolation or restraint was used.

(c) If the student's individualized education program does not provide for the use of isolation or restraint for the behavior precipitating such action or if school personnel are required to use isolation or restraint longer than five (5) minutes, then an individual education program meeting shall be convened within ten (10) days following the use of such isolation or restraint. If the behavior precipitating such action also warrants a change of placement, the child will have all rights provided under applicable state and federal law.

(d) School personnel who must isolate or restrain a student receiving special education services, as defined by T.C.A. § 49-10-102(4), whether or not such isolation or restraint was in an emergency situation or provided for in the student's individual education program, shall report the incident to the school principal or the principal's designee who shall record the use of such isolation or restraint and the facts surrounding such use. A copy of such record shall be made available at individual education program meetings and upon the request of the student's parent or legal guardian.

1. If the school principal or principal's designee or any person having knowledge of the isolation or restraint have reason to believe that such isolation or restraint was unreasonable, unsafe, or unwarranted, and such isolation or restraint caused injury to the student, the incident shall be reported pursuant to T.C.A. § 37-1-403.

2. School personnel shall remain in the physical presence of any restrained student and shall continuously observe a student who is in isolation or being restrained to monitor the health and well-being of such student.

(e) Administering a chemical restraint to a student receiving special education services, as defined by T.C.A. § 49-10-102(4), is prohibited, provided that nothing in this subsection shall prohibit the administration of a chemical restraint when administered for therapeutic purposes under the direction of a physician and with the child's parent or guardian's consent to administer such chemical restraint.

(f) Administering a noxious substance to a student receiving special education services, as defined by T.C.A. § 49-10-102(4), is prohibited.

(g) Use of any mechanical restraint on any student receiving special education services, as defined by T.C.A. § 49-10-102(4), is prohibited.

(h) Any form of life threatening restraint, including restraint that restricts the flow of air into a person's lungs, whether by chest compression or any other means, to a student receiving special education services, as defined by § 49-10-102(4), is prohibited.

(i) The use of isolation or physical holding restraint as a means of coercion, punishment, convenience or retaliation on any student receiving special education services, as defined by T.C.A. § 49-10-102(4), is prohibited.

(j) The use of physical holding restraint in the following circumstances is not prohibited:

1. The brief holding by an adult in order to calm or comfort;

2. The minimum contact necessary to physically escort a student from one area to another;

3. Assisting a student in completing a task or response if the student does not resist, or resistance is minimal in intensity or duration; or

4. Holding a student for a brief time in order to prevent any impulsive behavior that threatens the student's immediate safety.

5. The program is not required to notify the student's parent or guardian pursuant to Section 10(b) above in any of the circumstances listed in this subdivision (j).

(k) The use of a locked door, or use of any physical structure that substantially accomplishes the intent of locking a student in a room or structure, to isolate or seclude a student, is prohibited.

(l) Local education agencies shall develop policies and procedures, in accordance with 0520-01-09-.23, governing:

1. Personnel authorized to use isolation and restraint;

2. Training requirements; and

3. Incident reporting procedures.

(m) Notwithstanding any provision of this section, actions undertaken by school personnel to break up a fight or to take a weapon from a student are not prohibited; however, these acts shall be reported.

Alternative placements

STATUTES

49-6-3402. Alternative schools for suspended or expelled students -- Mandated attendance.

(a) Local boards of education may establish alternative schools for students in grades one through six (1-6) who have been suspended or expelled from the regular school program. At least one (1) alternative school shall be established and available for students in grades seven through twelve (7-12) who have been suspended or expelled as provided in this part. In providing alternative schools, any two (2) or more boards may join together and establish a school attended by students of any such school system; furthermore, any board may, by mutually acceptable agreement with another board, send its suspended or expelled students to any alternative school already in operation.

(b) Alternative schools shall be operated pursuant to rules of the state board of education pertaining to them, and instruction shall proceed as nearly as practicable in accordance with the instructional programs at the student's home school. All course work completed and credits earned in the alternative schools shall be transferred to and recorded in the student's home school, which shall grant credit earned and progress thereon as if earned in the home school.

(c) Attendance in an alternative school shall be voluntary unless the local board of education adopts a policy mandating attendance in either instance. The student shall be subject to all rules pertaining thereto. A violation of the rules by a student may result in the student's removal from this school for the duration of the original suspension or expulsion, but shall not constitute grounds for any extension of the original suspension or expulsion. The final decision on removal shall be made by the chief administrator of the alternative school.

(d) Any student attending an alternative school shall continue to earn state education funds in the student's home school system and shall be counted for all school purposes by that system as if still in attendance there.

(e) A pupil who has been properly found to be eligible for special education and related services shall be placed and served in accordance with the laws and rules relating to special education.

(f) (1) The state board of education, in its rules and regulations for the operation of alternative schools, shall require documentation of the reasons for a student attending an alternative school and provide safeguards to assure that no child with disabilities or other special student is arbitrarily placed in an alternative school. The state board of education, in its rules and regulations, shall require that all alternative school classrooms have working two-way communication systems making it possible for teachers or other employees to notify a principal, supervisor or other administrator that there is an emergency. Teachers and other employees shall be notified of emergency procedures prior to the beginning of classes for any school year.

(2) The state board of education shall provide a curriculum for alternative schools to ensure students receive specialized attention needed to maximize student success. Alternative schools shall offer alternative learning environments in which students are offered a variety of educational opportunities, such as learning at different rates of time or utilizing different, but successful, learning strategies, techniques and tools.

(g) Notwithstanding this section or other law to the contrary, local boards of education may establish evening alternative schools for students in grades six through twelve (6-12).

(h) (1) LEAs establishing alternative schools or contracting for the operation of alternative schools shall develop and implement formal transition plans for the integration of students from regular schools to alternative schools and from alternative schools to regular schools. The plans shall be targeted to improve communication between regular and alternative school staff, provide professional development

opportunities shared by regular school staff and alternative school staff, align curricula between regular schools and alternative schools, develop quality in-take procedures for students returning to regular school and provide student follow-up upon return to regular school.

(2) The state board of education shall adopt policies or guidelines to assist LEAs in developing transition plans.

49-6-3405. Alternative school success

(a) Each LEA shall track the operation and performance of alternative school programs operated by the LEA or contractually operated for the LEA. LEAs shall measure and report to the department of education alternative school success through academic indicators and behavior indicators.

(1) Academic indicators shall include, but not be limited to, grade point averages or other student academic performance measures, performance on the Tennessee comprehensive assessment program (TCAP), performance on the end-of-course assessments, attendance, dropout rates and graduation rates, for students in alternative schools or who have been in alternative schools.

(2) Behavioral indicators shall include, but not be limited to, disciplinary reports and subsequent remands to alternative schools.

(3) The department of education shall provide guidance in the reporting of the required data.

(b) The state board of education shall seek to improve performance of alternative school programs by promulgating or revising rules and regulations requiring greater accountability by the department of education and LEAs for outcomes of students served by alternative schools.

ADMINISTRATIVE CODE

0520-01-02-.09 Alternative Schools

(1) Definition: An alternative school is a short term intervention program designed to develop academic and behavioral skills for students who have been suspended or expelled from the regular school program.

(2) Requirements:

(a) The instruction shall be as nearly as practicable in accordance with the instructional program in the student's regular school.

(b) All course work and credits earned shall be transferred and recorded in the student's regular school.

(c) Students are subject to all rules of the school system providing the alternative school. Violation of rules may cause students to be removed from the program but shall not constitute grounds for extending the length of original suspension or expulsion.

(d) All laws, rules, and regulations shall be followed with children eligible for special education. If a change of placement is made, due process procedures are mandated.

(e) Reasons for placement in an alternative school must be documented. End of year reports must be made to the regular school for each student.

(f) Teachers must have a valid Tennessee teacher license.

(g) Support services such as counseling and psychological services must be accessible.

(h) All alternative school classrooms shall have working two-way communication systems that make it possible for teachers or other employees to notify a principal, supervisor, or other administrator that there is an emergency.

(i) It is the responsibility of the superintendent to insure that all alternative school teachers and other employees have been trained to use the two-way communication system and are notified of emergency procedures prior to the beginning of classes for any school year and when changes are made in the

emergency procedures and/or personnel. Such emergency procedures shall be linked to the school and school system emergency preparedness plan.

(3) Funding.

(a) Students attending an alternative school shall continue to earn state education funds in the regular school system.

(b) Other state funding shall be made according to a formula developed annually by State Commissioner of Education.

(4) Facilities:

(a) A local board of education may not contract or otherwise affiliate with an alternative school program which requires an order of a court as a precondition of placement in such alternative school.

(b) A local board of education may contract with independent contractors to provide alternative school facilities and other appropriate services consistent with T.C.A. § 49-2-203(a)2).

(c) A local board of education may establish its own facility.

(d) Two or more boards may join together and establish an alternative school attended by students from any such system.

(e) Through a mutually accepted agreement with another local board of education, a board may send its suspended or expelled students to an alternative school already existing in another school system.

Disciplinary Approaches Addressing Specific Infractions and Conditions

Firearms (as required by the Guns-Free Schools Act)

STATUTES

49-6-3401. Suspension of students -- Expulsion of students

(g) Notwithstanding this section or any other law to the contrary, a pupil determined to have brought to school or to be in unauthorized possession on school property of a firearm, as defined in 18 U.S.C. § 921, shall be expelled for a period of not less than one (1) calendar year, except that the director may modify this expulsion on a case-by-case basis. In addition to the other provisions of this part, a student committing battery upon any teacher, principal, administrator, any other employee of an LEA or school resource officer, or unlawfully possessing any drug including any controlled substance, as defined in §§ 39-17-403 -- 39-17-415, controlled substance analogue, as defined by § 39-17-454, or legend drug, as defined by § 53-10-101, shall be expelled for a period of not less than one (1) calendar year, except that the director may modify this expulsion on a case-by-case basis. For purposes of this subsection (g), "expelled" means removed from the pupil's regular school program at the location where the violation occurred or removed from school attendance altogether, as determined by the school official. Nothing in this section shall be construed to prohibit the assignment of such students to an alternative school. Disciplinary policies and procedures for all other student offenses, including terms of suspensions and expulsions, shall be determined by local board of education policy[...]

49-6-4216. School policies and procedures -- Contents -- Zero tolerance policy -- Notice to students and parents

(a) Each local and county board of education shall file annually with the commissioner of education written policies and procedures developed and adopted by the board:

(1) To ensure safe and secure learning environments free of drugs, drug paraphernalia, violence and dangerous weapons; and

(2) To impose swift, certain and severe disciplinary sanctions on any student:

(A) Who brings a drug, drug paraphernalia or a dangerous weapon onto a school bus, onto school property or to any school event or activity; or

(B) Who, while on a school bus, on school property or while attending any school event or activity:

(i) Is under the influence of a drug;

(ii) Possesses a drug, drug paraphernalia or dangerous weapon; or

(iii) Assaults or threatens to assault a teacher, student or other person.

(b) (1) It is the legislative intent that any rule or policy designated as a zero tolerance policy means that violations of that rule or policy will not be tolerated, and that violators will receive certain, swift and reasoned punishment. Reasoned punishment may include a spectrum of disciplinary measures designed to correct student misbehavior and promote student respect and compliance with codes of conduct and board policies. A zero tolerance violation shall not necessarily result in a presumptive one (1) calendar year expulsion except for those types of student misconduct set forth in § 49-6-3401(g). It is the legislative intent that the local school boards shall retain responsibility for development of disciplinary policies and student codes of conduct including assurances that students are afforded fair due process procedures. Nothing in this section shall be construed to prohibit assignment to an

alternative school for those students under suspension or expulsion including students engaging in misconduct set forth in § 49-6-3401(g).

(2) Nothing in this section shall be construed to alter, diminish or supersede the director's authority to modify expulsion on a case-by-case basis under § 49-6-3401(g).

Other weapons

STATUTES

49-6-3401. Suspension of students -- Expulsion of students

(g) Notwithstanding this section or any other law to the contrary, a pupil determined to have brought to school or to be in unauthorized possession on school property of a firearm, as defined in 18 U.S.C. § 921, shall be expelled for a period of not less than one (1) calendar year, except that the director may modify this expulsion on a case-by-case basis. In addition to the other provisions of this part, a student committing battery upon any teacher, principal, administrator, any other employee of an LEA or school resource officer, or unlawfully possessing any drug including any controlled substance, as defined in §§ 39-17-403 -- 39-17-415, controlled substance analogue, as defined by § 39-17-454, or legend drug, as defined by § 53-10-101, shall be expelled for a period of not less than one (1) calendar year, except that the director may modify this expulsion on a case-by-case basis. For purposes of this subsection (g), "expelled" means removed from the pupil's regular school program at the location where the violation occurred or removed from school attendance altogether, as determined by the school official. Nothing in this section shall be construed to prohibit the assignment of such students to an alternative school. Disciplinary policies and procedures for all other student offenses, including terms of suspensions and expulsions, shall be determined by local board of education policy[...]

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(B) Who, while on a school bus, on school property or while attending any school event or activity:

(i) Is under the influence of a drug;

(ii) Possesses a drug, drug paraphernalia or dangerous weapon; or

(iii) Assaults or threatens to assault a teacher, student or other person.

(b) (1) It is the legislative intent that any rule or policy designated as a zero tolerance policy means that violations of that rule or policy will not be tolerated, and that violators will receive certain, swift and reasoned punishment. Reasoned punishment may include a spectrum of disciplinary measures designed to correct student misbehavior and promote student respect and compliance with codes of conduct and board policies. A zero tolerance violation shall not necessarily result in a presumptive one (1) calendar year expulsion except for those types of student misconduct set forth in § 49-6-3401(g). It is the legislative intent that the local school boards shall retain responsibility for development of disciplinary policies and student codes of conduct including assurances that students are afforded fair due process procedures. Nothing in this section shall be construed to prohibit assignment to an

alternative school for those students under suspension or expulsion including students engaging in misconduct set forth in § 49-6-3401(g).

(2) Nothing in this section shall be construed to alter, diminish or supersede the director's authority to modify expulsion on a case-by-case basis under § 49-6-3401(g).

Students with chronic disciplinary issues

No relevant statutes found.

Attendance and truancy

STATUTES

49-6-3007. Attendance and truancy reports -- Enforcement of compulsory attendance

(a) On or before the beginning of the school term each year, the director of schools of each school district shall furnish to the principal teacher in each school, or cause to be furnished, through any duly elected attendance teacher, as provided in this part, the names of children depending on their schools for instruction, together with the names of the parents or guardians of the children, the lists to be taken from the census enumeration on file in the office of the director of schools, or from any other available and reliable sources.

(b) It is the duty of every principal or teacher of a public school to report to the director of schools, immediately after the opening of school, the names of all children on the list furnished to the director of schools who have not appeared for enrollment.

(c) It is the duty of the principals and teachers of all schools, public, private, denominational or parochial, to report in writing to the director of schools of the system in which the school is located the names, ages and residences of all pupils in attendance at their schools and classes within thirty (30) days after the beginning of the school year, and to make such other reports of attendance in their schools or classes, including transfers of pupils, as may be required by rule or regulation of the local board of education and of the state board of education. Notwithstanding subsection (g), this subsection (c) shall apply to any child less than six (6) years of age who is enrolled in any school to which this subsection (c) is applicable.

(d) All public, private and parochial schools shall keep daily reports of attendance, verified by the teacher making the record, which shall be open to inspection at all reasonable times, to the director of schools of the system in which the school is located or to the director of schools' duly authorized representative. Notwithstanding subsection (g), this subsection (d) shall apply to any child less than six (6) years of age who is enrolled in any school to which this subsection (d) is applicable.

(e) (1) It is the duty of the principal or teacher of every public, private or parochial school to report promptly to the director of schools, or the director of schools' designated representative, the names of all children who have withdrawn from school, or who have been absent five (5) days without adequate excuse. This means an aggregate of five (5) days during the school year and not necessarily five (5) consecutive days. Each successive accumulation of five (5) unexcused absences by a student shall also be reported.

(2) The director of schools shall thereupon serve, or cause to be served, upon the parent, guardian or other person in this state in parental relation to such children unlawfully absent from school, written notice that attendance of the children at school is required. A new notice shall be sent after each successive accumulation of five (5) unexcused absences.

(3) If it appears that, within three (3) days after receipt of the notice, any child, parent, guardian or other person in parental relation has failed to comply with this part, the director of schools, in the name of the

local school system, shall report the facts of the unlawful attendance to the sheriff, constable, city police officer, district attorney general or the foreman of the grand jury, who shall proceed against the parent, guardian or other person in parental relation in accordance with this part, unless the parent, guardian or person having charge and control of the child shall at once place the child in some day school.

(f) The director of schools of any local school system, after written notice to the parent or guardian of a child, shall report any child who is habitually and unlawfully absent from school to the appropriate judge having juvenile jurisdiction in that county, each case to be dealt with in such manner as the judge may determine to be in the best interest of the child, consistent with §§ 37-1-132, 37-1-168 and 37-1-169 and in the event the child is adjudicated to be unruly, the judge may assess a fine of up to fifty dollars ($50.00) or five (5) hours of community service, in the discretion of the judge, against the parents or legal guardians of children in kindergarten through grade twelve (K-12) if the child is absent more than five (5) days during any school year.

(g) Except as otherwise provided by § 49-6-3001 or § 49-6-3005, this section shall be applicable to children less than six (6) years of age and their parent, guardian or other person in a parental relation when the parent, guardian or other person in a parental relation has enrolled the child in any school that receives funding based on average daily membership; provided, that a child may be withdrawn within six (6) weeks of initial enrollment without penalty.

(h) For the purposes of this part, for recording and coding student absences from school because of disciplinary actions, the following definitions shall apply:

(1) "Expulsion" is defined as removal from attendance for more than ten (10) consecutive days or more than fifteen (15) days in a month of school attendance. Multiple suspensions that occur consecutively shall constitute expulsion. The school district shall not be eligible to receive funding for an expelled student;

(2) "Remand" is defined as assignment to an alternative school. The student so assigned shall be included in ADA/ADM and will continue to be counted as present for funding purposes. The department of education shall establish a set of codes to be used for reporting reasons for students on remand to an alternative school; and

(3) "Suspension" is defined as dismissed from attendance at school for any reason not exceeding ten (10) consecutive days. Multiple suspensions shall not run consecutively nor shall multiple suspensions be applied to avoid expulsion from school. The school district shall remain eligible to receive funding for a suspended student.

(i) (1) (A) An LEA may enter into an agreement with the local law enforcement agency serving the area of the LEA and the appropriate local government in that area to assist in the enforcement of compulsory attendance upon complying with the following conditions:

(i) Creation by the local school board of an advisory council to assist the board in formulating the agreement. The board shall include representatives of teachers, parents, administrators and other community representatives;

(ii) Receipt of input from neighborhood groups and other interested parties;

(iii) At least one (1) public hearing on the proposed plan prior to its adoption by the board;

(iv) Provisions for training teachers, principals, social workers and other personnel involved in the schools in truancy issues;

(v) Provisions for assuring the training of involved law enforcement personnel in provisions of the truancy law, including categories of students to which the law does not apply, such as private school students or home school students; and

(vi) Inclusion in the agreement of safeguards to protect students from discriminatory or selective enforcement and to protect the civil rights of students and parents.

(B) If such an agreement is entered into, then it shall be the duty of the principal or teacher of every public school to report promptly to the director of schools, or the director of schools' designated representative, the names of all children who have been absent two (2) days without adequate excuse and shall continue to report each subsequent absence without adequate excuse. This means an aggregate of two (2) days during the school year and not necessarily two (2) consecutive days.

(2) The director of schools shall thereupon serve, or cause to be served, upon the parent, guardian or other person in this state in parental relation to the children unlawfully absent from school, written notice that attendance of the children at school is required and of the provisions of this subsection (i).

(3) Under the provisions of such an agreement, and for purposes of this section and § 37-1-102(b)(25)(A)(i), a student who has been absent an aggregate three (3) days without adequate excuse may be deemed habitually truant.

(4) The director of schools or director of schools' representative may issue a list of such truant students to the local law enforcement agency for the purpose of allowing the law enforcement agency to take the student into temporary custody when the student is found away from the school premises during school hours, in a public place, in any public or private conveyance or in any public place of business open to the public, without adequate excuse, unless accompanied by a parent, foster parent or legal guardian. The agreement shall further specify that the law enforcement officer's sole function shall be to deliver the child to:

(A) The parent, foster parent, legal guardian or other person having control or custody of the child;

(B) The principal of the school in which the child is enrolled;

(C) A truancy center established by the LEA; or

(D) The juvenile court, if there has been a local interagency agreement entered into by the juvenile court and the local law enforcement agency.

(5) The powers conferred under such agreements may be exercised without warrant and without subsequent legal proceedings.

(6) This subsection (i) shall not apply to students enrolled in home or nonpublic schools in accordance with § 49-6-3050 or § 49-50-801.

(7) Upon issuance of a standing order by the juvenile court, LEA officials shall be allowed to release student record information to local law enforcement agencies and to juvenile justice system officials to assist the officials in effectively serving the student whose record is released. Officials and authorities receiving the information shall not disclose the information to any other party without prior written consent of the parent.

49-6-3008. Truancy -- Inspections and investigations

(a) The director of schools of any local school system, or the director of schools' designated representative, has the right to visit and enter any office, factory or business house employing children belonging to schools within the director of schools' jurisdiction and to require properly attested certificates of attendance or employment permit of any child in a day school or a valid work permit for the child.

(b) When reasonable doubt exists as to the age of any child who violates this part, the director of schools or the director of schools' designated representative shall require satisfactory proof of age.

(c) Any parent, guardian or other person having charge or control of any child embraced within this part who makes a false statement concerning the age of the child or the time that the child has attended school commits a Class C misdemeanor.

49-6-3009. Penalty for violations -- Alternative program

(a) Any parent, guardian or other person who has control of a child, or children, and who violates this part commits educational neglect, which shall be a Class C misdemeanor.

(b) Each day's unlawful absence constitutes a separate offense.

(c) As an alternative to prosecution for educational neglect, at the prosecutor's discretion, parents, guardians or any other person who has control of a child or children against whom a petition of truancy has been brought for being absent more than five (5) days during the school year, may participate in parent education training and parent-teacher conferences. The prosecutor may provide the parent, guardian or other person with the option to participate in such alternative program prior to filing the criminal charge. Failure of the parent, guardian or other person to timely respond to such option shall result in the revocation of the option and immediate filing of the criminal charge.

Substance use

STATUTES

49-2-116. School safety zones

(a) Any county or municipality is authorized to establish school safety zones.

(b) As used in this section, unless the content otherwise requires:

(1) "School" means any public or private elementary, secondary or state technology center; and

(2) "School property" means all property used for school purposes, including, but not limited to, school playgrounds.

(c) A school safety zone is the territory located within one thousand feet (1,000') of school property.

(d) The director of schools, with the approval of the board of education, may develop a method of marking school safety zones, including the use of signs. Signs or other markings shall be located in a visible manner on or near each school indicating that such area is a school safety zone, that such zone extends one thousand feet (1,000') from school property and that the delivery or sale of a controlled substance or controlled substance analogue to a minor in the school safety zone will subject the offender to an enhanced punishment. The state board of education shall assist the LEA in complying with the posting provisions of this subsection (d).

49-6-3401. Suspension of students -- Expulsion of students

(g) Notwithstanding this section or any other law to the contrary, a pupil determined to have brought to school or to be in unauthorized possession on school property of a firearm, as defined in 18 U.S.C. § 921, shall be expelled for a period of not less than one (1) calendar year, except that the director may modify this expulsion on a case-by-case basis. In addition to the other provisions of this part, a student committing battery upon any teacher, principal, administrator, any other employee of an LEA or school resource officer, or unlawfully possessing any drug including any controlled substance, as defined in §§ 39-17-403 -- 39-17-415, controlled substance analogue, as defined by § 39-17-454, or legend drug, as defined by § 53-10-101, shall be expelled for a period of not less than one (1) calendar year, except that the director may modify this expulsion on a case-by-case basis. For purposes of this subsection (g), "expelled" means removed from the pupil's regular school program at the location where the violation occurred or removed from school attendance altogether, as determined by the school official. Nothing in this section shall be construed to prohibit the assignment of such students to an alternative school. Disciplinary policies and procedures for all other student offenses, including terms of suspensions and expulsions, shall be determined by local board of education policy[...]

49-6-4202. Part definitions

As used in this part, unless the context otherwise requires:

(1) "Dangerous weapon" or "weapon" means any dangerous instrument or substance that is capable of inflicting any injury on any person;

(2) "Drug" means any controlled substance, controlled substance analogue, marijuana, alcohol, legend drug or any other substance the possession or use of which is regulated in any manner by any governmental authority, including the school system;

(3) "Drug paraphernalia" means all equipment, products and materials of any kind that are used, intended for use or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a drug, as defined in subdivision (2). An electronic pager in the possession of a student shall be included in this definition if used or intended for use as defined by this subdivision (3)[...]

49-6-4216. School policies and procedures -- Contents -- Zero tolerance policy -- Notice to students and parents

(a) Each local and county board of education shall file annually with the commissioner of education written policies and procedures developed and adopted by the board:

(1) To ensure safe and secure learning environments free of drugs, drug paraphernalia, violence and dangerous weapons; and

(2) To impose swift, certain and severe disciplinary sanctions on any student:

(A) Who brings a drug, drug paraphernalia or a dangerous weapon onto a school bus, onto school property or to any school event or activity; or

(B) Who, while on a school bus, on school property or while attending any school event or activity:

(i) Is under the influence of a drug;

(ii) Possesses a drug, drug paraphernalia or dangerous weapon; or

(iii) Assaults or threatens to assault a teacher, student or other person.

(b) (1) It is the legislative intent that any rule or policy designated as a zero tolerance policy means that violations of that rule or policy will not be tolerated, and that violators will receive certain, swift and reasoned punishment. Reasoned punishment may include a spectrum of disciplinary measures designed to correct student misbehavior and promote student respect and compliance with codes of conduct and board policies. A zero tolerance violation shall not necessarily result in a presumptive one (1) calendar year expulsion except for those types of student misconduct set forth in § 49-6-3401(g). It is the legislative intent that the local school boards shall retain responsibility for development of disciplinary policies and student codes of conduct including assurances that students are afforded fair due process procedures. Nothing in this section shall be construed to prohibit assignment to an alternative school for those students under suspension or expulsion including students engaging in misconduct set forth in § 49-6-3401(g).

(2) Nothing in this section shall be construed to alter, diminish or supersede the director's authority to modify expulsion on a case-by-case basis under § 49-6-3401(g).

Bullying, harassment, or hazing

STATUTES

39-17-308. Harassment

(a) A person commits an offense who intentionally:

(1) Threatens, by telephone, in writing or by electronic communication, including, but not limited to, text messaging, facsimile transmissions, electronic mail or Internet services, to take action known to be unlawful against any person and by this action knowingly annoys or alarms the recipient;

(2) Places one (1) or more telephone calls anonymously, or at an hour or hours known to be inconvenient to the victim, or in an offensively repetitious manner, or without a legitimate purpose of communication, and by this action knowingly annoys or alarms the recipient;

(3) Communicates by telephone to another that a relative or other person has been injured, killed or is ill when the communication is known to be false; or

(4) Communicates with another person or transmits or displays an image without legitimate purpose with the intent that the image is viewed by the victim by any method described in subdivision (a)(1) and the person:

(A) Maliciously intends the communication to be a threat of harm to the victim; and

(B) A reasonable person would perceive the communication to be a threat of harm.

(b) (1) A person convicted of a criminal offense commits an offense if, while incarcerated, on pre-trial diversion, probation, community correction or parole, the person intentionally communicates in person with the victim of the person's crime if the communication is:

(A) Anonymous or threatening or made in an offensively repetitious manner or at hours known to be inconvenient to the victim;

(B) Made for no legitimate purpose; and

(C) Made knowing that it will alarm or annoy the victim.

(2) If the victim of the person's offense died as the result of the offense, the provisions of this subsection (b) shall apply to the deceased victim's next-of-kin.

(c) Except as provided in subsection (d), a violation of subsection (a) is a Class A misdemeanor. A violation of subsection (b) is a Class E felony.

(d) (1) A violation by a minor of subdivision (a)(4) is a delinquent act and shall be punishable only by up to thirty (30) hours of community service, without compensation, for charitable or governmental agencies as determined by the court.

(2) The offense described in subdivision (a)(4) shall not apply to an entity providing an electronic communications service to the public acting in the normal course of providing that service.

(3) (A) The service providers described in subdivision (d)(2) shall not be required to maintain any record not otherwise kept in the ordinary course of that service provider's business; provided, however, that if any electronic communications service provider operates a web site that offers a social network service and the electronic communications service provider provides services to consumers in this state, any log files and images or communications that have been sent, posted or displayed on the social network service's web site and maintained by the electronic communications service provider shall be disclosed to any governmental entity responsible for enforcing subdivision (a)(4) only if the governmental entity:

(i) Obtains a warrant issued using this state's warrant procedures by a court of competent jurisdiction;

(ii) Obtains a court order for the disclosure under subdivision (d)(3)(C); or

(iii) Has the consent of the person who sent, posted or displayed any log files and images or communications on the social network service's web site maintained by the electronic communications service provider.

(B) No cause of action shall lie in any court against any provider of an electronic communications service, its officers, employees, agents, or other specified persons for providing information, facilities, or assistance in accordance with the terms of a court order or warrant.

(C) A court order for disclosure under subdivision (d)(3)(A)(ii) may be issued by any court that is a court of competent jurisdiction and shall issue only if the governmental entity offers specific and articulable facts showing that there are reasonable grounds to believe that the contents of an electronic communication, or the records or other information sought, are relevant and material to an ongoing criminal investigation. A court order shall not issue if prohibited by the law of this state. A court issuing an order pursuant to this section, on a motion made promptly by the service provider, may quash or modify the order, if the information or records requested are unusually voluminous in nature or compliance with the order otherwise would cause an undue burden on the provider.

(e) As used in this section:

(1) "Electronic communications service" means any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectronic or photooptical system;

(2) "Image" includes, but is not limited to, a visual depiction, video clip or photograph of another person;

(3) "Log files" mean computer-generated lists that contain various types of information regarding the activities of a computer, including, but not limited to, time of access to certain records, processes running on a computer or the usage of certain computer resources; and

(4) "Social network" means any online community of people who share interests and activities, or who are interested in exploring the interests and activities of others, and which provides ways for users to interact.

49-2-120. Prohibition against hazing

(a) As used in this section, unless the context otherwise requires, "hazing" means any intentional or reckless act in this state, on or off LEA property, by one (1) student acting alone or with others, that is directed against any other student, that endangers the mental or physical health or safety of that student or that induces or coerces a student to endanger that student's mental or physical health or safety. "Hazing" does not include customary athletic events or similar contests or competitions and is limited to those actions taken and situations created in connection with initiation into or affiliation with any organization.

(b) The governing body of each LEA shall adopt a written policy prohibiting hazing by any student or organization operating under the sanction of the LEA. The policy shall be distributed or made available to each student at the beginning of each school year. During the first month of each new school year, time shall be set aside to specifically discuss the policy and its ramifications as a criminal offense and the penalties that may be imposed by the LEA.

49-6-1015. Definitions for §§ 49-6-1014 -- 49-6-1019

(a) As used in § 49-6-1014, this section and §§ 49-6-1016 -- 49-6-1019:

(1) "Cyber-bullying" means bullying undertaken through the use of electronic devices;

(2) "Electronic devices" include, but are not limited to, telephones, cellular phones or other wireless telecommunication devices, personal digital assistants (PDAs), computers, electronic mail, instant messaging, text messaging, and web sites;

(3) "Harassment, intimidation or bullying" means any act that substantially interferes with a student's educational benefits, opportunities or performance; and:

(A) If the act takes place on school grounds, at any school-sponsored activity, on school-provided equipment or transportation or at any official school bus stop, the act has the effect of:

(i) Physically harming a student or damaging a student's property;

(ii) Knowingly placing a student or students in reasonable fear of physical harm to the student or damage to the student's property;

(iii) Causing emotional distress to a student or students; or

(iv) Creating a hostile educational environment; or

(B) If the act takes place off school property or outside of a school-sponsored activity, it is directed specifically at a student or students and has the effect of creating a hostile educational environment or otherwise creating a substantial disruption to the education environment or learning process.

49-6-1016. Development of policy regarding harassment, intimidation, bullying or cyber-bullying

(a) Each school district shall adopt a policy prohibiting harassment, intimidation, bullying or cyber-bullying. School districts are encouraged to develop the policy after consultation with parents and guardians, school employees, volunteers, students, administrators and community representatives.

(b) School districts shall include in the policies:

(1) A statement prohibiting harassment, intimidation, bullying or cyber-bullying;

(2) A definition of harassment, intimidation, bullying or cyber-bullying;

(3) A description of the type of behavior expected from each student;

(4) A statement of the consequences and appropriate remedial action for a person who commits an act of harassment, intimidation, bullying or cyber-bullying;

(5) A procedure for reporting an act of harassment, intimidation, bullying or cyber-bullying, including a provision that permits a person to report an act of harassment, intimidation, bullying or cyber-bullying anonymously. Nothing in this section may be construed to permit formal disciplinary action solely on the basis of an anonymous report;

(6) A procedure for prompt investigation of a report of an act of harassment, intimidation, bullying or cyber-bullying;

(7) A statement of the manner in which a school district shall respond after an act of harassment, intimidation, bullying or cyber-bullying is reported, investigated and confirmed;

(8) A statement of the consequences and appropriate remedial action for a person found to have committed an act of harassment, intimidation, bullying or cyber-bullying;

(9) A statement prohibiting reprisal or retaliation against any person who reports an act of harassment, intimidation, bullying or cyber-bullying and stating the consequences and appropriate remedial action for a person who engages in such reprisal or retaliation;

(10) A statement of the consequences and appropriate remedial action for a person found to have falsely accused another of having committed an act of harassment, intimidation, bullying or cyber-bullying as a means of reprisal or retaliation or as a means of harassment, intimidation, bullying or cyber-bullying;

(11) A statement of how the policy is to be publicized within the district, including a notice that the policy applies to behavior at school-sponsored activities;

(12) The identification by job title of school officials responsible for ensuring that the policy is implemented; and

(13) A procedure for discouraging and reporting conduct aimed at defining a student in a sexual manner or conduct impugning the character of a student based on allegations of sexual promiscuity.

(c) (1) Each LEA shall, at the beginning of each school year, provide teachers and school counselors a copy of the policy along with information on the policy's implementation, bullying prevention and strategies to address bullying and harassment when it happens. In addition, each LEA shall provide training to teachers and counselors regarding the policy and appropriate procedures relative to implementation of the policy. The department of education shall provide guidelines for such training and provide recommendations of appropriate, available and free bullying and harassment prevention resources.

(2) Each LEA shall also:

(A) At the beginning of the school year, make available to students and parents information relative to bullying prevention programs to promote awareness of the harmful effects of bullying and to permit discussion with respect to prevention policies and strategies;

(B) Beginning August 1, 2013, and annually thereafter, prepare and provide to the department of education a report concerning the number of bullying cases brought to the attention of school officials during the preceding year and the manner in which they were resolved or the reason they are still pending.

(3) The department shall annually submit a report to the education committees of the house of the representatives and the senate updating membership on the number of bullying cases reported statewide, the number of LEAs implementing the provisions of this law and any other information relating to the subject of bullying and harassment as will be helpful to the committee in establishing policy in this area.

(d) (1) The principal of a middle school, junior high school, or high school, or the principal's designee, shall investigate harassment, intimidation, bullying or cyber-bullying when a student reports to any principal, teacher or guidance counselor that physical harm or a threat of physical harm to such student's person or property has occurred.

(2) Following any investigation required by this part, the principal or such principal's designee shall report the findings, along with any disciplinary action taken, to the director of schools and the chair of the local board of education.

49-6-1017. Adoption of policy -- Transmission of copy of policy to the commissioner of education

Each LEA shall adopt a policy prohibiting harassment, intimidation, bullying or cyber-bullying and transmit a copy of the policy to the commissioner of education by January 1, 2006.

49-6-1018. Reprisal or retaliation prohibited -- Reporting harassment, intimidation, bullying or cyber-bullying -- Immunity from damages

(a) A school employee, student or volunteer may not engage in reprisal or retaliation against a victim of, witness to, or person with reliable information about an act of harassment, intimidation, bullying or cyber-bullying.

(b) A school employee, student or volunteer who witnesses or has reliable information that a student has been subjected to an act of harassment, intimidation, bullying or cyber-bullying is encouraged to report the act to the appropriate school official designated by the school district's policy.

(c) A school employee who promptly reports an act of harassment, intimidation, bullying or cyber-bullying to the appropriate school official in compliance with the procedures set forth in the school district's policy is immune from a cause of action for damages arising from any failure to remedy the reported act.

49-6-1019. Task forces, programs or other initiatives

School districts are encouraged to form harassment, intimidation, bullying or cyber-bullying prevention task forces, programs and other initiatives involving school employees, students, administrators, volunteers, parents, guardians, law enforcement and community representatives.

49-6-4016. Civil liability

(a) In addition to criminal penalties provided by law, there is created a civil cause of action for an intentional assault, personal injury or injury to the personal property of students or school employees when the assault occurs during school hours, on school property or during school functions, including travel to and from school on school buses. A person who commits such an assault or injury shall be liable to the victim for all damages resulting from the assault, including compensatory and punitive damages. Upon prevailing, the victim shall be entitled to treble damages and reasonable attorney fees and costs.

(b) It is a defense against a civil action for damages under this section that a teacher, principal, school employee or school bus driver in the exercise of the person's lawful authority used reasonable force under § 49-6-4107 that was necessary to restrain the student or to prevent bodily harm or death to another person.

Other special infractions or conditions

STATUTES

39-13-114. Communicating a threat concerning a school employee

(a) For purposes of this section, "school" means any:

(1) Elementary school, middle school or high school;

(2) Technology center or postsecondary vocational or technical school; or

(3) Two-year or four-year college or university.

(b) A person commits the offense of communicating a threat concerning a school employee if:

(1) The person communicates to another a threat to cause the death of or serious bodily injury to a school employee and the threat is directly related to the employee's scope of employment;

(2) The threat involves the use of a firearm or other deadly weapon;

(3) The person to whom the threat is made reasonably believes that the person making the threat intends to carry out the threat; and

(4) The person making the threat intentionally engages in conduct that constitutes a substantial step in the commission of the threatened act and the threatened act and the substantial step when taken together:

(A) Are corroborative of the person's intent to commit the threatened act; and

(B) Occur close enough in time to evidence an intent and ability to commit the threatened act.

(c) Communicating a death threat concerning a school employee is a Class B misdemeanor punishable by a maximum term of imprisonment of thirty (30) days.

49-6-812. Consistency with harassment and bullying policies.

Each LEA shall ensure that the district-wide safety plans and building-level emergency response plans required by this part are developed in such a manner as to be consistent with the district's harassment and bullying policies developed pursuant to § 49-6-1016.

49-6-4019. Student discipline code to include provision prohibiting indecent clothing

(a) An LEA shall include in its student discipline code a provision prohibiting students from wearing, while on the grounds of a public school during the regular school day, clothing that exposes underwear or body parts in an indecent manner that disrupts the learning environment.

(b) An LEA shall specify in its student discipline code the disciplinary actions that shall be taken against a student for a violation of subsection (a).

(c) Subsection (a) shall not be enforced in a manner that discriminates against a student on the basis of race, color, religion, sex, disability, or national origin.

49-6-4214. Possession of pagers by students

Possession of an electronic pager by a student on school property, without the permission of the school principal or the principal's designated representative, is prima facie evidence of its intended use in violation of this part.

49-6-4215. Activities of criminal gangs on school property -- Promulgation of rules and regulations

(a) The LEAs of this state are authorized to promulgate and adopt rules and regulations to prohibit the activities of criminal gangs on school property. The rules and regulations may prohibit students in grades six through twelve (6-12) from:

(1) Wearing, while on school property, any type of clothing, apparel or accessory that denotes the students' membership in or affiliation with any criminal gang;

(2) Any activity that encourages participation in a criminal gang or facilitates illegal acts of a criminal gang; and

(3) Any conduct that is seriously disruptive to the educational process or endangers persons or property.

(b) The local law enforcement agency shall advise the local board, upon request, of criminal gangs and associated criminal gang activity.

(c) As used in this section, "criminal gang" means a formal or informal ongoing organization, association or group consisting of three (3) or more persons that has:

(1) As one (1) of its activities the commission of criminal acts; and

(2) Two (2) or more members who, individually or collectively, engage in or have engaged in a pattern of criminal gang activity.

Prevention and Behavioral Interventions (Non-Punitive)

Prevention

STATUTES

49-1-520. Tennessee model dropout prevention program

(a) In order to encourage and support locally-based, interdisciplinary initiatives to combat the many complex problems that lead Tennessee children and youth to drop out of school, there is created the Tennessee model dropout prevention program. After consultation with the executive director of the commission on children and youth, the executive secretary of the council of juvenile and family court judges, the executive director of the state board of education, the commissioners of health and environment, human services, mental health and substance abuse services, intellectual and developmental disabilities, and youth development, the commissioner of education shall, on or before November 15 each year, designate up to ten (10) publicly or privately supported, locally-based, interdisciplinary initiatives within the state as model dropout prevention programs. Any initiative so designated as a model program shall be worthy and capable of emulation with respect to one (1) or more activities designed to:

(1) Improve public awareness, within the student population and within the population at large, regarding the individual and societal consequences of the school dropout problem; or

(2) Combat one (1) or more of the many complex problems which lead Tennessee children and youth to drop out of school, including, but not limited to:

(A) Poor self-esteem;

(B) Lack of ambition or motivation;

(C) Poorly defined goals;

(D) Substance abuse;

(E) Delinquency;

(F) Emotional distress;

(G) Classroom misconduct;

(H) Teen pregnancy;

(I) Academic failure or sub-par performance;

(J) Poverty;

(K) Poor nutrition;

(L) Poor health;

(M) Insufficient parental encouragement;

(N) Lack of parental involvement in academic matters;

(O) Learning disabilities;

(P) Physical or mental handicapping conditions; and

(Q) Alternative schools remands.

(b) Prior to designating model programs each year, nominations shall be actively solicited from across the state. In selecting model programs, due consideration shall be given to the level of acceptance and support for such programs within the school system or systems and within the community-at-large and

also to the techniques by which such acceptance and support have been achieved. Furthermore, due consideration shall be given to the tangible impact the programs have achieved in dropout prevention.

(c) To the extent that funding is available for such purpose within the state's general appropriations act, on each occasion that an initiative is selected as a model dropout prevention program, the model program shall receive from the department of education a state grant in the amount of six thousand dollars ($6,000). The grant shall be paid in addition to all other funds that the program may otherwise receive from or through state government and shall be used exclusively for improvement or expansion of dropout prevention services, outreach, program evaluation or payment of expenses incurred in assisting others to replicate one (1) or more components of the model program. Payment of each such state grant shall be conditional upon the model program's agreement to provide, upon request, technical assistance to others who are interested in replicating one (1) or more components of the model program. In any case in which a state grant is awarded to an LEA or other agency of local government, payment of the grant shall also be conditional upon the agency's written agreement that the state grant will not be used to supplant locally provided funding and resources for dropout prevention. Nothing contained within this section shall be construed to prohibit the commissioner from designating more than one (1) model program within a county, municipality or LEA.

(d) (1) Each year, the commissioner shall undertake appropriate actions to publicize, statewide, all activities to implement this section, as well as the activities and achievements of the model dropout prevention programs. The commissioner may undertake other appropriate actions that may be necessary to encourage and support locally-based, interdisciplinary initiatives to combat the many complex problems which lead Tennessee children and youth to drop out of school.

(2) The commissioner shall annually conduct regional conferences or workshops across the state to improve public awareness of the individual and societal consequences of the dropout problem, to showcase the activities and achievements of the model programs, to provide encouragement and support for replication of the programs, and to improve public awareness of the system of competitive grants provided under the authority of subsection (e). Children, youth, parents, educators, school administrators, taxpayers, business organizations, civic groups, community organizations, religious institutions, officials of local government and other concerned persons shall be invited to attend the conferences or workshops.

(e) (1) Acting in consultation with each of the state officials listed in subsection (a), the commissioner of education shall develop and implement each year on or before November 15, to the extent that funding is provided for such purpose within the general appropriations act, a system of competitive state grants to financially encourage and support creation or expansion of locally based programs or projects that seek to replicate components of those initiatives designated as model programs pursuant to subsection (a). The system of competitive grants shall require each recipient to match on a dollar-per-dollar basis, from locally generated public or private resources, the amount of the competitive state grant.

(2) Prior to receiving a grant to replicate components of model dropout prevention programs, each program or project shall:

(A) Demonstrate a broad base of support within the community-at-large and within the local school system;

(B) Propose a funding plan whereby continuation of the program or project, beyond the period of the grant, is probable;

(C) Submit a written agreement to the effect that, if the program or project will be administered by an LEA or other agency of local government, the state grant will not be used to supplant locally provided funding and resources for dropout prevention; and

(D) Agree to accept the grant subject to reasonable and appropriate conditions and restrictions established by the commissioner.

(3) In awarding the grants, the commissioner shall exercise due care to discourage dependence upon the grant system as a source of recurring financial support for the program or project.

49-6-4302. Tennessee school safety center

(a) The department of education shall establish a Tennessee school safety center to develop and evaluate training materials and guidelines on school safety issues, including behavior, discipline and violence prevention[...]

(c) (1) The Tennessee school safety center, within the limit of appropriations for the center, may establish grants to LEAs for the development of innovative violence prevention programs, conflict resolution, disruptive or assaultive behavior management, improved school security, peer mediation and training for employees on the identification of possible perpetrators of school related violence.

(2) The grants provided for in subdivision (c)(1) shall be distributed as follows:

(A) Funding would be available to each LEA in the same percentage that the LEA's share of basic education program (BEP) funding bears to statewide BEP funding.

(B) Funding would be subject to a twenty-five percent (25%) match by the LEA, adjusted for the LEA's fiscal capacity under the BEP formula. The match requirement could be satisfied by local or contributed funds or by personnel or other in-kind expenses assumed by the LEA.

(C) State funding would also be subject to submission by the LEA to the school safety center of a proposed plan of expenditures to accomplish one (1) or more of the provisions specified in subdivision (c)(1) and approval of that plan by the center. The center should not unreasonably withhold funding, but should allow LEAs adequate flexibility to experiment so long as the basic requirements of this section are satisfied.

(D) Any funds appropriated for this program in any fiscal year and not expended shall be carried forward for such purposes in future fiscal years. Any allocation for an LEA that is not applied for or is not successfully applied for in any fiscal year shall not be carried forward for the benefit of that LEA in subsequent fiscal years, but shall be carried forward for future expenditures under this program in future fiscal years[...]

For information on the Schools Against Violence in Education Act, which includes school safety trainings including violence prevention, see 49-6-801 through 814.

Behavioral interventions and student support services

No relevant statutes found.

Professional development

STATUTES

49-6-4212. Training program for school principals -- Notice of policies to parents and students

(a) The LEA and the local law enforcement agency shall establish and maintain an orientation and training program designed to familiarize school principals with this part and with local policies and procedures for implementing and enforcing this part.

(b) The LEA shall provide parents and .students with reasonable notice of the local policies and procedures.

Monitoring and Accountability

Formal incident reporting of conduct violations

STATUTES

49-6-1016. Development of policy regarding harassment, intimidation, bullying or cyber-bullying

(d)(1) The principal of a middle school, junior high school, or high school, or the principal's designee, shall investigate harassment, intimidation, bullying or cyber-bullying when a student reports to any principal, teacher or guidance counselor that physical harm or a threat of physical harm to such student's person or property has occurred.

(2) Following any investigation required by this part, the principal or such principal's designee shall report the findings, along with any disciplinary action taken, to the director of schools and the chair of the local board of education.

49-6-4106. Disciplinary referrals

When a member of a school's faculty or staff disciplines a student by issuing a written referral for the student's behavior, the referral shall be returned to the member of the faculty or staff with a notation of the action taken. The referral shall be kept in a student discipline file and shall not become a part of the student's permanent record. If a school district or a school has adopted an electronic system of making disciplinary referrals instead of using written referrals, then the member of the faculty or staff making the referral shall be notified of the action taken, but the notification may be made either electronically or in writing.

49-6-4301. School officials to report student offenses

(a) Every teacher observing or otherwise having knowledge of an assault and battery or vandalism endangering life, health or safety committed by a student on school property shall report such action immediately to the principal of the school. Every principal having direct knowledge of an assault and battery or vandalism endangering life, health or safety committed by a student on school property or receiving a report of such action shall report the action immediately to the municipal or metropolitan police department or sheriff's department having jurisdiction. Any fight not involving the use of a weapon as defined in § 39-17-1309, or any fight not resulting in serious personal injury to the parties involved, shall be reported only to the school administrator.

(b) The report made to the law enforcement agency shall include, if known, the name and address of the offender, and the name and address of the victim, if any. The report shall also contain a description of the action and whatever additional information is requested by the law enforcement agency.

(c) The commissioner of education, in conjunction with the commissioner of safety, shall establish a statewide uniform violent incident reporting system that all LEAs shall follow. The uniform violent incident reporting system shall require all LEAs to report annually to the commissioner in a form and by a date prescribed by the commissioner, the following information concerning violent and disruptive incidents, as defined by the commissioner, that occurred in the prior school year:

(1) The type of offenders;

(2) If an offender is a student, the age and grade of the student;

(3) The location at which the incident occurred;

(4) The type of incident;

(5) Whether the incident occurred during or outside of regular school hours;

(6) Where the incident involved a weapon, whether the weapon was a firearm, knife or other weapon;

(7) The actions taken by the school in response to the incident, including when the incident was reported to law enforcement officials and whether disciplinary action was taken against the offenders by law enforcement;

(8) Any student discipline or referral action taken against a student offender and the duration of the action; and

(9) The nature of the victim and the victim's age and grade where appropriate.

(d) The commissioner shall require a summary of the information from subsection (c) to be included, in a form prescribed by the commissioner, in the annual report published by the commissioner each year pursuant to § 49-1-211.

(e) Annually on or before February 1 of each year, the commissioner shall report to the governor and the general assembly concerning the prevalence of violent and disruptive incidents in the public schools and the effectiveness of school programs undertaken to reduce violence and assure the safety and security of students and school personnel. The report shall summarize the information available from the incident reporting system and identify specifically the schools and school districts with the least and greatest incidence of violent incidents and the least and most improvement since the previous year or years.

49-6-4302. Tennessee school safety center

(a) The department of education shall establish a Tennessee school safety center to develop and evaluate training materials and guidelines on school safety issues, including behavior, discipline and violence prevention.

(b) The Tennessee school safety center shall be responsible for the collection and analysis of data related to school safety, including alleged violent or assaultive acts against school employees and students. Analysis of data shall include the number of arrests, the charges and whether civil damages were pursued by the injured party or school system. The center shall make periodic reports to the education committee of the senate and the education committee of the house of representatives on the status of school safety efforts[...]

Parental notification

STATUTES

49-6-3051. Parental or guardian notice to school of child's criminal offenses -- List of goals -- Confidentiality -- Violations and penalties

(a) Notwithstanding any law to the contrary, if a student has at any time been adjudicated delinquent for any offense listed in subsection (b), the parents, guardians or legal custodians, including the department of children's services acting in any capacity and a school administrator of any school having previously received the same or similar notice from the juvenile court or another source, shall provide to a school principal, or a principal's designee, the abstract provided under § 37-1-153 or § 37-1-154 or other similar written information when any such student:

(1) Initially enrolls in an LEA;

(2) Resumes school attendance after suspension, expulsion or adjudication of delinquency; or

(3) Changes schools within this state.

(b) The parents, guardians or legal custodians, including the department of children's services acting in any capacity, shall provide notification as required by subsection (a) if the student has been adjudicated delinquent for:

(1) An offense involving:

(A) First degree murder;

(B) Second degree murder;

(C) Rape;

(D) Aggravated rape;

(E) Rape of a child;

(F) Aggravated rape of a child;

(G) Aggravated robbery;

(H) Especially aggravated robbery;

(I) Kidnapping;

(J) Aggravated kidnapping;

(K) Especially aggravated kidnapping;

(L) Aggravated assault;

(M) Felony reckless endangerment; or

(N) Aggravated sexual battery;

(2) A violation of:

(A) Voluntary manslaughter, as defined in § 39-13-211;

(B) Criminally negligent homicide, as defined in § 39-13-212;

(C) Sexual battery by an authority figure, as defined in § 39-13-527;

(D) Statutory rape by an authority figure, as defined in § 39-13-532;

(E) Prohibited weapon, as defined in § 39-17-1302;

(F) Unlawful carrying or possession of a firearm, as defined in § 39-17-1307;

(G) Carrying weapons on school property, as defined in § 39-17-1309;

(H) Carrying weapons on public parks, playgrounds, civic centers, and other public recreational buildings and grounds, as defined in § 39-17-1311;

(I) Handgun possession, as defined in § 39-17-1319;

(J) Providing handguns to juveniles, as defined in § 39-17-1320; or

(K) Any violation of § 39-17-417 that constitutes a Class A or Class B felony; or

(3) An offense not listed in this subsection (b) for which a court has ordered school notification based on the circumstances surrounding the offense.

(c) When the principal or the principal's designee is notified of the student's adjudication pursuant to subsection (a), the principal or the principal's designee may convene a meeting to develop a plan to set out a list of goals to provide the child an opportunity to succeed in school and provide for school safety, a schedule for completion of the goals and the personnel who will be responsible for working with the child to complete the goals.

(d) The abstract and information shall be shared only with the employees of the school having responsibility for classroom instruction of the child and the school counselor, social worker or psychologist who is involved in developing a plan for the child while in the school, and with the school resource officer, and any other person notified pursuant to this section. The information is otherwise confidential and shall not be shared by school personnel with any other person or agency, except as may otherwise be required by law. The abstract or other similar information provided pursuant to subsection (a) and the plan shall not become a part of the child's student record.

(e) Notwithstanding any other state law to the contrary, the department of children's services shall develop a written policy consistent with federal law detailing the information to be shared by the department with the school for children in its legal custody when notification is required.

(f) It is an offense for any school personnel to knowingly share information provided pursuant to subsection (a) with any person other than those listed in subsection (d). A violation of this subsection (f) is a Class C misdemeanor, punishable by a fine only.

(g) It is an offense for a parent or guardian to knowingly fail to provide notification as required by subsection (a). A violation of this subsection (g) is a Class C misdemeanor, punishable by a fine only. For purposes of this subsection (g), parent or legal guardian does not include the department of children's services.

(h) If it becomes apparent that any employee of the department of children's services knowingly failed to notify the school as required by subsection (a), the commissioner of children's services shall be notified and take appropriate action against the employee.

49-6-3007. Attendance and truancy reports -- Enforcement of compulsory attendance

[...](e) (1) It is the duty of the principal or teacher of every public, private or parochial school to report promptly to the director of schools, or the director of schools' designated representative, the names of all children who have withdrawn from school, or who have been absent five (5) days without adequate excuse. This means an aggregate of five (5) days during the school year and not necessarily five (5) consecutive days. Each successive accumulation of five (5) unexcused absences by a student shall also be reported.

(2) The director of schools shall thereupon serve, or cause to be served, upon the parent, guardian or other person in this state in parental relation to such children unlawfully absent from school, written notice that attendance of the children at school is required. A new notice shall be sent after each successive accumulation of five (5) unexcused absences.

(3) If it appears that, within three (3) days after receipt of the notice, any child, parent, guardian or other person in parental relation has failed to comply with this part, the director of schools, in the name of the local school system, shall report the facts of the unlawful attendance to the sheriff, constable, city police officer, district attorney general or the foreman of the grand jury, who shall proceed against the parent, guardian or other person in parental relation in accordance with this part, unless the parent, guardian or person having charge and control of the child shall at once place the child in some day school.

(f) The director of schools of any local school system, after written notice to the parent or guardian of a child, shall report any child who is habitually and unlawfully absent from school to the appropriate judge having juvenile jurisdiction in that county, each case to be dealt with in such manner as the judge may determine to be in the best interest of the child, consistent with §§ 37-1-132, 37-1-168 and 37-1-169 and in the event the child is adjudicated to be unruly, the judge may assess a fine of up to fifty dollars ($50.00) or five (5) hours of community service, in the discretion of the judge, against the parents or legal guardians of children in kindergarten through grade twelve (K-12) if the child is absent more than five (5) days during any school year.

(g) Except as otherwise provided by § 49-6-3001 or § 49-6-3005, this section shall be applicable to children less than six (6) years of age and their parent, guardian or other person in a parental relation when the parent, guardian or other person in a parental relation has enrolled the child in any school that receives funding based on average daily membership; provided, that a child may be withdrawn within six (6) weeks of initial enrollment without penalty.

49-6-3401. Suspension of students -- Expulsion of students

(a) Any principal, principal-teacher or assistant principal of any public school in this state is authorized to suspend a pupil from attendance at the school, including its sponsored activities, or from riding a school bus, for good and sufficient reasons. Good and sufficient reasons for suspension include, but are not limited to:

(1) Willful and persistent violation of the rules of the school or truancy;

(2) Immoral or disreputable conduct or vulgar or profane language;

(3) Violence or threatened violence against the person of any personnel attending or assigned to any public school;

(4) Willful or malicious damage to real or personal property of the school, or the property of any person attending or assigned to the school;

(5) Inciting, advising or counseling of others to engage in any of the acts enumerated in subdivisions (a)(1)-(4);

(6) Marking, defacing or destroying school property;

(7) Possession of a pistol, gun or firearm on school property;

(8) Possession of a knife and other weapons, as defined in § 39-17-1301 on school property;

(9) Assaulting a principal, teacher, school bus driver or other school personnel with vulgar, obscene or threatening language;

(10) Unlawful use or possession of barbital or legend drugs, as defined in § 53-10-101;

(11) Two (2) or more students initiating a physical attack on an individual student on school property or at a school activity, including travel to and from school;

(12) Making a threat, including a false report, to use a bomb, dynamite, any other deadly explosive or destructive device, including chemical weapons, on school property or at a school sponsored event;

(13) Any other conduct prejudicial to good order or discipline in any public school; and

(14) Off-campus criminal behavior that results in the student being legally charged with a felony and the student's continued presence in school poses a danger to persons or property or disrupts the educational process[...]

(c) (1) Except in an emergency, no principal, principal-teacher or assistant principal shall suspend any student until that student has been advised of the nature of the student's misconduct, questioned about it and allowed to give an explanation.

(2) Upon suspension of any student other than for in-school suspension of one (1) day or less, the principal shall, within twenty-four (24) hours, notify the parent or guardian and the director of schools or the director of schools' designee of:

(A) The suspension, which shall be for a period of no more than ten (10) days;

(B) The cause for the suspension; and

(C) The conditions for readmission, which may include, at the request of either party, a meeting of the parent or guardian, student and principal.

(3) If the suspension is for more than five (5) days, the principal shall develop and implement a plan for improving the behavior, which shall be made available for review by the director of schools upon request.

(4) (A) If, at the time of the suspension, the principal, principal-teacher or assistant principal determines that an offense has been committed that would justify a suspension for more than ten (10) days, the person may suspend a student unconditionally for a specified period of time or upon such terms and conditions as are deemed reasonable.

(B) The principal, principal-teacher or assistant principal shall immediately give written or actual notice to the parent or guardian and the student of the right to appeal the decision to suspend for more than ten (10) days. All appeals must be filed, orally or in writing, within five (5) days after receipt of the notice and may be filed by the parent or guardian, the student or any person holding a teaching license who is employed by the school system if requested by the student.

(C) The appeal from this decision shall be to the board of education or to a disciplinary hearing authority appointed by the board. The disciplinary hearing authority, if appointed, shall consist of at least one (1) licensed employee of the LEA, but no more than the number of members of the local board.

(D) The hearing shall be held no later than ten (10) days after the beginning of the suspension. The local board of education or the disciplinary hearing authority shall give written notice of the time and place of the hearing to the parent or guardian, the student and the school official designated in subdivision (c)(4)(A) who ordered the suspension. Notice shall also be given to the LEA employee referred to in subdivision (c)(4)(B) who requests a hearing on behalf of a suspended student.

(5) After the hearing, the board of education or the disciplinary hearing authority may affirm the decision of the principal, order removal of the suspension unconditionally or upon such terms and conditions as it deems reasonable, assign the student to an alternative program or night school or suspend the student for a specified period of time.

(6) If the decision is determined by a disciplinary hearing authority, a written record of the proceedings, including a summary of the facts and the reasons supporting the decision, shall be made by the disciplinary hearing authority. The student, principal, principal-teacher or assistant principal may, within five (5) days of the decision, request review by the board of education; provided, that local school board policy may require an appeal to the director of schools prior to a request for review to the board. Absent a timely appeal, the decision shall be final. The board of education, based upon a review of the record, may grant or deny a request for a board hearing and may affirm or overturn the decision of the hearing authority with or without a hearing before the board; provided, that the board may not impose a more severe penalty than that imposed by the hearing authority without first providing an opportunity for a hearing before the board. If the board conducts a hearing as a result of a request for review by a student, principal, principal-teacher or assistant principal, then, notwithstanding any provision of the open meetings laws compiled in title 8, chapter 44, or other law to the contrary, the hearing shall be closed to the public, unless the student or student's parent or guardian requests in writing within five (5) days after receipt of written notice of the hearing that the hearing be conducted as an open meeting. If the board conducts a hearing as a result of a request for review by a student, principal, principal-teacher, or assistant principal that is closed to the public, then the board shall not conduct any business, discuss any subject or take a vote on any matter other than the appeal to be heard. Nothing in this subdivision (c)(6) shall act to exclude the department of children's services from the disciplinary hearings when the department is exercising its obligations under § 37-1-140. The action of the board of education shall be final[...]

49-6-4213. Testing of students for drugs -- Referral information and assistance for students testing positive

[...](f) (1) A parent of the student or a person legally responsible for the student shall be notified before any drug test is administered to the student.

(2) If an LEA adopts a policy permitting random drug testing of students in voluntary extracurricular activities, then, prior to a student participating in an extracurricular activity, the LEA shall notify the parents and guardians of any such student that the student may be subjected to random drug testing. A parent or guardian of a student participating in a volunteer extracurricular activity shall provide written consent for random drug testing prior to the student participating in the voluntary extracurricular activity.

ADMINISTRATIVE REGULATIONS

0520-01-02-.16 Reporting Attendance Relative to Disciplinary Actions

(1) For the purposes of recording and coding student absences from school because of disciplinary actions, the following definitions shall apply:

(a) "Suspension" shall be defined as dismissal from attendance at school for any reason not more than ten (10) consecutive days. The student on suspension shall be included in ADM and will continue to be counted for funding purposes. Multiple suspensions shall not run consecutively nor shall multiple suspensions be applied to avoid expulsion from school.

(b) "Remand" shall be defined as assignment to an alternative school. The student so assigned shall be included in ADA/ADM and will continue to be counted as present for funding purposes. The State Department of Education shall establish a set of codes to be used for reporting reasons for students on remand to an alternative school.

(c) "Expulsion" shall be defined as removal from attendance for more than ten (10) consecutive days or more than fifteen (15) days in a month of school attendance. Multiple suspensions that occur consecutively shall constitute expulsion. The school district shall not be eligible to receive funding for an expelled student.

(2) Students who qualify for services under the Individuals with Disabilities Education Act, 20 U.S.C. 1400, et seq., and 34 C.F.R. 300 et seq., may be suspended, remanded, or expelled only within the provisions of said acts. Removals from school for students receiving services under the act shall not be applied in such a manner so as to constitute a pattern of exclusion of the student nor shall any change of placement occur absent the application of procedural safeguards as defined in the act.

(3) The parents or legal guardians of students who are suspended or expelled in accordance with the provisions of T.C.A. 49-6-3401 shall receive notices provided for therein.

Reporting and referrals between schools and law enforcement

STATUTES

37-1-131. Delinquent child -- Disposition -- Restitution.

(a) If the child is found to be a delinquent child, the court may make any of the following orders of disposition best suited to the child's treatment, rehabilitation and welfare:

(1) Any order authorized by § 37-1-130 for the disposition of a dependent or neglected child;

(2) (A) Placing the child on probation under the supervision of the probation officer of the court or the department of children's services, any person, or persons or agencies designated by the court, or the court of another state as provided in § 37-1-143, under conditions and limitations the court prescribes;

(B) The court shall make a finding that the child's school shall be notified, if:

(i) The adjudication of delinquency was for an offense involving:

(a) First degree murder;

(b) Second degree murder;

(c) Rape;

(d) Aggravated rape;

(e) Rape of a child;

(f) Aggravated rape of a child;

(g) Aggravated robbery;

(h) Especially aggravated robbery;

(i) Kidnapping;

(j) Aggravated kidnapping;

(k) Especially aggravated kidnapping;

(l) Aggravated assault;

(m) Felony reckless endangerment; or

(n) Aggravated sexual battery; or

(ii) The adjudication of delinquency was for a violation of:

(a) Voluntary manslaughter, as defined in § 39-13-211;

(b) Criminally negligent homicide, as defined in § 39-13-212;

(c) Sexual battery by an authority figure, as defined in § 39-13-527;

(d) Statutory rape by an authority figure, as defined in § 39-13-532;

(e) Prohibited weapon, as defined in § 39-17-1302;

(f) Unlawful carrying or possession of a firearm, as defined in § 39-17-1307;

(g) Carrying weapons on school property, as defined in § 39-17-1309;

(h) Carrying weapons on public parks, playgrounds, civic centers, and other public recreational buildings and grounds, as defined in § 39-17-1311;

(i) Handgun possession, as defined in § 39-17-1319;

(j) Providing handguns to juveniles, as defined in § 39-17-1320; or

(k) Any violation of § 39-17-417 that constitutes a Class A or Class B felony; and

(iii) School attendance is a condition of probation, or if the child is to be placed in the custody of a state agency and is to be placed in school by a state agency or by a contractor of the state agency;

(C) The court may make a finding that the child's school shall be notified based on the circumstances surrounding the offense if the adjudication of delinquency is for an offense not listed in this subsection (a);

(D) The court shall then enter an order directing the youth service officer, probation officer, or the state agency, if the child has been committed to the custody of the state agency, to notify the school principal in writing of the nature of the offense and probation requirements, if any, related to school attendance, within five (5) days of the order or before the child resumes or begins school attendance, whichever occurs first. In individual cases when the court deems it appropriate, the court may also include in the order a requirement to notify county and municipal law enforcement agencies having jurisdiction over the school in which the child will be enrolled;

(E) When the principal of a school is notified, the principal of the child's school, or the principal's designee, shall convene a meeting to develop a plan within five (5) days of the notification. Reasonable notice shall be given of the date and time of the meeting. The child, the department of children's services if the child is in state custody, the child's parent/guardian/legal caretaker if not in state custody, and other appropriate parties identified by the child, the department of children's services or parent/guardian/legal caretaker shall be invited to the meeting. The plan shall set out a list of goals to provide the child an opportunity to succeed in school and provide for school safety, a schedule for completion of the goals and the personnel who will be responsible for working with the child to complete the goals;

(F) The information shall be shared only with the employees of the school having responsibility for classroom instruction of the child and the school counselor, social worker or psychologist who is

involved in developing a plan for the child while in the school, and with the school resource officer, and any other person notified pursuant to the provisions of this section. The information is otherwise confidential and shall not be shared by school personnel with any other person or agency, except as may otherwise be required by law. Notification in writing of the nature of the offense committed by the child and any probation requirements and the plan shall not become a part of the child's student record;

(G) In no event shall a child be delayed from attending school for more than five (5) school days from the date of notice;

(H) Notwithstanding any other state law to the contrary, the department of children's services shall develop a written policy consistent with federal law detailing the information to be shared by the department with the school for children in its legal custody when notification is required;

(I) Upon the subsequent enrollment of any such student in any other LEA, the parents or custodians of the student, and the administrator of any school having previously received the same or similar notice pursuant to this section, shall notify the school in the manner specified in § 49-6-3051;

(J) A violation of the confidentiality provisions of subdivision (a)(2)(F) is a Class C misdemeanor;

(K) (i) If the court does not place the child in state custody, but orders the child to complete an inpatient mental health treatment program at a hospital or treatment resource as defined in § 33-1-101, upon leaving that hospital or treatment resource, the principal of the child's school shall be notified and the principal of the child's school or the principal's designee shall convene a meeting to develop a transition plan within five (5) days of the notification. Reasonable notice shall be given of the date and time of the meeting. The child, child's parent/guardian/legal caretaker, other relevant service providers, and other appropriate parties identified by the child and parent/guardian/legal caretaker shall be invited to the meeting;

(ii) If an information release is executed in compliance with § 33-3-109 that provides the principal or other designated school personnel access to certain information concerning the child, the principal or other designated school personnel may work with the child's mental health provider to develop this plan. The transition plan shall set out a list of goals to provide the child an opportunity to succeed in school and provide for school safety, a schedule for completion of the goals and the personnel who will be responsible for working with the child to complete the goals. The information shall be shared only with employees of the school having responsibility for classroom instruction of the child, but the information is otherwise confidential and shall not be shared by school personnel with any other person or agency, except as may be otherwise required by law. The notification in writing of the nature of the offense committed by the child, any probation requirements, and the transition plan developed pursuant to this subdivision (a)(2)(K)(ii) shall not become a part of the child's student record;

(iii) In no event shall a child be delayed from attending school for more than five (5) school days;

(iv) A violation of the confidentiality provisions of subdivision (a)(2)(K)(ii) is a Class C misdemeanor;

(3) Placing the child in an institution, camp or other facility for delinquent children operated under the direction of the court or other local public authority;

(4) Subject to the restrictions of § 37-1-129(e), commit the child to the department of children's services, which commitment shall not extend past the child's nineteenth birthday;

(5) Assessing a fine not to exceed fifty dollars ($50.00) for each offense that constitutes a violation of a state law or municipal ordinance;

(6) Committing the child to the custody of the county department of children's services in those counties having such a department; and

(7) (A) Ordering the child to perform community service work with such work being in compliance with federal and state child labor laws. For first-time delinquent acts involving alcohol or beer, in its order for community service work, the court may require the juvenile to spend a portion of such time in the emergency room of a hospital, only if, and to the extent, the hospital agrees with such action;

(B) No charitable organization, municipality, county or political subdivision thereof utilizing juveniles performing community service work pursuant to this chapter shall be liable for any injury sustained by the juvenile or other person, proximately caused by the juvenile, while the juvenile is performing a work project for such organization or governmental entity, if the organization or governmental entity exercised due care in the supervision of the juvenile;

(C) No charitable organization, municipality, county or political subdivision thereof, nor any employee or officer thereof, shall be liable to any person for any act of a juvenile while the juvenile is on a community work project for such organization or governmental entity, if the organization or governmental entity exercised due care in the supervision of the juvenile;

(D) No charitable organization, municipality, county or political subdivision thereof, nor any employee or officer thereof, shall be liable to any juvenile or the juvenile's family for death or injuries received, proximately caused by the juvenile, while the juvenile is on a community work project for such organization or governmental entity, if the organization or governmental entity exercised due care in the supervision of the juvenile;

(E) The authority and protection from liability provided by this section is supplemental and in addition to any other authority and protection provided by law;

(b) (1) If the child is found to be delinquent, the court shall determine if any monetary damages actually resulted from the child's delinquent conduct. Upon a determination that monetary damages resulted from such conduct, the court shall order the child to make restitution for such damages unless the court further determines that the specific circumstances of the individual case render such restitution, or a specified portion thereof, inappropriate.

(2) (A) IF restitution is ordered pursuant to this subsection (b) in those cases where the court has made a finding that:

(i) A specified amount is owed;

(ii) Such amount is ordered to be paid pursuant to a specific payment schedule; and

(iii) The total amount of such ordered restitution is not paid by the time the juvenile court no longer has jurisdiction over the child;

THEN notwithstanding the provisions of § 37-1-133(b) or any other provision of law to the contrary, the recipient of such restitution may convert the unpaid balance of the restitution ordered by the court into a civil judgment in accordance with the procedure set out in this subsection (b). The payment of such civil judgment shall be at the same payment schedule as that as when the offender was a juvenile.

(B) Under such judgment, payments shall be continued to be made under the specific payment schedule ordered by the juvenile court until the judgment has been satisfied.

(3) The restitution recipient shall file a certified copy of the juvenile court's restitution order with any court having jurisdiction over the total amount of restitution ordered.

(4) Upon receipt of such a restitution order, the court shall take proof as to the amount of ordered restitution actually paid. If the court finds that the amount of restitution actually paid is less than the total amount of restitution ordered by the juvenile court, it shall enter a judgment in favor of the restitution recipient and against the offender for the amount of the unpaid balance of such restitution.

(5) A judgment entered pursuant to this subsection (b) shall remain in effect for a period of ten (10) years from the date of entry and shall be enforceable by the restitution recipient in the same manner and to the same extent as other civil judgments.

37-1-154. Law enforcement records -- Inspection limited -- Exceptions for certain violent offenders

(a) Unless a charge of delinquency is transferred for criminal prosecution under § 37-1-134, the interest of national security requires or the court otherwise orders in the interest of the child, the law enforcement records and files shall not be open to public inspection or their contents disclosed to the public; but inspection of the records and files is permitted by:

(1) A juvenile court having the child before it in any proceeding;

(2) Counsel for a party to the proceeding;

(3) The officers of public institutions or agencies to whom the child is committed;

(4) Law enforcement officers of other jurisdictions when necessary for the discharge of their official duties; and

(5) A court in which such child is convicted of a criminal offense for the purpose of a presentence report or other dispositional proceeding, or by officials of penal institutions and other penal facilities to which such child is committed, or by a parole board in considering such child's parole or discharge or in exercising supervision over such child.

(b) Notwithstanding the provisions of subsection (a), petitions and orders of the court in a delinquency proceeding under this part shall be opened to public inspection and their content subject to disclosure to the public if:

(1) The juvenile is fourteen (14) years of age or older at the time of the alleged act; and

(2) The conduct constituting the delinquent act, if committed by an adult, would constitute first degree murder, second degree murder, rape, aggravated rape, rape of a child, aggravated robbery, especially aggravated robbery, kidnapping, aggravated kidnapping or especially aggravated kidnapping.

(c) Notwithstanding the provisions of this section, if a court file or record contains any documents other than petitions and orders, including, but not limited to, a medical report, psychological evaluation or any other document, such document or record shall remain confidential.

(d) (1) Except as otherwise permitted in this section, it is an offense for a person to intentionally disclose or disseminate to the public the law enforcement records concerning a charge of delinquency, including the child's name and address.

(2) A violation of this subsection (d) shall be punished as criminal contempt of court as otherwise authorized by law.

(e) Notwithstanding other provisions of this section, where notice is required under § 49-6-3051, an abstract of the appropriate adjudication contained in the court file or record shall be made and provided to the parent, guardian, or other custodian of the juvenile, including the department, and this abstract shall be presented to the school in which the juvenile is, or may be, enrolled, in compliance with § 49-6-3051.

49-6-3051. Parental or guardian notice to school of child's criminal offenses -- List of goals -- Confidentiality -- Violations and penalties

(a) Notwithstanding any law to the contrary, if a student has at any time been adjudicated delinquent for any offense listed in subsection (b), the parents, guardians or legal custodians, including the department of children's services acting in any capacity and a school administrator of any school having previously received the same or similar notice from the juvenile court or another source, shall provide to a school principal, or a principal's designee, the abstract provided under § 37-1-153 or § 37-1-154 or other similar written information when any such student:

(1) Initially enrolls in an LEA;

(2) Resumes school attendance after suspension, expulsion or adjudication of delinquency; or

(3) Changes schools within this state.

(b) The parents, guardians or legal custodians, including the department of children's services acting in any capacity, shall provide notification as required by subsection (a) if the student has been adjudicated delinquent for:

(1) An offense involving:

(A) First degree murder;

(B) Second degree murder;

(C) Rape;

(D) Aggravated rape;

(E) Rape of a child;

(F) Aggravated rape of a child;

(G) Aggravated robbery;

(H) Especially aggravated robbery;

(I) Kidnapping;

(J) Aggravated kidnapping;

(K) Especially aggravated kidnapping;

(L) Aggravated assault;

(M) Felony reckless endangerment; or

(N) Aggravated sexual battery;

(2) A violation of:

(A) Voluntary manslaughter, as defined in § 39-13-211;

(B) Criminally negligent homicide, as defined in § 39-13-212;

(C) Sexual battery by an authority figure, as defined in § 39-13-527;

(D) Statutory rape by an authority figure, as defined in § 39-13-532;

(E) Prohibited weapon, as defined in § 39-17-1302;

(F) Unlawful carrying or possession of a firearm, as defined in § 39-17-1307;

(G) Carrying weapons on school property, as defined in § 39-17-1309;

(H) Carrying weapons on public parks, playgrounds, civic centers, and other public recreational buildings and grounds, as defined in § 39-17-1311;

(I) Handgun possession, as defined in § 39-17-1319;

(J) Providing handguns to juveniles, as defined in § 39-17-1320; or

(K) Any violation of § 39-17-417 that constitutes a Class A or Class B felony; or

(3) An offense not listed in this subsection (b) for which a court has ordered school notification based on the circumstances surrounding the offense.

(c) When the principal or the principal's designee is notified of the student's adjudication pursuant to subsection (a), the principal or the principal's designee may convene a meeting to develop a plan to set out a list of goals to provide the child an opportunity to succeed in school and provide for school safety, a schedule for completion of the goals and the personnel who will be responsible for working with the child to complete the goals.

(d) The abstract and information shall be shared only with the employees of the school having responsibility for classroom instruction of the child and the school counselor, social worker or psychologist who is involved in developing a plan for the child while in the school, and with the school resource officer, and any other person notified pursuant to this section. The information is otherwise confidential and shall not be shared by school personnel with any other person or agency, except as may otherwise be required by law. The abstract or other similar information provided pursuant to subsection (a) and the plan shall not become a part of the child's student record.

(e) Notwithstanding any other state law to the contrary, the department of children's services shall develop a written policy consistent with federal law detailing the information to be shared by the department with the school for children in its legal custody when notification is required.

(f) It is an offense for any school personnel to knowingly share information provided pursuant to subsection (a) with any person other than those listed in subsection (d). A violation of this subsection (f) is a Class C misdemeanor, punishable by a fine only.

(g) It is an offense for a parent or guardian to knowingly fail to provide notification as required by subsection (a). A violation of this subsection (g) is a Class C misdemeanor, punishable by a fine only. For purposes of this subsection (g), parent or legal guardian does not include the department of children's services.

(h) If it becomes apparent that any employee of the department of children's services knowingly failed to notify the school as required by subsection (a), the commissioner of children's services shall be notified and take appropriate action against the employee.

Disclosure of school records

STATUTES

10-7-504. Confidential records -- Exceptions

[...](4) (A) The records of students in public educational institutions shall be treated as confidential. Information in such records relating to academic performance, financial status of a student or the student's parent or guardian, medical or psychological treatment or testing shall not be made available to unauthorized personnel of the institution or to the public or any agency, except those agencies authorized by the educational institution to conduct specific research or otherwise authorized by the governing board of the institution, without the consent of the student involved or the parent or guardian of a minor student attending any institution of elementary or secondary education, except as otherwise provided by law or regulation pursuant thereto, and except in consequence of due legal process or in cases when the safety of persons or property is involved. The governing board of the institution, the department of education, and the Tennessee higher education commission shall have access on a confidential basis to such records as are required to fulfill their lawful functions. Statistical information not identified with a particular student may be released to any person, agency, or the public; and information relating only to an individual student's name, age, address, dates of attendance, grade levels completed, class placement and academic degrees awarded may likewise be disclosed.

(B) Notwithstanding the provisions of subdivision (a)(4)(A) to the contrary, unless otherwise prohibited by the federal Family Educational Rights and Privacy Act (FERPA), codified in 20 U.S.C. § 1232g, an institution of post-secondary education shall disclose to an alleged victim of any crime of violence, as that term is defined in 18 U.S.C. § 16, or a nonforcible sex offense, the final results of any disciplinary proceeding conducted by such institution against the alleged perpetrator of such crime or offense with respect to such crime or offense.

(C) Notwithstanding the provisions of subdivision (a)(4)(A) to the contrary, unless otherwise prohibited by FERPA, an institution of post-secondary education shall disclose the final results of any disciplinary proceeding conducted by such institution against a student who is an alleged perpetrator of any crime of violence, as that term is defined in 18 U.S.C. § 16, or a nonforcible sex offense, if the institution determines as a result of that disciplinary proceeding that the student committed a violation of the institution's rules or policies with respect to such crime or offense.

(D) For the purpose of this section, the final results of any disciplinary proceeding:

(i) Shall include only the name of the student, the violation committed, and any sanction imposed by the institution on that student;

(ii) May include the name of any other student, such as a victim or witness, only with the written consent of that other student; and

(iii) Shall only apply to disciplinary hearings in which the final results were reached on or after October 7, 1998.

(E) Notwithstanding the provisions of subdivision (a)(4)(A) to the contrary, unless otherwise prohibited by FERPA, an educational institution shall disclose information provided to the institution under former § 40-39-106 [repealed], concerning registered sex offenders who are required to register under former § 40-39-103 [repealed].

(F) Notwithstanding the provisions of subdivision (a)(4)(A) to the contrary, unless otherwise prohibited by FERPA, an institution of higher education shall disclose to a parent or legal guardian of a student information regarding any violation of any federal, state, or local law, or of any rule or policy of the institution, governing the use or possession of alcohol, a controlled substance or a controlled substance analogue, regardless of whether that information is contained in the student's education records, if:

(i) The student is under the age of twenty-one (21);

(ii) The institution determines that the student has committed a disciplinary violation with respect to such use or possession; and

(iii) The final determination that the student committed such a disciplinary violation was reached on or after October 7, 1998.

(G) Notwithstanding subdivision (a)(4)(A), § 37-5-107 or § 37-1-612, the institution shall release records to the parent or guardian of a victim or alleged victim of child abuse or child sexual abuse pursuant to § 37-1-403(i)(3) or § 37-1-605(d)(2). Any person or entity that is provided access to records under this subdivision (a)(4)(G) shall be required to maintain the records in accordance with state and federal laws and regulations regarding confidentiality[...]

49-50-1501. Short title

This part shall be known and may be cited as the "Educational Records as Evidence Act."

49-50-1502. Part definitions

As used in this part, unless the context otherwise requires:

(1) "Custodian" means the educational record practitioner and the administrator or other chief officer of an educational institution in this state and its proprietor, as well as their deputies and assistants, and any other persons who are official custodians or depositories of records;

(2) "Educational institution" means a public, private or parochial school providing education to students in the twelfth grade or below or a public or private postsecondary institution providing education to students at a level above the twelfth grade;

(3) "Eligible student" means a student who has reached eighteen (18) years of age or is attending a postsecondary institution;

(4) "Parent" means a parent of a student and includes a natural parent, a guardian, or an individual acting as a parent in the absence of a parent or a guardian; and

(5) "Student record" means an educational record that is directly related to a student and is maintained by an educational institution or by a party acting for the institution.

49-50-1503. Subpoena duces tecum service and filing

(a) Except as provided in § 49-50-1508, when a subpoena duces tecum is served upon a custodian of records of any educational institution in this state in an action or proceeding in which the educational institution is neither a party nor the place where any cause of action is alleged to have arisen, and the subpoena requires the production of all or any part of the records of the educational institution or of the educational institution's present or past student, it shall be sufficient compliance with the subpoena if the custodian or other officer of the educational institution within twenty (20) days after being served with a subpoena duces tecum, shall, either by personal delivery or certified or registered mail, file with the court clerk or the officer, body or tribunal conducting the hearing, a true and correct copy, which may be a copy reproduced on film or other reproducing material by microfilming, photographing, photostating, or other approximate process, or a facsimile, exemplification, or copy of such reproduction or copy, of all records described in the subpoena. Before complying with a subpoena for student records, the educational institution shall make a reasonable effort to notify the parent or the eligible student of the subpoena, so that the parent or eligible student may seek protective action, unless the subpoena was issued by a federal grand jury or for a law enforcement purpose and the court or other issuing agency ordered that the existence or the contents of the subpoena or the information furnished in response to the subpoena not be disclosed.

(b) Any party intending to use this section shall furnish the adverse party or the adverse party's attorney a copy of the subpoena duces tecum no less than ten (10) days prior to the date set for the hearing of the matter for which the records may be subpoenaed.

49-50-1504. Production of subpoenaed records

The copy of the records shall be separately enclosed in an inner envelope or wrapper, sealed, with the title and number of the action, name of witness and date of subpoena clearly inscribed thereon. The custodian of the record shall affix to the sealed envelope or wrapper containing student records an affidavit stating that each eligible student or parent of a student whose records are within the sealed envelope or wrapper was notified of the subpoena prior to compliance and the date on which the eligible student or parent was notified, unless the subpoena was issued by a federal grand jury or for a law enforcement purpose and the court or other issuing agency ordered that the existence or the contents of the subpoena or the information furnished in response to the subpoena not be disclosed. The sealed envelope or wrapper shall then be enclosed in an outer envelope or wrapper, sealed, and directed as follows:

(1) If the subpoena directs attendance in court, to the clerk of the court or to the judge of the court;

(2) If the subpoena directs attendance at a deposition, to the officer before whom the deposition is to be taken, at the place designated in the subpoena for the taking of the deposition, or at the officer's place of business; and

(3) In other cases, to the officer, body or tribunal conducting the hearing, at a like address.

49-50-1505. Unsealing subpoenaed records -- Duties of custodian and issuing attorney

(a) (1) Unless the sealed envelope or wrapper is returned to a witness who is to appear personally, the copy of records shall remain sealed and shall be opened only at the time of trial, deposition or other hearing, upon the direction of the judge, court, officer, body or tribunal conducting the proceeding, in the presence of all parties who have appeared in person or by counsel at such trial, deposition or hearing.

Before directing that the inner envelope or wrapper be opened, the judge, court, officer, body or tribunal shall first ascertain that:

(A) (i) The custodian's affidavit attesting notification of each eligible student or parent of a student whose records are contained within the sealed envelope or wrapper is affixed;

(ii) The eligible student or parent has had sufficient time in which to move to quash the subpoena; and

(iii) No motion to quash the subpoena is pending; and

(B) (i) The records have been subpoenaed at the instance of a student or parent of a student involved or the student's or parent's counsel of record;

(ii) The student or parent involved or someone authorized in the student's or parent's behalf to do so for the student or parent has consented thereto and waived any privilege of confidentiality involved; or

(iii) The records have been subpoenaed in a criminal proceeding.

(2) Records that are not introduced in evidence or required as part of the record shall be returned to the person or entity from whom they were received.

(b) (1) Upon receipt of a subpoena, the custodian shall send the records to the attorney responsible for the issuance of the subpoena at the place and on or before the date designated in the subpoena, if the subpoena:

(A) States conspicuously on its face that the records are required in a tort action or domestic relations proceeding in which the student or parent has raised the issue of the student's education level, performance or attendance; and

(B) Directs the custodian's attendance at a deposition.

(2) Before opening the sealed records, the attorney responsible for the issuance of the subpoena shall ascertain that:

(A) The custodian's affidavit attesting notification of each eligible student or parent of a student whose records are contained within the sealed envelope or wrapper is affixed;

(B) Each eligible student or parent has had sufficient time in which to move to quash the subpoena; and

(C) No motion to quash the subpoena is pending.

(3) The attorney responsible for the issuance of the subpoena need not meet the requirements of subdivision (a)(2) if the attorney furnishes a copy of the records to the adversary party or their counsel.

49-50-1506. Custodian affidavit – Costs

(a) The records shall be accompanied by an affidavit of a custodian stating in substance:

(1) That the affiant is the duly authorized custodian of the records and has authority to certify the records;

(2) That the copy is a true copy of all the records described in the subpoena;

(3) That the records were prepared by the personnel of the educational institution or persons acting under the educational institution's control in the ordinary course of business at or near the time of the act, condition or event reported therein; and

(4) Certifying the amount of the reasonable charges of the educational institution for furnishing the copies of the record.

(b) If the educational institution has none or only a portion of the records described, the custodian shall so state in the affidavit and file the affidavit and the records that are available in the manner described in §§ 49-50-1503 and 49-50-1504.

(c) The filing of the affidavit with respect to reasonable charges shall be sufficient proof of the expense, which shall be taxed as costs of court.

49-50-1507. Evidentiary value of record copies and affidavits

(a) The copy of the record shall be admissible in evidence to the same extent as though the original of the record were offered and the custodian had been present and testified to the matters stated in the affidavit.

(b) (1) The affidavit shall be admissible in evidence and the matters stated in the affidavit shall be presumed true in the absence of a preponderance of evidence to the contrary.

(2) When more than one (1) person has knowledge of the facts, more than one (1) affidavit may be made.

49-50-1508. Requiring personal attendance of custodian – Costs

(a) Where the personal attendance of the custodian is required, the subpoena duces tecum shall contain a clause that reads: "The procedure authorized pursuant to § 49-50-1503 will not be deemed sufficient compliance with this subpoena."

(b) Where both the personal attendance of the custodian and the production of the original record are required, the subpoena duces tecum shall contain a clause that reads: "Original records are required, and the procedure authorized pursuant to § 49-50-1503 will not be deemed sufficient compliance with this subpoena."

(c) Where the personal attendance of the custodian is required, the reasonable cost of attendance and producing the records shall be taxed as costs of court.

49-50-1509. Substitution and preparation of record copies

(a) In view of the property right of the educational institution in its records, original records may be withdrawn after introduction into evidence and copies substituted, unless otherwise directed for good cause by the court, judge, officer, body or tribunal conducting the hearing.

(b) The custodian may prepare copies of original records in advance of testifying for the purpose of making substitution of the original record, and the reasonable charges for making the copies shall be taxed as costs of court.

(c) If copies are not prepared in advance, they can be made and substituted at any time after introduction of the original record; and the reasonable charges for making the copies shall be taxed as costs of court.

Data collection, review, and reporting of disciplinary policies and actions

STATUTE

49-6-1016. Development of policy regarding harassment, intimidation, bullying or cyber-bullying

(a) Each school district shall adopt a policy prohibiting harassment, intimidation, bullying or cyber-bullying. […]

(c)(2) Each LEA shall also:

(B) Beginning August 1, 2013, and annually thereafter, prepare and provide to the department of education a report concerning the number of bullying cases brought to the attention of school officials during the preceding year and the manner in which they were resolved or the reason they are still pending.

(3) The department shall annually submit a report to the education committees of the house of the representatives and the senate updating membership on the number of bullying cases reported statewide, the number of LEAs implementing the provisions of this law and any other information relating to the subject of bullying and harassment as will be helpful to the committee in establishing policy in this area.

49-6-3007. Attendance and truancy reports -- Enforcement of compulsory attendance

(a) On or before the beginning of the school term each year, the director of schools of each school district shall furnish to the principal teacher in each school, or cause to be furnished, through any duly elected attendance teacher, as provided in this part, the names of children depending on their schools for instruction, together with the names of the parents or guardians of the children, the lists to be taken from the census enumeration on file in the office of the director of schools, or from any other available and reliable sources.

(b) It is the duty of every principal or teacher of a public school to report to the director of schools, immediately after the opening of school, the names of all children on the list furnished to the director of schools who have not appeared for enrollment.

(c) It is the duty of the principals and teachers of all schools, public, private, denominational or parochial, to report in writing to the director of schools of the system in which the school is located the names, ages and residences of all pupils in attendance at their schools and classes within thirty (30) days after the beginning of the school year, and to make such other reports of attendance in their schools or classes, including transfers of pupils, as may be required by rule or regulation of the local board of education and of the state board of education. Notwithstanding subsection (g), this subsection (c) shall apply to any child less than six (6) years of age who is enrolled in any school to which this subsection (c) is applicable.

(d) All public, private and parochial schools shall keep daily reports of attendance, verified by the teacher making the record, which shall be open to inspection at all reasonable times, to the director of schools of the system in which the school is located or to the director of schools' duly authorized representative. Notwithstanding subsection (g), this subsection (d) shall apply to any child less than six (6) years of age who is enrolled in any school to which this subsection (d) is applicable.

(e) (1) It is the duty of the principal or teacher of every public, private or parochial school to report promptly to the director of schools, or the director of schools' designated representative, the names of all children who have withdrawn from school, or who have been absent five (5) days without adequate excuse. This means an aggregate of five (5) days during the school year and not necessarily five (5) consecutive days. Each successive accumulation of five (5) unexcused absences by a student shall also be reported.

(2) The director of schools shall thereupon serve, or cause to be served, upon the parent, guardian or other person in this state in parental relation to such children unlawfully absent from school, written notice that attendance of the children at school is required. A new notice shall be sent after each successive accumulation of five (5) unexcused absences.

(3) If it appears that, within three (3) days after receipt of the notice, any child, parent, guardian or other person in parental relation has failed to comply with this part, the director of schools, in the name of the local school system, shall report the facts of the unlawful attendance to the sheriff, constable, city police officer, district attorney general or the foreman of the grand jury, who shall proceed against the parent, guardian or other person in parental relation in accordance with this part, unless the parent, guardian or person having charge and control of the child shall at once place the child in some day school.

(f) The director of schools of any local school system, after written notice to the parent or guardian of a child, shall report any child who is habitually and unlawfully absent from school to the appropriate judge having juvenile jurisdiction in that county, each case to be dealt with in such manner as the judge may

determine to be in the best interest of the child, consistent with §§ 37-1-132, 37-1-168 and 37-1-169 and in the event the child is adjudicated to be unruly, the judge may assess a fine of up to fifty dollars ($50.00) or five (5) hours of community service, in the discretion of the judge, against the parents or legal guardians of children in kindergarten through grade twelve (K-12) if the child is absent more than five (5) days during any school year.

(g) Except as otherwise provided by § 49-6-3001 or § 49-6-3005, this section shall be applicable to children less than six (6) years of age and their parent, guardian or other person in a parental relation when the parent, guardian or other person in a parental relation has enrolled the child in any school that receives funding based on average daily membership; provided, that a child may be withdrawn within six (6) weeks of initial enrollment without penalty.

(h) For the purposes of this part, for recording and coding student absences from school because of disciplinary actions, the following definitions shall apply:

(1) "Expulsion" is defined as removal from attendance for more than ten (10) consecutive days or more than fifteen (15) days in a month of school attendance. Multiple suspensions that occur consecutively shall constitute expulsion. The school district shall not be eligible to receive funding for an expelled student;

(2) "Remand" is defined as assignment to an alternative school. The student so assigned shall be included in ADA/ADM and will continue to be counted as present for funding purposes. The department of education shall establish a set of codes to be used for reporting reasons for students on remand to an alternative school; and

(3) "Suspension" is defined as dismissed from attendance at school for any reason not exceeding ten (10) consecutive days. Multiple suspensions shall not run consecutively nor shall multiple suspensions be applied to avoid expulsion from school. The school district shall remain eligible to receive funding for a suspended student.

(i) (1) (A) An LEA may enter into an agreement with the local law enforcement agency serving the area of the LEA and the appropriate local government in that area to assist in the enforcement of compulsory attendance upon complying with the following conditions:

(i) Creation by the local school board of an advisory council to assist the board in formulating the agreement. The board shall include representatives of teachers, parents, administrators and other community representatives;

(ii) Receipt of input from neighborhood groups and other interested parties;

(iii) At least one (1) public hearing on the proposed plan prior to its adoption by the board;

(iv) Provisions for training teachers, principals, social workers and other personnel involved in the schools in truancy issues;

(v) Provisions for assuring the training of involved law enforcement personnel in provisions of the truancy law, including categories of students to which the law does not apply, such as private school students or home school students; and

(vi) Inclusion in the agreement of safeguards to protect students from discriminatory or selective enforcement and to protect the civil rights of students and parents.

(B) If such an agreement is entered into, then it shall be the duty of the principal or teacher of every public school to report promptly to the director of schools, or the director of schools' designated representative, the names of all children who have been absent two (2) days without adequate excuse and shall continue to report each subsequent absence without adequate excuse. This means an aggregate of two (2) days during the school year and not necessarily two (2) consecutive days.

(2) The director of schools shall thereupon serve, or cause to be served, upon the parent, guardian or other person in this state in parental relation to the children unlawfully absent from school, written notice that attendance of the children at school is required and of the provisions of this subsection (i).

(3) Under the provisions of such an agreement, and for purposes of this section and § 37-1-102(b)(25)(A)(i), a student who has been absent an aggregate three (3) days without adequate excuse may be deemed habitually truant.

(4) The director of schools or director of schools' representative may issue a list of such truant students to the local law enforcement agency for the purpose of allowing the law enforcement agency to take the student into temporary custody when the student is found away from the school premises during school hours, in a public place, in any public or private conveyance or in any public place of business open to the public, without adequate excuse, unless accompanied by a parent, foster parent or legal guardian. The agreement shall further specify that the law enforcement officer's sole function shall be to deliver the child to:

(A) The parent, foster parent, legal guardian or other person having control or custody of the child;

(B) The principal of the school in which the child is enrolled;

(C) A truancy center established by the LEA; or

(D) The juvenile court, if there has been a local interagency agreement entered into by the juvenile court and the local law enforcement agency.

(5) The powers conferred under such agreements may be exercised without warrant and without subsequent legal proceedings.

(6) This subsection (i) shall not apply to students enrolled in home or nonpublic schools in accordance with § 49-6-3050 or § 49-50-801.

(7) Upon issuance of a standing order by the juvenile court, LEA officials shall be allowed to release student record information to local law enforcement agencies and to juvenile justice system officials to assist the officials in effectively serving the student whose record is released. Officials and authorities receiving the information shall not disclose the information to any other party without prior written consent of the parent.

49-6-3401. Suspension of students -- Expulsion of students

(a) Any principal, principal-teacher or assistant principal of any public school in this state is authorized to suspend a pupil from attendance at the school, including its sponsored activities, or from riding a school bus, for good and sufficient reasons. Good and sufficient reasons for suspension include, but are not limited to:

(1) Willful and persistent violation of the rules of the school or truancy;

(2) Immoral or disreputable conduct or vulgar or profane language;

(3) Violence or threatened violence against the person of any personnel attending or assigned to any public school;

(4) Willful or malicious damage to real or personal property of the school, or the property of any person attending or assigned to the school;

(5) Inciting, advising or counseling of others to engage in any of the acts enumerated in subdivisions (a)(1)-(4);

(6) Marking, defacing or destroying school property;

(7) Possession of a pistol, gun or firearm on school property;

(8) Possession of a knife and other weapons, as defined in § 39-17-1301 on school property;

(9) Assaulting a principal, teacher, school bus driver or other school personnel with vulgar, obscene or threatening language;

(10) Unlawful use or possession of barbital or legend drugs, as defined in § 53-10-101;

(11) Two (2) or more students initiating a physical attack on an individual student on school property or at a school activity, including travel to and from school;

(12) Making a threat, including a false report, to use a bomb, dynamite, any other deadly explosive or destructive device, including chemical weapons, on school property or at a school sponsored event;

(13) Any other conduct prejudicial to good order or discipline in any public school; and

(14) Off-campus criminal behavior that results in the student being legally charged with a felony and the student's continued presence in school poses a danger to persons or property or disrupts the educational process[...]

(c) (1) Except in an emergency, no principal, principal-teacher or assistant principal shall suspend any student until that student has been advised of the nature of the student's misconduct, questioned about it and allowed to give an explanation.

(2) Upon suspension of any student other than for in-school suspension of one (1) day or less, the principal shall, within twenty-four (24) hours, notify the parent or guardian and the director of schools or the director of schools' designee of:

(A) The suspension, which shall be for a period of no more than ten (10) days;

(B) The cause for the suspension; and

(C) The conditions for readmission, which may include, at the request of either party, a meeting of the parent or guardian, student and principal.

(3) If the suspension is for more than five (5) days, the principal shall develop and implement a plan for improving the behavior, which shall be made available for review by the director of schools upon request.

(4) (A) If, at the time of the suspension, the principal, principal-teacher or assistant principal determines that an offense has been committed that would justify a suspension for more than ten (10) days, the person may suspend a student unconditionally for a specified period of time or upon such terms and conditions as are deemed reasonable.

(B) The principal, principal-teacher or assistant principal shall immediately give written or actual notice to the parent or guardian and the student of the right to appeal the decision to suspend for more than ten (10) days. All appeals must be filed, orally or in writing, within five (5) days after receipt of the notice and may be filed by the parent or guardian, the student or any person holding a teaching license who is employed by the school system if requested by the student.

(C) The appeal from this decision shall be to the board of education or to a disciplinary hearing authority appointed by the board. The disciplinary hearing authority, if appointed, shall consist of at least one (1) licensed employee of the LEA, but no more than the number of members of the local board.

(D) The hearing shall be held no later than ten (10) days after the beginning of the suspension. The local board of education or the disciplinary hearing authority shall give written notice of the time and place of the hearing to the parent or guardian, the student and the school official designated in subdivision (c)(4)(A) who ordered the suspension. Notice shall also be given to the LEA employee referred to in subdivision (c)(4)(B) who requests a hearing on behalf of a suspended student.

(5) After the hearing, the board of education or the disciplinary hearing authority may affirm the decision of the principal, order removal of the suspension unconditionally or upon such terms and conditions as

it deems reasonable, assign the student to an alternative program or night school or suspend the student for a specified period of time.

(6) If the decision is determined by a disciplinary hearing authority, a written record of the proceedings, including a summary of the facts and the reasons supporting the decision, shall be made by the disciplinary hearing authority. The student, principal, principal-teacher or assistant principal may, within five (5) days of the decision, request review by the board of education; provided, that local school board policy may require an appeal to the director of schools prior to a request for review to the board. Absent a timely appeal, the decision shall be final. The board of education, based upon a review of the record, may grant or deny a request for a board hearing and may affirm or overturn the decision of the hearing authority with or without a hearing before the board; provided, that the board may not impose a more severe penalty than that imposed by the hearing authority without first providing an opportunity for a hearing before the board. If the board conducts a hearing as a result of a request for review by a student, principal, principal-teacher or assistant principal, then, notwithstanding any provision of the open meetings laws compiled in title 8, chapter 44, or other law to the contrary, the hearing shall be closed to the public, unless the student or student's parent or guardian requests in writing within five (5) days after receipt of written notice of the hearing that the hearing be conducted as an open meeting. If the board conducts a hearing as a result of a request for review by a student, principal, principal-teacher, or assistant principal that is closed to the public, then the board shall not conduct any business, discuss any subject or take a vote on any matter other than the appeal to be heard. Nothing in this subdivision (c)(6) shall act to exclude the department of children's services from the disciplinary hearings when the department is exercising its obligations under § 37-1-140. The action of the board of education shall be final.

(d) In the event the suspension occurs during the last ten (10) days of any term or semester, the pupil may be permitted to take final examinations or submit required work that is necessary to complete the course of instruction for that semester, subject to the action of the principal, or the final action of the board of education upon any appeal from an order of a principal continuing a suspension. [...]

(f) Nothing in this title shall require an LEA to enroll a student who is under suspension or expelled in an LEA either in Tennessee or another state. The director of schools for the school system in which the suspended student requests enrollment shall make a recommendation to the local board of education to approve or deny the request. The recommendation shall occur only after investigation of the facts surrounding the suspension from the former school system. If the recommendation is to deny admission and if the local board approves the director of schools' recommendation, the director of schools shall, on behalf of the board of education, notify the commissioner of the decision. Nothing in this subsection (f) shall affect children in state custody or their enrollment in any LEA. Any LEA that accepts enrollment of a student from another LEA may dismiss the student if it is determined subsequent to enrollment that the student had been suspended or expelled by the other LEA.

(g) Notwithstanding this section or any other law to the contrary, a pupil determined to have brought to school or to be in unauthorized possession on school property of a firearm, as defined in 18 U.S.C. § 921, shall be expelled for a period of not less than one (1) calendar year, except that the director may modify this expulsion on a case-by-case basis. In addition to the other provisions of this part, a student committing battery upon any teacher, principal, administrator, any other employee of an LEA or school resource officer, or unlawfully possessing any drug including any controlled substance, as defined in §§ 39-17-403 -- 39-17-415, controlled substance analogue, as defined by § 39-17-454, or legend drug, as defined by § 53-10-101, shall be expelled for a period of not less than one (1) calendar year, except that the director may modify this expulsion on a case-by-case basis. For purposes of this subsection (g), "expelled" means removed from the pupil's regular school program at the location where the violation occurred or removed from school attendance altogether, as determined by the school official. Nothing in this section shall be construed to prohibit the assignment of such students to an alternative school.

Disciplinary policies and procedures for all other student offenses, including terms of suspensions and expulsions, shall be determined by local board of education policy.

(h) The commissioner of education shall report on a semi-annual basis to the education committees of the senate and the house of representatives regarding disciplinary actions in Tennessee schools. The reports shall include the reason for the disciplinary action, the number of such students suspended or expelled and the number of such students who have been placed in an alternative educational setting. Data shall be sorted by school as well as by various demographic factors, including grade, race and sex.

49-6-4216. School policies and procedures -- Contents -- Zero tolerance policy -- Notice to students and parents

(a) Each local and county board of education shall file annually with the commissioner of education written policies and procedures developed and adopted by the board:

(1) To ensure safe and secure learning environments free of drugs, drug paraphernalia, violence and dangerous weapons; and

(2) To impose swift, certain and severe disciplinary sanctions on any student:

(A) Who brings a drug, drug paraphernalia or a dangerous weapon onto a school bus, onto school property or to any school event or activity; or

(B) Who, while on a school bus, on school property or while attending any school event or activity:

(i) Is under the influence of a drug;

(ii) Possesses a drug, drug paraphernalia or dangerous weapon; or

(iii) Assaults or threatens to assault a teacher, student or other person.

(d) (1) The state board of education shall develop a standard form for collection of statistical information relative to zero tolerance violations in local school systems. In developing the form, the state board of education shall consult the local school boards, the Tennessee school board association, the office of education accountability and the department of education.

(2) The form shall include, but shall not be limited to, grade level, age, gender, race, offense, disposition of each zero tolerance violation and any modification in penalty.

(3) The form shall be completed annually by the director of schools of each school system or the director's designee, and copies of the form shall be filed with the department of education and the state board of education by July 1 of each school year.

(4) The office of education accountability shall analyze the forms collected by the department of education and shall periodically report the results specified in subdivision (d)(2) to the education committee of the senate, the education committee of the house of representatives, the governor and the state board of education.

(e) The department of education shall track all students expelled from their home school and report on their progress, and include such information in the report required to be filed under subdivision (d)(4).

49-6-4302. Tennessee school safety center

(a) The department of education shall establish a Tennessee school safety center to develop and evaluate training materials and guidelines on school safety issues, including behavior, discipline and violence prevention.

(b) The Tennessee school safety center shall be responsible for the collection and analysis of data related to school safety, including alleged violent or assaultive acts against school employees and students. Analysis of data shall include the number of arrests, the charges and whether civil damages were pursued by the injured party or school system. The center shall make periodic reports to the

education committee of the senate and the education committee of the house of representatives on the status of school safety efforts [...]

Student Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officer

Authority and power to implement school arrest

STATUTES

49-6-4018. Policy regarding teacher's ability to relocate student for safety reasons

(a) Each local board of education shall adopt a complete policy regarding a teacher's ability to relocate a student from the student's present location to another location for the student's safety or the safety of others. The use of reasonable or justifiable force, as defined in §§ 39-11-603, 39-11-609, 39-11-610, 39-11-612, 39-11-613, 39-11-614, 39-11-621, and 39-11-622, if required to accomplish this task due to the unwillingness of the student to cooperate, is allowed. If steps beyond the use of reasonable or justifiable force are required, the student shall be allowed to remain in place until such a time as local law enforcement officers or school resource officers can be summoned to relocate the student or take the student into custody until such a time as a parent or guardian can retrieve the student. This policy shall also cover teachers' authorization to intervene in a physical altercation between two (2) or more students, or between a student and LEA employees using reasonable or justifiable force upon a student, if necessary to end the altercation by relocating the student to another location.

(b) This policy shall be in effect on school property, as well as at official school functions, including, but not limited to, sporting events and approved field trips, taking place away from the local school property. Those covered by this policy shall include LEA employees who are directly responsible for the student's education or who otherwise interact with the student on a professional basis while acting within the scope of their assigned duties, including, but not limited to, administrators, teachers, school support staff, bus drivers, cafeteria workers, and school resource officers.

49-10-1304. Isolation or restraint of student -- Reports and record

[...](C) A school resource officer (SRO), as defined by § 49-6-4202, may, upon witnessing an offense, take the student into custody [...]

Certification or training

STATUTES

49-6-4217. Employment standards for school resource officers.

(a) Training courses for school resource officers shall be designed specifically for school policing and shall be administered by an entity or organization approved by the peace officers standards and training (POST) commission.

(b) School resource officers shall participate in forty (40) hours of basic training in school policing within twelve (12) months of assignment to a school. Every year thereafter they shall participate in a minimum of sixteen (16) hours of training specific to school policing that has been approved by the POST commission.

(c) Within thirty (30) days of the beginning of the school term, each LEA shall publish and deliver to the commissioner an annual report of the employment standards adopted by the LEA. The report shall include a description of the LEA's methods of enforcing the employment standards.

MOUs, authorization, and/or funding

STATUTES

49-6-4202. Part definitions

As used in this part, unless the context otherwise requires:

[...] (6) "School resource officer" means a law enforcement officer, as defined under § 39-11-106, who is in compliance with all laws, rules and regulations of the peace officers standards and training commission and who has been assigned to a school in accordance with a memorandum of understanding between the chief of the appropriate law enforcement agency and the LEA;[...]

49-6-4302. Tennessee school safety center

[...](d) LEAs are authorized to act in partnership with local law enforcement agencies for the purpose of hiring school resource officers under the state grant program set forth in § 38-8-115 [...]

State Education Agency Support

State model policies and implementation support

No relevant statutes found.

Funding appropriations

STATUTES

49-6-4302. Tennessee school safety center

[...] (c) (1) The Tennessee school safety center, within the limit of appropriations for the center, may establish grants to LEAs for the development of innovative violence prevention programs, conflict resolution, disruptive or assaultive behavior management, improved school security, peer mediation and training for employees on the identification of possible perpetrators of school related violence.

(2) The grants provided for in subdivision (c)(1) shall be distributed as follows:

(A) Funding would be available to each LEA in the same percentage that the LEA's share of basic education program (BEP) funding bears to statewide BEP funding.

(B) Funding would be subject to a twenty-five percent (25%) match by the LEA, adjusted for the LEA's fiscal capacity under the BEP formula. The match requirement could be satisfied by local or contributed funds or by personnel or other in-kind expenses assumed by the LEA.

(C) State funding would also be subject to submission by the LEA to the school safety center of a proposed plan of expenditures to accomplish one (1) or more of the provisions specified in subdivision (c)(1) and approval of that plan by the center. The center should not unreasonably withhold funding, but should allow LEAs adequate flexibility to experiment so long as the basic requirements of this section are satisfied.

(D) Any funds appropriated for this program in any fiscal year and not expended shall be carried forward for such purposes in future fiscal years. Any allocation for an LEA that is not applied for or is not successfully applied for in any fiscal year shall not be carried forward for the benefit of that LEA in subsequent fiscal years, but shall be carried forward for future expenditures under this program in future fiscal years[...]

Other/Uncategorized

Professional immunity or liability

STATUTES

49-6-1018. Reprisal or retaliation prohibited -- Reporting harassment, intimidation, bullying or cyber-bullying -- Immunity from damages

(a) A school employee, student or volunteer may not engage in reprisal or retaliation against a victim of, witness to, or person with reliable information about an act of harassment, intimidation, bullying or cyber-bullying.

(b) A school employee, student or volunteer who witnesses or has reliable information that a student has been subjected to an act of harassment, intimidation, bullying or cyber-bullying is encouraged to report the act to the appropriate school official designated by the school district's policy.

(c) A school employee who promptly reports an act of harassment, intimidation, bullying or cyber-bullying to the appropriate school official in compliance with the procedures set forth in the school district's policy is immune from a cause of action for damages arising from any failure to remedy the reported act.

49-6-4105. Arrest and prosecution for injury to student

(a) No action taken by a teacher or principal pursuant to this part shall be grounds for the issuance of an arrest warrant or for the pressing of criminal charges against the teacher or principal, unless a report of an investigation by appropriate law enforcement officials along with independent medical verification of injury is presented to the judge or magistrate prior to issuing the warrant. The investigative findings shall be presented to the judge or magistrate within fifteen (15) days of receipt of notification. The law enforcement agency shall give notice to the director of schools or the director of schools' designee at the time it is notified of the allegations.

(b) When an arrest warrant has been issued against a teacher for action taken pursuant to this part, the teacher shall be summoned to an administrative office or to a location other than on school grounds, so that students shall not be present, and shall be arrested there. The teacher is not to be arrested in the classroom or before any assembly of students. This subsection (b) shall not apply if a law enforcement officer reasonably believes that the teacher will flee from arrest or attempt to leave the jurisdiction of the court that issued the warrant.

Community input or involvement

STATUTES

49-6-1016. Development of policy regarding harassment, intimidation, bullying or cyber-bullying

(a) Each school district shall adopt a policy prohibiting harassment, intimidation, bullying or cyber-bullying. School districts are encouraged to develop the policy after consultation with parents and guardians, school employees, volunteers, students, administrators and community representatives.

49-6-4012. Formulation and administration of behavior and discipline codes

[...] (c) In formulating the behavior and discipline codes, the governing body of each LEA shall seek recommendations from parents, employees, law enforcement personnel and youth-related agencies in the community.

Other/Uncategorized

No relevant statutes found.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by Tennessee provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
Website		
2011 Legislative Summary	Report on Public Chapters and Resolutions Affecting K-12 Education in Tennessee	http://www.tn.gov/education/legal/doc/legislative_summary2011.pdf
Safe and Supportive Schools	Department of Education homepage for safe and supportive schools	http://www.tn.gov/education/safe_schls/index.shtml
Training: Office of Safe & Supportive Schools	Schedule of upcoming trainings regarding school safety and discipline	http://www.tn.gov/education/safe_schls/training_calendar.shtml
Documents		
Sample Bullying and Harassment Plan	Sample plan for bullying and harassment	http://www.tn.gov/education/safe_schls/safety_cntr/doc/SampleBullyingandHarassmentPolicy.pdf
Tennessee Bullying, Harassment, Cyber-bullying Laws	List of codes relevant to bullying, harassment, and cyber bullying	http://www.tn.gov/education/safe_schls/safety_cntr/doc/TennesseeBullyingHarassmentCyber-bullyingLaws.pdf
Bullying and Harassment: An Educator's Guide for Addressing Bullying and Harassment Complaints in Tennessee Schools	Manual for LEAs on bullying and harassment	http://www.tn.gov/education/safe_schls/safety_cntr/doc/RevisedTNBullyingandHarassmentManual.pdf
Other Resources		
No relevant resources found		

Texas
Compilation of School Discipline Laws and Regulations

Prepared: August 12, 2013

Introduction

This compilation presents school discipline-related state statutes, school discipline-related regulations, and, where available, links to state-sponsored websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSLE). For example, one major category encompasses all state laws or regulations mandating specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of state legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in each state.

Discipline categories were not mutually exclusive. Statutes and regulations often appeared across multiple categories. For states with more extensive statutes covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. State laws, ordered by chapter and section number, appear first within each category followed by state regulations. All statutes and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists statutes by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to state-sponsored websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of May 2013, with the exception of the state laws related to seclusion and restraint, which are complete and current as of December 2012. Readers should also note that the information in this document was compiled from individual state sources that are created by each state and which are maintained and updated with varying frequencies. Readers should consult the source information provided for each state directly in order to check for updates to this state's laws and regulations or conduct further research.

For further information, including definitions of the different policy categories, please refer to the Discipline Laws and Regulations Compendium posted on the Center's website.

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Safe Supportive Learning
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Table of Contents

Texas State Codes Cited **1**

General Provisions **4**

Authority to develop and establish rules of conduct 4
Scope 5
Communication of policy 5

In-School Discipline **6**

Use of multi-tiered discipline approaches 6
Teacher authority to remove students from classrooms 6
Alternatives to suspension 6
Use of corporal punishment 7
Use of student and locker searches 7
Other in-school disciplinary approaches 7

Out-of-School and Exclusionary Discipline: Suspension, Expulsion, Restraint and Seclusion, and Alternative Placements **8**

Grounds for possible suspension or expulsion 8
Grounds for mandatory suspension or expulsion 10
Limitations, conditions or exclusions for use of suspension and expulsion 12
Administrative procedures related to suspension and expulsion 13
In-school suspension 16
Return to school following removal 16
Use of restraint and seclusion 17
Alternative placements 21

Disciplinary Approaches Addressing Specific Infractions and Conditions **39**

Firearms (as required by the Guns-Free Schools Act) 39
Other weapons 41
Students with chronic disciplinary issues 41
Attendance and truancy 41
Substance use 47
Bullying, harassment, or hazing 48
Other special infractions or conditions 51

Prevention and Behavioral Interventions (Non-Punitive) **54**

Prevention 54
Behavioral interventions and student support services 55
Professional development 57

Monitoring and Accountability **58**

Formal incident reporting of conduct violations 58
Parental notification 60
Reporting and referrals between schools and law enforcement 62
Disclosure of school records 63
Data collection, review, and reporting of disciplinary policies and actions 64

School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers 65
Authority and power to implement school arrest 65
Certification or training 66
MOUs, authorization, and/or funding 66
State Education Agency Support 69
State model policies and implementation support 69
Funding appropriations 69
Other/Uncategorized 70
Professional immunity or liability 70
Community input or involvement 70
Other/Uncategorized 70
State-Sponsored, Publicly Available Websites or Other Resources on School Discipline 71

Texas State Codes Cited

Texas Revised Statutes

Texas Educational Code

Chapter 11. School Districts

§ 11.252.	District-level planning and decision-making

Chapter 25. Admission, Transfer, and Attendance

§ 25.001.	Admission
§ 25.0342.	Transfer of students who are victims of or have engaged in bullying
§ 25.088.	School attendance officer
§ 25.089.	Compensation of attendance officer; dual service
§ 25.090.	Attendance officer not selected
§ 25.091.	Powers and duties of peace officers and other attendance officers
§ 25.0915.	Truancy prevention measures; referral and filing requirement
§ 25.093.	Parent contributing to nonattendance
§ 25.094.	Failure to attend school
§ 25.095.	Warning notices
§ 25.0951.	School district complaint or referral for failure to attend school
§ 25.0952.	Procedures applicable to school attendance-related offenses

Chapter 37. Discipline; Law and Order

§ 37.01.	Student code of conduct
§ 37.0011.	Use of corporal punishment
§ 37.002.	Removal by teacher
§ 37.0021.	Use of confinement, restraint, seclusion, and time-Out
§ 37.003.	Placement review committee
§ 37.004.	Placement of students with disabilities
§ 37.005.	Suspension
§ 37.0051.	Placement of students committing sexual assault against another student
§ 37.006.	Removal for certain conduct
§ 37.0061.	Funding for alternative education services in juvenile residential facilities
§ 37.0062.	Instructional requirements for alternative education services in juvenile residential facilities
§ 37.007.	Expulsion for serious offenses
§ 37.008.	Disciplinary alternative education programs
§ 37.0081.	Expulsion and placement of certain students in alternative settings
§ 37.0082.	Assessment of academic growth of students in disciplinary alternative education programs
§ 37.009.	Conference; hearing; review
§ 37.0091.	Notice to noncustodial parent
§ 37.010.	Court involvement
§ 37.011.	Juvenile justice alternative education program
§ 37.012.	Funding of juvenile justice alternative education programs
§ 37.013.	Coordination between school districts and juvenile boards
§ 37.015.	Reports to local law enforcement; liability

§ 37.016. Report of drug offenses; liability
§ 37.017. Destruction of certain records
§ 37.018. Information for educators
§ 37.019. Emergency placement or expulsion
§ 37.020. Reports relating to expulsions and disciplinary alternative education program placements
§ 37.021. Opportunity to complete courses during in-school and certain other placements
§ 37.022. Notice of disciplinary action
§ 37.051. Establishment
§ 37.052. Cooperative programs
§ 37.053. Cooperation of governmental agencies
§ 37.054. Parental notice, consent, and access to information
§ 37.055. Parental involvement
§ 37.056. Court supervision
§ 37.081. School district peace officers and security personnel
§ 37.083. Discipline management programs; sexual harassment policies
§ 37.0831. Dating violence policies
§ 37.0832. Bullying prevention policies and procedures
§ 37.084. Interagency sharing of records
§ 37.121. Fraternities, sororities, secret societies, and gangs
§ 37.122. Possession of intoxicants on public school grounds
§ 37.123. Disruptive activities
§ 37.124. Disruption of classes
§ 37.125. Exhibition of firearms
§ 37.126. Disruption of transportation
§ 37.151. Definitions
§ 37.152. Personal hazing offense
§ 37.153. Organization hazing offense
§ 37.154. Consent not a defense
§ 37.155. Immunity from prosecution available
§ 37.156. Offenses in addition to other penal provisions
§ 37.157. Reporting by medical authorities
§ 37.201. Texas School Safety Center. Definition.
§ 37.202. Texas School Safety Center. Purpose.
§ 37.205. Texas School Safety Center. Safety Training Programs.
§ 37.2121. Memoranda of understanding and mutual aid agreements
§ 37.218. Programs on dangers of students sharing visual material depicting minor engaged in sexual conduct

Chapter 39. Public School System Accountability

§ 39.306. Performance report

Texas Administrative Code

Title 19. Education

Chapter 89. Adaptations for Special Populations

19 TAC § 89.1052.	Discretionary placements in Juvenile Justice Alternative Education Programs (JJAEP)
19 TAC § 89.1053.	Procedures for use of restraint and time-out

Chapter 100. Charters

19 TAC § 100.1211.	Students

Chapter 103. Health and Safety

19 TAC § 103.1201.	Standards for the operation of school district disciplinary alternative education programs
19 TAC § 103.1203.	Assessment of academic growth of students in disciplinary alternative education programs

General Provisions

Authority to develop and establish rules of conduct

STATUTES

§ 37.001. Student Code of Conduct

(a) The board of trustees of an independent school district shall, with the advice of its district-level committee established under Subchapter F, Chapter 11, adopt a student code of conduct for the district. The student code of conduct must be posted and prominently displayed at each school campus or made available for review at the office of the campus principal. In addition to establishing standards for student conduct, the student code of conduct must:

(1) specify the circumstances, in accordance with this subchapter, under which a student may be removed from a classroom, campus, or disciplinary alternative education program;

(2) specify conditions that authorize or require a principal or other appropriate administrator to transfer a student to a disciplinary alternative education program;

(3) outline conditions under which a student may be suspended as provided by Section 37.005 or expelled as provided by Section 37.007;

(4) specify that consideration will be given, as a factor in each decision concerning suspension, removal to a disciplinary alternative education program, expulsion, or placement in a juvenile justice alternative education program, regardless of whether the decision concerns a mandatory or discretionary action, to:

(A) self-defense;

(B) intent or lack of intent at the time the student engaged in the conduct;

(C) a student's disciplinary history; or

(D) a disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct;

(5) provide guidelines for setting the length of a term of:

(A) a removal under Section 37.006; and

(B) an expulsion under Section 37.007;

(6) address the notification of a student's parent or guardian of a violation of the student code of conduct committed by the student that results in suspension, removal to a disciplinary alternative education program, or expulsion;

(7) prohibit bullying, harassment, and making hit lists and ensure that district employees enforce those prohibitions; and

(8) provide, as appropriate for students at each grade level, methods, including options, for:

(A) managing students in the classroom and on school grounds;

(B) disciplining students; and

(C) preventing and intervening in student discipline problems, including bullying, harassment, and making hit lists.

(b) In this section:

(1) "Bullying" has the meaning assigned by Section 37.0832.

(2) "Harassment" means threatening to cause harm or bodily injury to another student, engaging in sexually intimidating conduct, causing physical damage to the property of another student, subjecting another student to physical confinement or restraint, or maliciously taking any action that substantially harms another student's physical or emotional health or safety.

(3) "Hit list" means a list of people targeted to be harmed, using:

(A) a firearm, as defined by Section 46.01(3), Penal Code;

(B) a knife, as defined by Section 46.01(7), Penal Code; or

(C) any other object to be used with intent to cause bodily harm.

(b-1) The methods adopted under Subsection (a)(8) must provide that a student who is enrolled in a special education program under Subchapter A, Chapter 29, may not be disciplined for conduct prohibited in accordance with Subsection (a)(7) until an admission, review, and dismissal committee meeting has been held to review the conduct.

(c) Once the student code of conduct is promulgated, any change or amendment must be approved by the board of trustees.

(d) Each school year, a school district shall provide parents notice of and information regarding the student code of conduct.

(e) Except as provided by Section 37.007(e), this subchapter does not require the student code of conduct to specify a minimum term of a removal under Section 37.006 or an expulsion under Section 37.007.

Scope

No relevant statutes found.

Communication of policy

STATUTES

§ 37.001. Student Code of Conduct

(a) The board of trustees of an independent school district shall, with the advice of its district-level committee established under Subchapter F, Chapter 11, adopt a student code of conduct for the district. The student code of conduct must be posted and prominently displayed at each school campus or made available for review at the office of the campus principal [...]

(d) Each school year, a school district shall provide parents notice of and information regarding the student code of conduct […]

§ 37.018. Information for Educators

Each school district shall provide each teacher and administrator with a copy of this subchapter and with a copy of the local policy relating to this subchapter.

§ 37.0832. Bullying Prevention Policies and Procedures

(d) The policy and any necessary procedures adopted under Subsection (c) must be included:

(1) annually, in the student and employee school district handbooks; and

(2) in the district improvement plan under Section 11.252.

(e) The procedure for reporting bullying established under Subsection (c) must be posted on the district's Internet website to the extent practicable.

In-School Discipline

Use of multi-tiered discipline approaches

No relevant statutes found.

Teacher authority to remove students from classrooms

STATUTES

§ 37.002. Removal by Teacher

(a) A teacher may send a student to the principal's office to maintain effective discipline in the classroom. The principal shall respond by employing appropriate discipline management techniques consistent with the student code of conduct adopted under Section 37.001.

(b) A teacher may remove from class a student:

(1) who has been documented by the teacher to repeatedly interfere with the teacher's ability to communicate effectively with the students in the class or with the ability of the student's classmates to learn; or

(2) whose behavior the teacher determines is so unruly, disruptive, or abusive that it seriously interferes with the teacher's ability to communicate effectively with the students in the class or with the ability of the student's classmates to learn.

(c) If a teacher removes a student from class under Subsection (b), the principal may place the student into another appropriate classroom, into in-school suspension, or into a disciplinary alternative education program as provided by Section 37.008. The principal may not return the student to that teacher's class without the teacher's consent unless the committee established under Section 37.003 determines that such placement is the best or only alternative available. The terms of the removal may prohibit the student from attending or participating in school-sponsored or school-related activity.

(d) A teacher shall remove from class and send to the principal for placement in a disciplinary alternative education program or for expulsion, as appropriate, a student who engages in conduct described under Section 37.006 or 37.007. The student may not be returned to that teacher's class without the teacher's consent unless the committee established under Section 37.003 determines that such placement is the best or only alternative available. If the teacher removed the student from class because the student has engaged in the elements of any offense listed in Section 37.006(a)(2)(B) or Section 37.007(a)(2)(A) or (b)(2)(C) against the teacher, the student may not be returned to the teacher's class without the teacher's consent. The teacher may not be coerced to consent.

Alternatives to suspension

No relevant statutes found.

Use of corporal punishment

STATUTES

§ 37.0011 Use of Corporal Punishment

(a) In this section, "corporal punishment" means the deliberate infliction of physical pain by hitting, paddling, spanking, slapping, or any other physical force used as a means of discipline. The term does not include:

(1) physical pain caused by reasonable physical activities associated with athletic training, competition, or physical education; or

(2) the use of restraint as authorized under Section 37.0021.

(b) If the board of trustees of an independent school district adopts a policy under Section 37.001(a)(8) under which corporal punishment is permitted as a method of student discipline, a district educator may use corporal punishment to discipline a student unless the student's parent or guardian or other person having lawful control over the student has previously provided a written, signed statement prohibiting the use of corporal punishment as a method of student discipline.

(c) To prohibit the use of corporal punishment as a method of student discipline, each school year a student's parent or guardian or other person having lawful control over the student must provide a separate written, signed statement to the board of trustees of the school district in the manner established by the board.

(d) The student's parent or guardian or other person having lawful control over the student may revoke the statement provided to the board of trustees under Subsection (c) at any time during the school year by submitting a written, signed revocation to the board in the manner established by the board.

Use of student and locker searches

No relevant statutes found.

Other in-school disciplinary approaches

No relevant statutes found.

Out-of-School and Exclusionary Discipline: Suspension, Expulsion, Restraint and Seclusion, and Alternative Placements

Grounds for possible suspension or expulsion

STATUTES

§ 37.005. Suspension

(a) The principal or other appropriate administrator may suspend a student who engages in conduct identified in the student code of conduct adopted under Section 37.001 as conduct for which a student may be suspended.

(b) A suspension under this section may not exceed three school days.

§ 37.007. Expulsion for Serious Offenses

(b) A student may be expelled if the student:

(1) engages in conduct involving a public school that contains the elements of the offense of false alarm or report under Section 42.06, Penal Code, or terroristic threat under Section 22.07, Penal Code;

(2) while on or within 300 feet of school property, as measured from any point on the school's real property boundary line, or while attending a school-sponsored or school-related activity on or off of school property:

(A) sells, gives, or delivers to another person or possesses, uses, or is under the influence of any amount of:

(i) marihuana or a controlled substance, as defined by Chapter 481, Health and Safety Code, or by 21 U.S.C. Section 801 et seq.;

(ii) a dangerous drug, as defined by Chapter 483, Health and Safety Code; or

(iii) an alcoholic beverage, as defined by Section 1.04, Alcoholic Beverage Code;

(B) engages in conduct that contains the elements of an offense relating to an abusable volatile chemical under Sections 485.031 through 485.034, Health and Safety Code;

(C) engages in conduct that contains the elements of an offense under Section 22.01(a)(1), Penal Code, against a school district employee or a volunteer as defined by Section 22.053; or

(D) engages in conduct that contains the elements of the offense of deadly conduct under Section 22.05, Penal Code;

(3) subject to Subsection (d), while within 300 feet of school property, as measured from any point on the school's real property boundary line:

(A) engages in conduct specified by Subsection (a); or

(B) possesses a firearm, as defined by 18 U.S.C. Section 921;

(4) engages in conduct that contains the elements of any offense listed in Subsection (a)(2)(A) or (C) or the offense of aggravated robbery under Section 29.03, Penal Code, against another student, without regard to whether the conduct occurs on or off of school property or while attending a school-sponsored or school-related activity on or off of school property; or

(5) engages in conduct that contains the elements of the offense of breach of computer security under Section 33.02, Penal Code, if:

(A) the conduct involves accessing a computer, computer network, or computer system owned by or operated on behalf of a school district; and

(B) the student knowingly:

(i) alters, damages, or deletes school district property or information; or

(ii) commits a breach of any other computer, computer network, or computer system.

(c) A student may be expelled if the student, while placed in a disciplinary alternative education program, engages in documented serious misbehavior while on the program campus despite documented behavioral interventions. For purposes of this subsection, "serious misbehavior" means:

(1) deliberate violent behavior that poses a direct threat to the health or safety of others;

(2) extortion, meaning the gaining of money or other property by force or threat;

(3) conduct that constitutes coercion, as defined by Section 1.07, Penal Code; or

(4) conduct that constitutes the offense of:

(A) public lewdness under Section 21.07, Penal Code;

(B) indecent exposure under Section 21.08, Penal Code;

(C) criminal mischief under Section 28.03, Penal Code;

(D) personal hazing under Section 37.152; or

(E) harassment under Section 42.07(a)(1), Penal Code, of a student or district employee.

[...](f) A student who engages in conduct that contains the elements of the offense of criminal mischief under Section 28.03, Penal Code, may be expelled at the district's discretion if the conduct is punishable as a felony under that section. The student shall be referred to the authorized officer of the juvenile court regardless of whether the student is expelled.

[...](i) A student who engages in conduct described by Subsection (a) may be expelled from school by the district in which the student attends school if the student engages in that conduct:

(1) on school property of another district in this state; or

(2) while attending a school-sponsored or school-related activity of a school in another district in this state[...]

§ 37.0081. Expulsion and Placement of Certain Students in Alternative Settings

(a) Subject to Subsection (h), but notwithstanding any other provision of this subchapter, the board of trustees of a school district, or the board's designee, after an opportunity for a hearing may expel a student and elect to place the student in an alternative setting as provided by Subsection (a-1) if:

(1) the student:

(A) has received deferred prosecution under Section 53.03, Family Code, for conduct defined as:

(i) a felony offense in Title 5, Penal Code; or

(ii) the felony offense of aggravated robbery under Section 29.03, Penal Code;

(B) has been found by a court or jury to have engaged in delinquent conduct under Section 54.03, Family Code, for conduct defined as:

(i) a felony offense in Title 5, Penal Code; or

(ii) the felony offense of aggravated robbery under Section 29.03, Penal Code;

(C) is charged with engaging in conduct defined as:

(i) a felony offense in Title 5, Penal Code; or

(ii) the felony offense of aggravated robbery under Section 29.03, Penal Code;

(D) has been referred to a juvenile court for allegedly engaging in delinquent conduct under Section 54.03, Family Code, for conduct defined as:

(i) a felony offense in Title 5, Penal Code; or

(ii) the felony offense of aggravated robbery under Section 29.03, Penal Code;

(E) has received probation or deferred adjudication for a felony offense under Title 5, Penal Code, or the felony offense of aggravated robbery under Section 29.03, Penal Code;

(F) has been convicted of a felony offense under Title 5, Penal Code, or the felony offense of aggravated robbery under Section 29.03, Penal Code; or

(G) has been arrested for or charged with a felony offense under Title 5, Penal Code, or the felony offense of aggravated robbery under Section 29.03, Penal Code; and

(2) the board or the board's designee determines that the student's presence in the regular classroom:

(A) threatens the safety of other students or teachers;

(B) will be detrimental to the educational process; or

(C) is not in the best interests of the district's students[...]

§ 37.019. Emergency Placement or Expulsion

(a) This subchapter does not prevent the principal or the principal's designee from ordering the immediate placement of a student in a disciplinary alternative education program if the principal or the principal's designee reasonably believes the student's behavior is so unruly, disruptive, or abusive that it seriously interferes with a teacher's ability to communicate effectively with the students in a class, with the ability of the student's classmates to learn, or with the operation of school or a school-sponsored activity.

(b) This subchapter does not prevent the principal or the principal's designee from ordering the immediate expulsion of a student if the principal or the principal's designee reasonably believes that action is necessary to protect persons or property from imminent harm.

(c) At the time of an emergency placement or expulsion, the student shall be given oral notice of the reason for the action. The reason must be a reason for which placement in a disciplinary alternative education program or expulsion may be made on a nonemergency basis. Within a reasonable time after the emergency placement or expulsion, but not later than the 10th day after the date of the placement or expulsion, the student shall be accorded the appropriate due process as required under Section 37.009. If the student subject to the emergency placement or expulsion is a student with disabilities who receives special education services, the emergency placement or expulsion is subject to federal law and regulations and must be consistent with the consequences that would apply under this subchapter to a student without a disability.

(d) A principal or principal's designee is not liable in civil damages for an emergency placement under this section.

Grounds for mandatory suspension or expulsion

STATUTES

§ 37.007. Expulsion for Serious Offenses

(a) Except as provided by Subsection (k), a student shall be expelled from a school if the student, on school property or while attending a school-sponsored or school-related activity on or off of school property:

(1) uses, exhibits, or possesses:

(A) a firearm as defined by Section 46.01(3), Penal Code;

(B) an illegal knife as defined by Section 46.01(6), Penal Code, or by local policy;

(C) a club as defined by Section 46.01(1), Penal Code; or

(D) a weapon listed as a prohibited weapon under Section 46.05, Penal Code;

(2) engages in conduct that contains the elements of the offense of:

(A) aggravated assault under Section 22.02, Penal Code, sexual assault under Section 22.011, Penal Code, or aggravated sexual assault under Section 22.021, Penal Code;

(B) arson under Section 28.02, Penal Code;

(C) murder under Section 19.02, Penal Code, capital murder under Section 19.03, Penal Code, or criminal attempt, under Section 15.01, Penal Code, to commit murder or capital murder;

(D) indecency with a child under Section 21.11, Penal Code;

(E) aggravated kidnapping under Section 20.04, Penal Code;

(F) aggravated robbery under Section 29.03, Penal Code;

(G) manslaughter under Section 19.04, Penal Code;

(H) criminally negligent homicide under Section 19.05, Penal Code; or

(I) continuous sexual abuse of young child or children under Section 21.02, Penal Code; or

(3) engages in conduct specified by Section 37.006(a)(2)(C) or (D), if the conduct is punishable as a felony.

(d) A student shall be expelled if the student engages in conduct that contains the elements of any offense listed in Subsection (a), and may be expelled if the student engages in conduct that contains the elements of any offense listed in Subsection (b)(2)(C), against any employee or volunteer in retaliation for or as a result of the person's employment or association with a school district, without regard to whether the conduct occurs on or off of school property or while attending a school-sponsored or school-related activity on or off of school property.

(e) In accordance with 20 U.S.C. Section 7151, a local educational agency, including a school district, home-rule school district, or open-enrollment charter school, shall expel a student who brings a firearm, as defined by 18 U.S.C. Section 921, to school. The student must be expelled from the student's regular campus for a period of at least one year, except that:

(1) the superintendent or other chief administrative officer of the school district or of the other local educational agency, as defined by 20 U. S.C. Section 7801, may modify the length of the expulsion in the case of an individual student;

(2) the district or other local educational agency shall provide educational services to an expelled student in a disciplinary alternative education program as provided by Section 37.008 if the student is younger than 10 years of age on the date of expulsion; and

(3) the district or other local educational agency may provide educational services to an expelled student who is 10 years of age or older in a disciplinary alternative education program as provided in Section 37.008[...]

Limitations, conditions or exclusions for use of suspension and expulsion

STATUTES

§ 37.005. Suspension

(a) The principal or other appropriate administrator may suspend a student who engages in conduct identified in the student code of conduct adopted under Section 37.001 as conduct for which a student may be suspended.

(b) A suspension under this section may not exceed three school days.

§ 37.007. Expulsion for Serious Offenses

(d) A student shall be expelled if the student engages in conduct that contains the elements of any offense listed in Subsection (a), and may be expelled if the student engages in conduct that contains the elements of any offense listed in Subsection (b)(2)(C), against any employee or volunteer in retaliation for or as a result of the person's employment or association with a school district, without regard to whether the conduct occurs on or off of school property or while attending a school-sponsored or school-related activity on or off of school property.

(e) In accordance with 20 U.S.C. Section 7151, a local educational agency, including a school district, home-rule school district, or open-enrollment charter school, shall expel a student who brings a firearm, as defined by 18 U.S.C. Section 921, to school. The student must be expelled from the student's regular campus for a period of at least one year, except that:

(1) the superintendent or other chief administrative officer of the school district or of the other local educational agency, as defined by 20 U. S.C. Section 7801, may modify the length of the expulsion in the case of an individual student;

(2) the district or other local educational agency shall provide educational services to an expelled student in a disciplinary alternative education program as provided by Section 37.008 if the student is younger than 10 years of age on the date of expulsion; and

(3) the district or other local educational agency may provide educational services to an expelled student who is 10 years of age or older in a disciplinary alternative education program as provided in Section 37.008.

(f) A student who engages in conduct that contains the elements of the offense of criminal mischief under Section 28.03, Penal Code, may be expelled at the district's discretion if the conduct is punishable as a felony under that section. The student shall be referred to the authorized officer of the juvenile court regardless of whether the student is expelled.

(g) In addition to any notice required under Article 15.27, Code of Criminal Procedure, a school district shall inform each educator who has responsibility for, or is under the direction and supervision of an educator who has responsibility for, the instruction of a student who has engaged in any violation listed in this section of the student's misconduct. Each educator shall keep the information received under this subsection confidential from any person not entitled to the information under this subsection, except that the educator may share the information with the student's parent or guardian as provided for by state or federal law. The State Board for Educator Certification may revoke or suspend the certification of an educator who intentionally violates this subsection.

(h) Subject to Subsection (e), notwithstanding any other provision of this section, a student who is younger than 10 years of age may not be expelled for engaging in conduct described by this section.

(i) A student who engages in conduct described by Subsection (a) may be expelled from school by the district in which the student attends school if the student engages in that conduct:

(1) on school property of another district in this state; or

(2) while attending a school-sponsored or school-related activity of a school in another district in this state.

(j) [Blank.]

(k) A student may not be expelled solely on the basis of the student's use, exhibition, or possession of a firearm that occurs:

(1) at an approved target range facility that is not located on a school campus; and

(2) while participating in or preparing for a school-sponsored shooting sports competition or a shooting sports educational activity that is sponsored or supported by the Parks and Wildlife Department or a shooting sports sanctioning organization working with the department.

(l) Subsection (k) does not authorize a student to bring a firearm on school property to participate in or prepare for a school-sponsored shooting sports competition or a shooting sports educational activity described by that subsection.

§ 37.021. Opportunity to Complete Courses During In-School and Certain Other Placements

(a) If a school district removes a student from the regular classroom and places the student in in-school suspension or another setting other than a disciplinary alternative education program, the district shall offer the student the opportunity to complete before the beginning of the next school year each course in which the student was enrolled at the time of the removal.

(b) The district may provide the opportunity to complete courses by any method available, including a correspondence course, distance learning, or summer school.

Administrative procedures related to suspension and expulsion

STATUTES

§ 37.009. Conference; Hearing; Review

(a) Not later than the third class day after the day on which a student is removed from class by the teacher under Section 37.002(b) or (d) or by the school principal or other appropriate administrator under Section 37.001(a)(2) or 37.006, the principal or other appropriate administrator shall schedule a conference among the principal or other appropriate administrator, a parent or guardian of the student, the teacher removing the student from class, if any, and the student. At the conference, the student is entitled to written or oral notice of the reasons for the removal, an explanation of the basis for the removal, and an opportunity to respond to the reasons for the removal. The student may not be returned to the regular classroom pending the conference. Following the conference, and whether or not each requested person is in attendance after valid attempts to require the person's attendance, the principal shall order the placement of the student for a period consistent with the student code of conduct. If school district policy allows a student to appeal to the board of trustees or the board's designee a decision of the principal or other appropriate administrator, other than an expulsion under Section 37.007, the decision of the board or the board's designee is final and may not be appealed. If the period of the placement is inconsistent with the guidelines included in the student code of conduct under Section 37.001(a)(5), the order must give notice of the inconsistency. The period of the placement may not exceed one year unless, after a review, the district determines that:

(1) the student is a threat to the safety of other students or to district employees; or

(2) extended placement is in the best interest of the student.

(b) If a student's placement in a disciplinary alternative education program is to extend beyond 60 days or the end of the next grading period, whichever is earlier, a student's parent or guardian is entitled to notice of and an opportunity to participate in a proceeding before the board of trustees of the school district or the board's designee, as provided by policy of the board of trustees of the district. Any decision of the board or the board's designee under this subsection is final and may not be appealed.

(c) Before it may place a student in a disciplinary alternative education program for a period that extends beyond the end of the school year, the board or the board's designee must determine that:

(1) the student's presence in the regular classroom program or at the student's regular campus presents a danger of physical harm to the student or to another individual; or

(2) the student has engaged in serious or persistent misbehavior that violates the district's student code of conduct.

(d) The board or the board's designee shall set a term for a student's placement in a disciplinary alternative education program. If the period of the placement is inconsistent with the guidelines included in the student code of conduct under Section 37.001(a)(5), the order must give notice of the inconsistency. The period of the placement may not exceed one year unless, after a review, the district determines that:

(1) the student is a threat to the safety of other students or to district employees; or

(2) extended placement is in the best interest of the student.

(e) A student placed in a disciplinary alternative education program shall be provided a review of the student's status, including a review of the student's academic status, by the board's designee at intervals not to exceed 120 days. In the case of a high school student, the board's designee, with the student's parent or guardian, shall review the student's progress towards meeting high school graduation requirements and shall establish a specific graduation plan for the student. The district is not required under this subsection to provide a course in the district's disciplinary alternative education program except as required by Section 37.008(l). At the review, the student or the student's parent or guardian must be given the opportunity to present arguments for the student's return to the regular classroom or campus. The student may not be returned to the classroom of the teacher who removed the student without that teacher's consent. The teacher may not be coerced to consent.

(f) Before a student may be expelled under Section 37.007, the board or the board's designee must provide the student a hearing at which the student is afforded appropriate due process as required by the federal constitution and which the student's parent or guardian is invited, in writing, to attend. At the hearing, the student is entitled to be represented by the student's parent or guardian or another adult who can provide guidance to the student and who is not an employee of the school district. If the school district makes a good-faith effort to inform the student and the student's parent or guardian of the time and place of the hearing, the district may hold the hearing regardless of whether the student, the student's parent or guardian, or another adult representing the student attends. If the decision to expel a student is made by the board's designee, the decision may be appealed to the board. The decision of the board may be appealed by trial de novo to a district court of the county in which the school district's central administrative office is located.

(g) The board or the board's designee shall deliver to the student and the student's parent or guardian a copy of the order placing the student in a disciplinary alternative education program under Section 37.001, 37.002, or 37.006 or expelling the student under Section 37.007.

(h) If the period of an expulsion is inconsistent with the guidelines included in the student code of conduct under Section 37.001(a)(5), the order must give notice of the inconsistency. The period of an expulsion may not exceed one year unless, after a review, the district determines that:

(1) the student is a threat to the safety of other students or to district employees; or

(2) extended placement is in the best interest of the student. After a school district notifies the parents or guardians of a student that the student has been expelled, the parent or guardian shall provide adequate supervision of the student during the period of expulsion.

(i) If a student withdraws from the district before an order for placement in a disciplinary alternative education program or expulsion is entered under this section, the principal or board, as appropriate, may complete the proceedings and enter an order. If the student subsequently enrolls in the district during the same or subsequent school year, the district may enforce the order at that time except for any period of the placement or expulsion that has been served by the student on enrollment in another district that honored the order. If the principal or board fails to enter an order after the student withdraws, the next district in which the student enrolls may complete the proceedings and enter an order.

(j) If, during the term of a placement or expulsion ordered under this section, a student engages in additional conduct for which placement in a disciplinary alternative education program or expulsion is required or permitted, additional proceedings may be conducted under this section regarding that conduct and the principal or board, as appropriate, may enter an additional order as a result of those proceedings.

§ 37.010. Court Involvement

(a) Not later than the second business day after the date a hearing is held under Section 37.009, the board of trustees of a school district or the board's designee shall deliver a copy of the order placing a student in a disciplinary alternative education program under Section 37.006 or expelling a student under Section 37.007 and any information required under Section 52.04, Family Code, to the authorized officer of the juvenile court in the county in which the student resides. In a county that operates a program under Section 37.011, an expelled student shall to the extent provided by law or by the memorandum of understanding immediately attend the educational program from the date of expulsion, except that in a county with a population greater than 125,000, every expelled student who is not detained or receiving treatment under an order of the juvenile court must be enrolled in an educational program.

(b) If a student is expelled under Section 37.007(c), the board or its designee shall refer the student to the authorized officer of the juvenile court for appropriate proceedings under Title 3, Family Code.

(c) Unless the juvenile board for the county in which the district's central administrative office is located has entered into a memorandum of understanding with the district's board of trustees concerning the juvenile probation department's role in supervising and providing other support services for students in disciplinary alternative education programs, a court may not order a student expelled under Section 37.007 to attend a regular classroom, a regular campus, or a school district disciplinary alternative education program as a condition of probation.

(d) Unless the juvenile board for the county in which the district's central administrative office is located has entered into a memorandum of understanding as described by Subsection (c), if a court orders a student to attend a disciplinary alternative education program as a condition of probation once during a school year and the student is referred to juvenile court again during that school year, the juvenile court may not order the student to attend a disciplinary alternative education program in a district without the district's consent until the student has successfully completed any sentencing requirements the court imposes.

(e) Any placement in a disciplinary alternative education program by a court under this section must prohibit the student from attending or participating in school-sponsored or school-related activities.

(f) If a student is expelled under Section 37.007, on the recommendation of the committee established under Section 37.003 or on its own initiative, a district may readmit the student while the student is completing any court disposition requirements the court imposes. After the student has successfully completed any court disposition requirements the court imposes, including conditions of a deferred prosecution ordered by the court, or such conditions required by the prosecutor or probation department,

if the student meets the requirements for admission into the public schools established by this title, a district may not refuse to admit the student, but the district may place the student in the disciplinary alternative education program. Notwithstanding Section 37.002(d), the student may not be returned to the classroom of the teacher under whose supervision the offense occurred without that teacher's consent. The teacher may not be coerced to consent.

(g) If an expelled student enrolls in another school district, the board of trustees of the district that expelled the student shall provide to the district in which the student enrolls, at the same time other records of the student are provided, a copy of the expulsion order and the referral to the authorized officer of the juvenile court. The district in which the student enrolls may continue the expulsion under the terms of the order, may place the student in a disciplinary alternative education program for the period specified by the expulsion order, or may allow the student to attend regular classes without completing the period of expulsion. A district may take any action permitted by this subsection if the student was expelled by a school district in another state if:

(1) the out-of-state district provides to the district a copy of the expulsion order; and

(2) the grounds for the expulsion are also grounds for expulsion in the district in which the student is enrolling.

(g-1) If a student was expelled by a school district in another state for a period that exceeds one year and a school district in this state continues the expulsion or places the student in a disciplinary alternative education program under Subsection (g), the district shall reduce the period of the expulsion or placement so that the aggregate period does not exceed one year unless, after a review, the district determines that:

(1) the student is a threat to the safety of other students or to district employees; or

(2) extended placement is in the best interest of the student.

(h) A person is not liable in civil damages for a referral to juvenile court as required by this section.

In-school suspension

STATUTES

§ 37.002. Removal by Teacher

(c) If a teacher removes a student from class under Subsection (b), the principal may place the student into another appropriate classroom, into in-school suspension, or into a disciplinary alternative education program as provided by Section 37.008. The principal may not return the student to that teacher's class without the teacher's consent unless the committee established under Section 37.003 determines that such placement is the best or only alternative available. The terms of the removal may prohibit the student from attending or participating in school-sponsored or school-related activity.

§ 37.021. Opportunity to Complete Courses During In-School and Certain Other Placements

(a) If a school district removes a student from the regular classroom and places the student in in-school suspension or another setting other than a disciplinary alternative education program, the district shall offer the student the opportunity to complete before the beginning of the next school year each course in which the student was enrolled at the time of the removal.

(b) The district may provide the opportunity to complete courses by any method available, including a correspondence course, distance learning, or summer school.

Return to school following removal

No relevant statutes found.

Use of restraint and seclusion

STATUTES

§ 37.0021. Use of Confinement, Restraint, Seclusion, and Time-Out

(a) It is the policy of this state to treat with dignity and respect all students, including students with disabilities who receive special education services under Subchapter A, Chapter 29. A student with a disability who receives special education services under Subchapter A, Chapter 29, may not be confined in a locked box, locked closet, or other specially designed locked space as either a discipline management practice or a behavior management technique.

(b) In this section:

(1) "Restraint" means the use of physical force or a mechanical device to significantly restrict the free movement of all or a portion of a student's body.

(2) "Seclusion" means a behavior management technique in which a student is confined in a locked box, locked closet, or locked room that:

(A) is designed solely to seclude a person; and

(B) contains less than 50 square feet of space.

(3) "Time-out" means a behavior management technique in which, to provide a student with an opportunity to regain self-control, the student is separated from other students for a limited period in a setting:

(A) that is not locked; and

(B) from which the exit is not physically blocked by furniture, a closed door held shut from the outside, or another inanimate object.

(4) "Law enforcement duties" means activities of a peace officer relating to the investigation and enforcement of state criminal laws and other duties authorized by the Code of Criminal Procedure.

(c) A school district employee or volunteer or an independent contractor of a district may not place a student in seclusion. This subsection does not apply to the use of seclusion in a court-ordered placement, other than a placement in an educational program of a school district, or in a placement or facility to which the following law, rules, or regulations apply:

(1) the Children's Health Act of 2000, Pub. L. No. 106-310, any subsequent amendments to that Act, any regulations adopted under that Act, or any subsequent amendments to those regulations;

(2) 40 T.A.C. Sections 720.1001--720.1013; or

(3) 25 T.A.C. Section 412.308(e).

(d) The commissioner by rule shall adopt procedures for the use of restraint and time-out by a school district employee or volunteer or an independent contractor of a district in the case of a student with a disability receiving special education services under Subchapter A, Chapter 29. A procedure adopted under this subsection must:

(1) be consistent with:

(A) professionally accepted practices and standards of student discipline and techniques for behavior management; and

(B) relevant health and safety standards; and

(2) identify any discipline management practice or behavior management technique that requires a district employee or volunteer or an independent contractor of a district to be trained before using that practice or technique.

(e) In the case of a conflict between a rule adopted under Subsection (d) and a rule adopted under Subchapter A, Chapter 29, the rule adopted under Subsection (d) controls.

(f) For purposes of this subsection, "weapon" includes any weapon described under Section 37.007(a)(1). This section does not prevent a student's locked, unattended confinement in an emergency situation while awaiting the arrival of law enforcement personnel if:

(1) the student possesses a weapon; and

(2) the confinement is necessary to prevent the student from causing bodily harm to the student or another person.

(g) This section and any rules or procedures adopted under this section do not apply to:

(1) a peace officer performing law enforcement duties, except as provided by Subsection (i);

(2) juvenile probation, detention, or corrections personnel; or

(3) an educational services provider with whom a student is placed by a judicial authority, unless the services are provided in an educational program of a school district.

(h) This section and any rules or procedures adopted under this section apply to a peace officer only if the peace officer:

(1) is employed or commissioned by a school district; or

(2) provides, as a school resource officer, a regular police presence on a school district campus under a memorandum of understanding between the district and a local law enforcement agency.

(i) A school district shall report electronically to the agency, in accordance with standards provided by commissioner rule, information relating to the use of restraint by a peace officer performing law enforcement duties on school property or during a school-sponsored or school-related activity. A report submitted under this subsection must be consistent with the requirements adopted by commissioner rule for reporting the use of restraint involving students with disabilities.

ADMINISTRATIVE CODE

19 TAC § 89.1053. Procedures for Use of Restraint and Time-Out

(a) Requirement to implement. In addition to the requirements of 34 Code of Federal Regulations (CFR), § 300.324(a)(2)(i) and (c), school districts and charter schools must implement the provisions of this section regarding the use of restraint and time-out. In accordance with the provisions of Texas Education Code (TEC), § 37.0021 (Use of Confinement, Restraint, Seclusion, and Time-Out), it is the policy of the state to treat with dignity and respect all students, including students with disabilities who receive special education services under TEC, Chapter 29, Subchapter A.

(b) Definitions.

(1) Emergency means a situation in which a student's behavior poses a threat of:

(A) imminent, serious physical harm to the student or others; or

(B) imminent, serious property destruction.

(2) Restraint means the use of physical force or a mechanical device to significantly restrict the free movement of all or a portion of the student's body.

(3) Time-out means a behavior management technique in which, to provide a student with an opportunity to regain self-control, the student is separated from other students for a limited period in a setting:

(A) that is not locked; and

(B) from which the exit is not physically blocked by furniture, a closed door held shut from the outside, or another inanimate object.

(c) Use of restraint. A school employee, volunteer, or independent contractor may use restraint only in an emergency as defined in subsection (b) of this section and with the following limitations.

(1) Restraint shall be limited to the use of such reasonable force as is necessary to address the emergency.

(2) Restraint shall be discontinued at the point at which the emergency no longer exists.

(3) Restraint shall be implemented in such a way as to protect the health and safety of the student and others.

(4) Restraint shall not deprive the student of basic human necessities.

(d) Training on use of restraint. Training for school employees, volunteers, or independent contractors shall be provided according to the following requirements.

(1) A core team of personnel on each campus must be trained in the use of restraint, and the team must include a campus administrator or designee and any general or special education personnel likely to use restraint.

(2) Personnel called upon to use restraint in an emergency and who have not received prior training must receive training within 30 school days following the use of restraint.

(3) Training on use of restraint must include prevention and de-escalation techniques and provide alternatives to the use of restraint.

(4) All trained personnel shall receive instruction in current professionally accepted practices and standards regarding behavior management and the use of restraint.

(e) Documentation and notification on use of restraint. In a case in which restraint is used, school employees, volunteers, or independent contractors shall implement the following documentation requirements.

(1) On the day restraint is utilized, the campus administrator or designee must be notified verbally or in writing regarding the use of restraint.

(2) On the day restraint is utilized, a good faith effort shall be made to verbally notify the parent(s) regarding the use of restraint.

(3) Written notification of the use of restraint must be placed in the mail or otherwise provided to the parent within one school day of the use of restraint.

(4) Written documentation regarding the use of restraint must be placed in the student's special education eligibility folder in a timely manner so the information is available to the ARD committee when it considers the impact of the student's behavior on the student's learning and/or the creation or revision of a behavioral intervention plan (BIP).

(5) Written notification to the parent(s) and documentation to the student's special education eligibility folder shall include the following:

(A) name of the student;

(B) name of the staff member(s) administering the restraint;

(C) date of the restraint and the time the restraint began and ended;

(D) location of the restraint;

(E) nature of the restraint;

(F) a description of the activity in which the student was engaged immediately preceding the use of restraint;

(G) the behavior that prompted the restraint;

(H) the efforts made to de-escalate the situation and alternatives to restraint that were attempted; and

(I) information documenting parent contact and notification.

(f) Clarification regarding restraint. The provisions adopted under this section do not apply to the use of physical force or a mechanical device which does not significantly restrict the free movement of all or a portion of the student's body. Restraint that involves significant restriction as referenced in subsection (b)(2) of this section does not include:

(1) physical contact or appropriately prescribed adaptive equipment to promote normative body positioning and/or physical functioning;

(2) limited physical contact with a student to promote safety (e.g., holding a student's hand), prevent a potentially harmful action (e.g., running into the street), teach a skill, redirect attention, provide guidance to a location, or provide comfort;

(3) limited physical contact or appropriately prescribed adaptive equipment to prevent a student from engaging in ongoing, repetitive self-injurious behaviors, with the expectation that instruction will be reflected in the individualized education program (IEP) as required by 34 CFR, § 300.324(a)(2)(i) and (c) to promote student learning and reduce and/or prevent the need for ongoing intervention; or

(4) seat belts and other safety equipment used to secure students during transportation.

(g) Use of time-out. A school employee, volunteer, or independent contractor may use time-out in accordance with subsection (b)(3) of this section with the following limitations.

(1) Physical force or threat of physical force shall not be used to place a student in time-out.

(2) Time-out may only be used in conjunction with an array of positive behavior intervention strategies and techniques and must be included in the student's IEP and/or BIP if it is utilized on a recurrent basis to increase or decrease a targeted behavior.

(3) Use of time-out shall not be implemented in a fashion that precludes the ability of the student to be involved in and progress in the general curriculum and advance appropriately toward attaining the annual goals specified in the student's IEP.

(h) Training on use of time-out. Training for school employees, volunteers, or independent contractors shall be provided according to the following requirements.

(1) General or special education personnel who implement time-out based on requirements established in a student's IEP and/or BIP must be trained in the use of time-out.

(2) Newly-identified personnel called upon to implement time-out based on requirements established in a student's IEP and/or BIP must receive training in the use of time-out within 30 school days of being assigned the responsibility for implementing time-out.

(3) Training on the use of time-out must be provided as part of a program which addresses a full continuum of positive behavioral intervention strategies, and must address the impact of time-out on the ability of the student to be involved in and progress in the general curriculum and advance appropriately toward attaining the annual goals specified in the student's IEP.

(4) All trained personnel shall receive instruction in current professionally accepted practices and standards regarding behavior management and the use of time-out.

(i) Documentation on use of time-out. Necessary documentation or data collection regarding the use of time-out, if any, must be addressed in the IEP or BIP. The admission, review, and dismissal (ARD) committee must use any collected data to judge the effectiveness of the intervention and provide a basis for making determinations regarding its continued use.

(j) Student safety. Any behavior management technique and/or discipline management practice must be implemented in such a way as to protect the health and safety of the student and others. No discipline

management practice may be calculated to inflict injury, cause harm, demean, or deprive the student of basic human necessities.

(k) Data reporting. With the exception of actions covered by subsection (f) of this section, data regarding the use of restraint must be electronically reported to the Texas Education Agency in accordance with reporting standards specified by the agency.

(l) The provisions adopted under this section do not apply to:

(1) a peace officer while performing law enforcement duties;

(2) juvenile probation, detention, or corrections personnel; or

(3) an educational services provider with whom a student is placed by a judicial authority, unless the services are provided in an educational program of a school district.

Alternative placements

STATUTES

§ 25.0342. Transfer of Students Who Are Victims of or Have Engaged in Bullying

(a) In this section, "bullying" has the meaning assigned by Section 37.0832.

(b) On the request of a parent or other person with authority to act on behalf of a student who is a victim of bullying, the board of trustees of a school district or the board's designee shall transfer the victim to:

(1) another classroom at the campus to which the victim was assigned at the time the bullying occurred; or

(2) a campus in the school district other than the campus to which the victim was assigned at the time the bullying occurred.

(b-1) The board of trustees of a school district may transfer the student who engaged in bullying to:

(1) another classroom at the campus to which the victim was assigned at the time the bullying occurred; or

(2) a campus in the district other than the campus to which the victim was assigned at the time the bullying occurred, in consultation with a parent or other person with authority to act on behalf of the student who engaged in bullying.

(b-2) Section 37.004 applies to a transfer under Subsection (b-1) of a student with a disability who receives special education services.

(c) The board of trustees or the board's designee shall verify that a student has been a victim of bullying before transferring the student under this section.

(d) The board of trustees or the board's designee may consider past student behavior when identifying a bully.

(e) The determination by the board of trustees or the board's designee is final and may not be appealed.

(f) A school district is not required to provide transportation to a student who transfers to another campus under Subsection (b)(2).

(g) Section 25.034 does not apply to a transfer under this section.

§ 37.003 Placement Review Committee

(a) Each school shall establish a three-member committee to determine placement of a student when a teacher refuses the return of a student to the teacher's class and make recommendations to the district regarding readmission of expelled students. Members shall be appointed as follows:

(1) the campus faculty shall choose two teachers to serve as members and one teacher to serve as an alternate member; and

(2) the principal shall choose one member from the professional staff of a campus.

(b) The teacher refusing to readmit the student may not serve on the committee.

(c) The committee's placement determination regarding a student with a disability who receives special education services under Subchapter A, Chapter 29, is subject to the requirements of the Individuals with Disabilities Education Act(20 U.S.C. Section 1400 et seq.) and federal regulations, state statutes, and agency requirements necessary to carry out federal law or regulations or state law relating to special education.

§ 37.004. Placement of Students with Disabilities

(a) The placement of a student with a disability who receives special education services may be made only by a duly constituted admission, review, and dismissal committee.

(b) Any disciplinary action regarding a student with a disability who receives special education services that would constitute a change in placement under federal law may be taken only after the student's admission, review, and dismissal committee conducts a manifestation determination review under 20 U.S.C. Section 1415(k)(4) and its subsequent amendments. Any disciplinary action regarding the student shall be determined in accordance with federal law and regulations, including laws or regulations requiring the provision of:

(1) functional behavioral assessments;

(2) positive behavioral interventions, strategies, and supports;

(3) behavioral intervention plans; and

(4) the manifestation determination review.

(c) A student with a disability who receives special education services may not be placed in alternative education programs solely for educational purposes.

(d) A teacher in an alternative education program under Section 37.008 who has a special education assignment must hold an appropriate certificate or permit for that assignment.

§ 37.0051. Placement of Students Committing Sexual Assault Against Another Student

(a) As provided by Section 25.0341(b)(2), a student shall be removed from class and placed in a disciplinary alternative education program under Section 37.008 or a juvenile justice alternative education program under Section 37.011.

(b) A limitation imposed by this subchapter on the length of a placement in a disciplinary alternative education program or a juvenile justice alternative education program does not apply to a placement under this section.

§ 37.006. Removal for Certain Conduct

(a) A student shall be removed from class and placed in a disciplinary alternative education program as provided by Section 37.008 if the student:

(1) engages in conduct involving a public school that contains the elements of the offense of false alarm or report under Section 42.06, Penal Code, or terroristic threat under Section 22.07, Penal Code; or

(2) commits the following on or within 300 feet of school property, as measured from any point on the school's real property boundary line, or while attending a school-sponsored or school-related activity on or off of school property:

(A) engages in conduct punishable as a felony;

(B) engages in conduct that contains the elements of the offense of assault under Section 22.01(a)(1), Penal Code;

(C) sells, gives, or delivers to another person or possesses or uses or is under the influence of:

(i) marihuana or a controlled substance, as defined by Chapter 481, Health and Safety Code, or by 21 U.S.C. Section 801 et seq.; or

(ii) a dangerous drug, as defined by Chapter 483, Health and Safety Code;

(D) sells, gives, or delivers to another person an alcoholic beverage, as defined by Section 1.04, Alcoholic Beverage Code, commits a serious act or offense while under the influence of alcohol, or possesses, uses, or is under the influence of an alcoholic beverage;

(E) engages in conduct that contains the elements of an offense relating to an abusable volatile chemical under Sections 485.031 through 485.034, Health and Safety Code; or

(F) engages in conduct that contains the elements of the offense of public lewdness under Section 21.07, Penal Code, or indecent exposure under Section 21.08, Penal Code.

(b) Except as provided by Section 37.007(d), a student shall be removed from class and placed in a disciplinary alternative education program under Section 37.008 if the student engages in conduct on or off of school property that contains the elements of the offense of retaliation under Section 36.06, Penal Code, against any school employee.

(c) In addition to Subsections (a) and (b), a student shall be removed from class and placed in a disciplinary alternative education program under Section 37.008 based on conduct occurring off campus and while the student is not in attendance at a school-sponsored or school-related activity if:

(1) the student receives deferred prosecution under Section 53.03, Family Code, for conduct defined as:

(A) a felony offense in Title 5, Penal Code; or

(B) the felony offense of aggravated robbery under Section 29.03, Penal Code;

(2) a court or jury finds that the student has engaged in delinquent conduct under Section 54.03, Family Code, for conduct defined as:

(A) a felony offense in Title 5, Penal Code; or

(B) the felony offense of aggravated robbery under Section 29.03, Penal Code; or

(3) the superintendent or the superintendent's designee has a reasonable belief that the student has engaged in a conduct defined as:

(A) a felony offense in Title 5, Penal Code; or

(B) the felony offense of aggravated robbery under Section 29.03, Penal Code.

(d) In addition to Subsections (a), (b), and (c), a student may be removed from class and placed in a disciplinary alternative education program under Section 37.008 based on conduct occurring off campus and while the student is not in attendance at a school-sponsored or school-related activity if:

(1) the superintendent or the superintendent's designee has a reasonable belief that the student has engaged in conduct defined as a felony offense other than aggravated robbery under Section 29.03, Penal Code, or those offenses defined in Title 5, Penal Code; and

(2) the continued presence of the student in the regular classroom threatens the safety of other students or teachers or will be detrimental to the educational process.

(e) In determining whether there is a reasonable belief that a student has engaged in conduct defined as a felony offense by the Penal Code, the superintendent or the superintendent's designee may consider all available information, including the information furnished under Article 15.27, Code of Criminal Procedure.

(f) Subject to Section 37.007(e), a student who is younger than 10 years of age shall be removed from class and placed in a disciplinary alternative education program under Section 37.008 if the student engages in conduct described by Section 37.007. An elementary school student may not be placed in a disciplinary alternative education program with any other student who is not an elementary school student.

(g) The terms of a placement under this section must prohibit the student from attending or participating in a school-sponsored or school-related activity.

(h) On receipt of notice under Article 15.27(g), Code of Criminal Procedure, the superintendent or the superintendent's designee shall review the student's placement in the disciplinary alternative education program. The student may not be returned to the regular classroom pending the review. The superintendent or the superintendent's designee shall schedule a review of the student's placement with the student's parent or guardian not later than the third class day after the superintendent or superintendent's designee receives notice from the office or official designated by the court. After reviewing the notice and receiving information from the student's parent or guardian, the superintendent or the superintendent's designee may continue the student's placement in the disciplinary alternative education program if there is reason to believe that the presence of the student in the regular classroom threatens the safety of other students or teachers.

(i) The student or the student's parent or guardian may appeal the superintendent's decision under Subsection (h) to the board of trustees. The student may not be returned to the regular classroom pending the appeal. The board shall, at the next scheduled meeting, review the notice provided under Article 15.27(g), Code of Criminal Procedure, and receive information from the student, the student's parent or guardian, and the superintendent or superintendent's designee and confirm or reverse the decision under Subsection (h). The board shall make a record of the proceedings. If the board confirms the decision of the superintendent or superintendent's designee, the board shall inform the student and the student's parent or guardian of the right to appeal to the commissioner under Subsection (j).

(j) Notwithstanding Section 7.057(e), the decision of the board of trustees under Subsection (i) may be appealed to the commissioner as provided by Sections 7.057(b), (c), (d), and (f). The student may not be returned to the regular classroom pending the appeal.

(k) Subsections (h), (i), and (j) do not apply to placements made in accordance with Subsection (a).

(l) Notwithstanding any other provision of this code, other than Section 37.007(e)(2), a student who is younger than six years of age may not be removed from class and placed in a disciplinary alternative education program.

(m) Removal to a disciplinary alternative education program under Subsection (a) is not required if the student is expelled under Section 37.007 for the same conduct for which removal would be required.

(n) A principal or other appropriate administrator may but is not required to remove a student to a disciplinary alternative education program for off-campus conduct for which removal is required under this section if the principal or other appropriate administrator does not have knowledge of the conduct before the first anniversary of the date the conduct occurred.

(o) In addition to any notice required under Article 15.27, Code of Criminal Procedure, a principal or a principal's designee shall inform each educator who has responsibility for, or is under the direction and supervision of an educator who has responsibility for, the instruction of a student who has engaged in any violation listed in this section of the student's misconduct. Each educator shall keep the information received under this subsection confidential from any person not entitled to the information under this subsection, except that the educator may share the information with the student's parent or guardian as provided for by state or federal law. The State Board for Educator Certification may revoke or suspend the certification of an educator who intentionally violates this subsection.

§ 37.0061. Funding for Alternative Education Services in Juvenile Residential Facilities

A school district that provides education services to pre-adjudicated and post-adjudicated students who are confined by court order in a juvenile residential facility operated by a juvenile board is entitled to count such students in the district's average daily attendance for purposes of receipt of state funds under the Foundation School Program. If the district has a wealth per student greater than the guaranteed wealth level but less than the equalized wealth level, the district in which the student is enrolled on the date a court orders the student to be confined to a juvenile residential facility shall transfer to the district providing education services an amount equal to the difference between the average Foundation School Program costs per student of the district providing education services and the sum of the state aid and the money from the available school fund received by the district that is attributable to the student for the portion of the school year for which the district provides education services to the student.

§ 37.0062. Instructional Requirements for Alternative Education Services in Juvenile Residential Facilities

(a) The commissioner shall determine the instructional requirements for education services provided by a school district or open-enrollment charter school in a pre-adjudication secure detention facility or a post-adjudication secure correctional facility operated by a juvenile board or a post-adjudication secure correctional facility operated under contract with the Texas Youth Commission, including requirements relating to:

(1) the length of the school day;

(2) the number of days of instruction provided to students each school year; and

(3) the curriculum of the educational program.

(b) The commissioner shall coordinate with:

(1) the Texas Juvenile Probation Commission in determining the instructional requirements for education services provided under Subsection (a) in a pre-adjudication secure detention facility or a post-adjudication secure correctional facility operated by a juvenile board; and

(2) the Texas Youth Commission in determining the instructional requirements for education services provided under Subsection (a) in a post-adjudication secure correctional facility operated under contract with the Texas Youth Commission.

(c) The commissioner shall adopt rules necessary to administer this section. The rules must ensure that:

(1) a student who receives education services in a pre-adjudication secure detention facility described by this section is offered courses that enable the student to maintain progress toward completing high school graduation requirements; and

(2) a student who receives education services in a post-adjudication secure correctional facility described by this section is offered, at a minimum, the courses necessary to enable the student to complete high school graduation requirements.

(d) The Texas Juvenile Probation Commission or the Texas Youth Commission, as applicable, shall coordinate with the commissioner in establishing standards for:

(1) ensuring security in the provision of education services in the facilities; and

(2) providing children in the custody of the facilities access to education services.

§ 37.007. Expulsion for Serious Offenses

(e) In accordance with 20 U.S.C. Section 7151, a local educational agency, including a school district, home-rule school district, or open-enrollment charter school, shall expel a student who brings a firearm, as defined by 18 U.S.C. Section 921, to school. The student must be expelled from the student's regular campus for a period of at least one year, except that:

(2) the district or other local educational agency shall provide educational services to an expelled student in a disciplinary alternative education program as provided by Section 37.008 if the student is younger than 10 years of age on the date of expulsion; and

(3) the district or other local educational agency may provide educational services to an expelled student who is 10 years of age or older in a disciplinary alternative education program as provided in Section 37.008[...]

§ 37.008. Disciplinary Alternative Education Programs

(a) Each school district shall provide a disciplinary alternative education program that:

(1) is provided in a setting other than a student's regular classroom;

(2) is located on or off of a regular school campus;

(3) provides for the students who are assigned to the disciplinary alternative education program to be separated from students who are not assigned to the program;

(4) focuses on English language arts, mathematics, science, history, and self-discipline;

(5) provides for students' educational and behavioral needs;

(6) provides supervision and counseling;

(7) employs only teachers who meet all certification requirements established under Subchapter B, Chapter 21; and

(8) provides not less than the minimum amount of instructional time per day required by Section 25.082(a).

(a-1) The agency shall adopt minimum standards for the operation of disciplinary alternative education programs, including standards relating to:

(1) student/teacher ratios;

(2) student health and safety;

(3) reporting of abuse, neglect, or exploitation of students;

(4) training for teachers in behavior management and safety procedures; and

(5) planning for a student's transition from a disciplinary alternative education program to a regular campus.

(a-2), (a-3) [Expired pursuant to Acts 2007, 80th Leg., ch. 1171 (H.B. 426), § 1, effective January 15, 2009.]

(b) A disciplinary alternative education program may provide for a student's transfer to:

(1) a different campus;

(2) a school-community guidance center; or

(3) a community-based alternative school.

(c) An off-campus disciplinary alternative education program is not subject to a requirement imposed by this title, other than a limitation on liability, a reporting requirement, or a requirement imposed by this chapter or by Chapter 39.

(d) A school district may provide a disciplinary alternative education program jointly with one or more other districts.

(e) Each school district shall cooperate with government agencies and community organizations that provide services in the district to students placed in a disciplinary alternative education program.

(f) A student removed to a disciplinary alternative education program is counted in computing the average daily attendance of students in the district for the student's time in actual attendance in the program.

(g) A school district shall allocate to a disciplinary alternative education program the same expenditure per student attending the disciplinary alternative education program, including federal, state, and local funds, that would be allocated to the student's school if the student were attending the student's regularly assigned education program, including a special education program.

(h) A school district may not place a student, other than a student suspended as provided under Section 37.005 or expelled as provided under Section 37.007, in an unsupervised setting as a result of conduct for which a student may be placed in a disciplinary alternative education program.

(i) On request of a school district, a regional education service center may provide to the district information on developing a disciplinary alternative education program that takes into consideration the district's size, wealth, and existing facilities in determining the program best suited to the district.

(j) If a student placed in a disciplinary alternative education program enrolls in another school district before the expiration of the period of placement, the board of trustees of the district requiring the placement shall provide to the district in which the student enrolls, at the same time other records of the student are provided, a copy of the placement order. The district in which the student enrolls shall inform each educator who will have responsibility for, or will be under the direction and supervision of an educator who will have responsibility for, the instruction of the student of the contents of the placement order. Each educator shall keep the information received under this subsection confidential from any person not entitled to the information under this subsection, except that the educator may share the information with the student's parent or guardian as provided for by state or federal law. The district in which the student enrolls may continue the disciplinary alternative education program placement under the terms of the order or may allow the student to attend regular classes without completing the period of placement. A district may take any action permitted by this subsection if:

(1) the student was placed in a disciplinary alternative education program by an open-enrollment charter school under Section 12.131 and the charter school provides to the district a copy of the placement order; or

(2) the student was placed in a disciplinary alternative education program by a school district in another state and:

(A) the out-of-state district provides to the district a copy of the placement order; and

(B) the grounds for the placement by the out-of-state district are grounds for placement in the district in which the student is enrolling.

(j-1) If a student was placed in a disciplinary alternative education program by a school district in another state for a period that exceeds one year and a school district in this state in which the student enrolls continues the placement under Subsection (j), the district shall reduce the period of the placement so that the aggregate period does not exceed one year unless, after a review, the district determines that:

(1) the student is a threat to the safety of other students or to district employees; or

(2) extended placement is in the best interest of the student.

(k) A program of educational and support services may be provided to a student and the student's parents when the offense involves drugs or alcohol as specified under Section 37.006 or 37.007. A disciplinary alternative education program that provides chemical dependency treatment services must be licensed under Chapter 464, Health and Safety Code.

(l) A school district is required to provide in the district's disciplinary alternative education program a course necessary to fulfill a student's high school graduation requirements only as provided by this subsection. A school district shall offer a student removed to a disciplinary alternative education program an opportunity to complete coursework before the beginning of the next school year. The school district may provide the student an opportunity to complete coursework through any method available, including

a correspondence course, distance learning, or summer school. The district may not charge the student for a course provided under this subsection.

(l-1) A school district shall provide the parents of a student removed to a disciplinary alternative education program with written notice of the district's obligation under Subsection (l) to provide the student with an opportunity to complete coursework required for graduation. The notice must:

(1) include information regarding all methods available for completing the coursework; and

(2) state that the methods are available at no cost to the student.

(m) The commissioner shall adopt rules necessary to evaluate annually the performance of each district's disciplinary alternative education program established under this subchapter. The evaluation required by this section shall be based on indicators defined by the commissioner, but must include student performance on assessment instruments required under Sections 39.023(a) and (c). Academically, the mission of disciplinary alternative education programs shall be to enable students to perform at grade level.

(m-1) The commissioner shall develop a process for evaluating a school district disciplinary alternative education program electronically. The commissioner shall also develop a system and standards for review of the evaluation or use systems already available at the agency. The system must be designed to identify districts that are at high risk of having inaccurate disciplinary alternative education program data or of failing to comply with disciplinary alternative education program requirements. The commissioner shall notify the board of trustees of a district of any objection the commissioner has to the district's disciplinary alternative education program data or of a violation of a law or rule revealed by the data, including any violation of disciplinary alternative education program requirements, or of any recommendation by the commissioner concerning the data. If the data reflect that a penal law has been violated, the commissioner shall notify the county attorney, district attorney, or criminal district attorney, as appropriate, and the attorney general. The commissioner is entitled to access to all district records the commissioner considers necessary or appropriate for the review, analysis, or approval of disciplinary alternative education program data.

§ 37.0081. Expulsion and Placement of Certain Students in Alternative Settings

(a) Subject to Subsection (h), but notwithstanding any other provision of this subchapter, the board of trustees of a school district, or the board's designee, after an opportunity for a hearing may expel a student and elect to place the student in an alternative setting as provided by Subsection (a-1) if:

(1) the student:

(A) has received deferred prosecution under Section 53.03, Family Code, for conduct defined as:

(i) a felony offense in Title 5, Penal Code; or

(ii) the felony offense of aggravated robbery under Section 29.03, Penal Code;

(B) has been found by a court or jury to have engaged in delinquent conduct under Section 54.03, Family Code, for conduct defined as:

(i) a felony offense in Title 5, Penal Code; or

(ii) the felony offense of aggravated robbery under Section 29.03, Penal Code;

(C) is charged with engaging in conduct defined as:

(i) a felony offense in Title 5, Penal Code; or

(ii) the felony offense of aggravated robbery under Section 29.03, Penal Code;

(D) has been referred to a juvenile court for allegedly engaging in delinquent conduct under Section 54.03, Family Code, for conduct defined as:

(i) a felony offense in Title 5, Penal Code; or

(ii) the felony offense of aggravated robbery under Section 29.03, Penal Code;

(E) has received probation or deferred adjudication for a felony offense under Title 5, Penal Code, or the felony offense of aggravated robbery under Section 29.03, Penal Code;

(F) has been convicted of a felony offense under Title 5, Penal Code, or the felony offense of aggravated robbery under Section 29.03, Penal Code; or

(G) has been arrested for or charged with a felony offense under Title 5, Penal Code, or the felony offense of aggravated robbery under Section 29.03, Penal Code; and

(2) the board or the board's designee determines that the student's presence in the regular classroom:

(A) threatens the safety of other students or teachers;

(B) will be detrimental to the educational process; or

(C) is not in the best interests of the district's students.

(a-1) The student must be placed in:

(1) a juvenile justice alternative education program, if the school district is located in a county that operates a juvenile justice alternative education program or the school district contracts with the juvenile board of another county for the provision of a juvenile justice alternative education program; or

(2) a disciplinary alternative education program.

(b) Any decision of the board of trustees or the board's designee under this section is final and may not be appealed.

(c) The board of trustees or the board's designee may expel the student and order placement in accordance with this section regardless of:

(1) the date on which the student's conduct occurred;

(2) the location at which the conduct occurred;

(3) whether the conduct occurred while the student was enrolled in the district; or

(4) whether the student has successfully completed any court disposition requirements imposed in connection with the conduct.

(d) Notwithstanding Section 37.009(c) or (d) or any other provision of this subchapter, a student expelled and ordered placed in an alternative setting by the board of trustees or the board's designee is subject to that placement until:

(1) the student graduates from high school;

(2) the charges described by Subsection (a)(1) are dismissed or reduced to a misdemeanor offense; or

(3) the student completes the term of the placement or is assigned to another program.

(e) A student placed in an alternative setting in accordance with this section is entitled to the periodic review prescribed by Section 37.009(e).

(f) Subsection (d) continues to apply to the student if the student transfers to another school district in the state.

(g) The board of trustees shall reimburse a juvenile justice alternative education program in which a student is placed under this section for the actual cost incurred each day for the student while the student is enrolled in the program. For purposes of this subsection:

(1) the actual cost incurred each day for the student is determined by the juvenile board of the county operating the program; and

(2) the juvenile board shall determine the actual cost each day of the program based on the board's annual audit.

(h) To the extent of a conflict between this section and Section 37.007, Section 37.007 prevails.

§ 37.0082. Assessment of Academic Growth of Students in Disciplinary Alternative Education Programs

(a) To assess a student's academic growth during placement in a disciplinary alternative education program, a school district shall administer to a student placed in a program for a period of 90 school days or longer an assessment instrument approved by the commissioner for that purpose. The instrument shall be administered:

(1) initially on placement of the student in the program; and

(2) subsequently on the date of the student's departure from the program, or as near that date as possible.

(b) The assessment instrument required by this section:

(1) must be designed to assess at least a student's basic skills in reading and mathematics;

(2) may be:

(A) comparable to any assessment instrument generally administered to students placed in juvenile justice alternative education programs for a similar purpose; or

(B) based on an appropriate alternative assessment instrument developed by the agency to measure student academic growth; and

(3) is in addition to the assessment instruments required to be administered under Chapter 39.

(c) The commissioner shall adopt rules necessary to implement this section.

§ 37.011. Juvenile Justice Alternative Education Program

(a) The juvenile board of a county with a population greater than 125,000 shall develop a juvenile justice alternative education program, subject to the approval of the Texas Juvenile Probation Commission. The juvenile board of a county with a population of 125,000 or less may develop a juvenile justice alternative education program. For the purposes of this subchapter, only a disciplinary alternative education program operated under the authority of a juvenile board of a county is considered a juvenile justice alternative education program. A juvenile justice alternative education program in a county with a population of 125,000 or less:

(1) is not required to be approved by the Texas Juvenile Probation Commission; and

(2) is not subject to Subsection (c), (d), (f), or (g).

(a-1) For purposes of this section and Section 37.010(a), a county with a population greater than 125,000 is considered to be a county with a population of 125,000 or less if:

(1) the county had a population of 125,000 or less according to the 2000 federal census; and

(2) the juvenile board of the county enters into, with the approval of the Texas Juvenile Probation Commission, a memorandum of understanding with each school district within the county that:

(A) outlines the responsibilities of the board and school districts in minimizing the number of students expelled without receiving alternative educational services; and

(B) includes the coordination procedures required by Section 37.013.

(a-2) For purposes of this section and Section 37.010(a), a county with a population greater than 125,000 is considered to be a county with a population of 125,000 or less if the county:

(1) has a population of 180,000 or less;

(2) is adjacent to two counties, each of which has a population of more than 1.7 million; and

(3) has seven or more school districts located wholly within the county's boundaries.

(a-3) For purposes of this section and Section 37.010(a), a county with a population greater than 125,000 is considered to be a county with a population of 125,000 or less if the county:

(1) has a population of more than 200,000 and less than 220,000;

(2) has five or more school districts located wholly within the county's boundaries; and

(3) has located in the county a juvenile justice alternative education program that, on May 1, 2011, served fewer than 15 students.

(a-4) A school district located in a county considered to be a county with a population of 125,000 or less under Subsection (a-3) shall provide educational services to a student who is expelled from school under this chapter. The district is entitled to count the student in the district's average daily attendance for purposes of receipt of state funds under the Foundation School Program. An educational placement under this section may include:

(1) the district's disciplinary alternative education program; or

(2) a contracted placement with:

(A) another school district;

(B) an open-enrollment charter school;

(C) an institution of higher education;

(D) an adult literacy council; or

(E) a community organization that can provide an educational program that allows the student to complete the credits required for high school graduation.

(a-5) For purposes of Subsection (a-4), an educational placement other than a school district's disciplinary alternative education program is subject to the educational and certification requirements applicable to an open-enrollment charter school under Subchapter D, Chapter 12.

(b) If a student admitted into the public schools of a school district under Section 25.001(b) is expelled from school for conduct for which expulsion is required under Section 37.007(a), (d), or (e), the juvenile court, the juvenile board, or the juvenile board's designee, as appropriate, shall:

(1) if the student is placed on probation under Section 54.04, Family Code, order the student to attend the juvenile justice alternative education program in the county in which the student resides from the date of disposition as a condition of probation, unless the child is placed in a post-adjudication treatment facility;

(2) if the student is placed on deferred prosecution under Section 53.03, Family Code, by the court, prosecutor, or probation department, require the student to immediately attend the juvenile justice alternative education program in the county in which the student resides for a period not to exceed six months as a condition of the deferred prosecution;

(3) in determining the conditions of the deferred prosecution or court-ordered probation, consider the length of the school district's expulsion order for the student; and

(4) provide timely educational services to the student in the juvenile justice alternative education program in the county in which the student resides, regardless of the student's age or whether the juvenile court has jurisdiction over the student.

(b-1) Subsection (b)(4) does not require that educational services be provided to a student who is not entitled to admission into the public schools of a school district under Section 25.001(b).

(c) A juvenile justice alternative education program shall adopt a student code of conduct in accordance with Section 37.001.

(d) A juvenile justice alternative education program must focus on English language arts, mathematics, science, social studies, and self-discipline. Each school district shall consider course credit earned by a student while in a juvenile justice alternative education program as credit earned in a district school. Each program shall administer assessment instruments under Subchapter B, Chapter 39, and shall offer a high

school equivalency program. The juvenile board or the board's designee, with the parent or guardian of each student, shall regularly review the student's academic progress. In the case of a high school student, the board or the board's designee, with the student's parent or guardian, shall review the student's progress towards meeting high school graduation requirements and shall establish a specific graduation plan for the student. The program is not required to provide a course necessary to fulfill a student's high school graduation requirements other than a course specified by this subsection.

(e) A juvenile justice alternative education program may be provided in a facility owned by a school district. A school district may provide personnel and services for a juvenile justice alternative education program under a contract with the juvenile board.

(f) A juvenile justice alternative education program must operate at least seven hours per day and 180 days per year, except that a program may apply to the Texas Juvenile Probation Commission for a waiver of the 180-day requirement. The commission may not grant a waiver to a program under this subsection for a number of days that exceeds the highest number of instructional days waived by the commissioner during the same school year for a school district served by the program.

(g) A juvenile justice alternative education program shall be subject to a written operating policy developed by the local juvenile justice board and submitted to the Texas Juvenile Probation Commission for review and comment. A juvenile justice alternative education program is not subject to a requirement imposed by this title, other than a reporting requirement or a requirement imposed by this chapter or by Chapter 39.

(h) Academically, the mission of juvenile justice alternative education programs shall be to enable students to perform at grade level. For purposes of accountability under Chapter 39, a student enrolled in a juvenile justice alternative education program is reported as if the student were enrolled at the student's assigned campus in the student's regularly assigned education program, including a special education program. Annually the Texas Juvenile Probation Commission, with the agreement of the commissioner, shall develop and implement a system of accountability consistent with Chapter 39, where appropriate, to assure that students make progress toward grade level while attending a juvenile justice alternative education program. The Texas Juvenile Probation Commission shall adopt rules for the distribution of funds appropriated under this section to juvenile boards in counties required to establish juvenile justice alternative education programs. Except as determined by the commissioner, a student served by a juvenile justice alternative education program on the basis of an expulsion required under Section 37.007(a), (d), or (e) is not eligible for Foundation School Program funding under Chapter 42 or 31 if the juvenile justice alternative education program receives funding from the Texas Juvenile Probation Commission under this subchapter.

(i) A student transferred to a juvenile justice alternative education program must participate in the program for the full period ordered by the juvenile court unless the student's school district agrees to accept the student before the date ordered by the juvenile court. The juvenile court may not order a period of transfer under this section that exceeds the term of any probation ordered by the juvenile court.

(j) In relation to the development and operation of a juvenile justice alternative education program, a juvenile board and a county and a commissioners court are immune from liability to the same extent as a school district, and the juvenile board's or county's professional employees and volunteers are immune from liability to the same extent as a school district's professional employees and volunteers.

(k) Each school district in a county with a population greater than 125,000 and the county juvenile board shall annually enter into a joint memorandum of understanding that:

(1) outlines the responsibilities of the juvenile board concerning the establishment and operation of a juvenile justice alternative education program under this section;

(2) defines the amount and conditions on payments from the school district to the juvenile board for students of the school district served in the juvenile justice alternative education program whose placement was not made on the basis of an expulsion required under Section 37.007(a), (d), or (e);

(3) establishes that a student may be placed in the juvenile justice alternative education program if the student engages in serious misbehavior, as defined by Section 37.007(c);

(4) identifies and requires a timely placement and specifies a term of placement for expelled students for whom the school district has received a notice under Section 52.041(d), Family Code;

(5) establishes services for the transitioning of expelled students to the school district prior to the completion of the student's placement in the juvenile justice alternative education program;

(6) establishes a plan that provides transportation services for students placed in the juvenile justice alternative education program;

(7) establishes the circumstances and conditions under which a juvenile may be allowed to remain in the juvenile justice alternative education program setting once the juvenile is no longer under juvenile court jurisdiction; and

(8) establishes a plan to address special education services required by law.

(l) The school district shall be responsible for providing an immediate educational program to students who engage in behavior resulting in expulsion under Section 37.007(b) and (f) but who are not eligible for admission into the juvenile justice alternative education program in accordance with the memorandum of understanding required under this section. The school district may provide the program or the school district may contract with a county juvenile board, a private provider, or one or more other school districts to provide the program. The memorandum of understanding shall address the circumstances under which such students who continue to engage in serious misbehavior, as defined by Section 37.007(c), shall be admitted into the juvenile justice alternative education program.

(m) Each school district in a county with a population greater than 125,000 and the county juvenile board shall adopt a joint memorandum of understanding as required by this section not later than September 1 of each school year.

(n) If a student who is ordered to attend a juvenile justice alternative education program moves from one county to another, the juvenile court may request the juvenile justice alternative education program in the county to which the student moves to provide educational services to the student in accordance with the local memorandum of understanding between the school district and juvenile board in the receiving county.

(o) In relation to the development and operation of a juvenile justice alternative education program, a juvenile board and a county and a commissioners court are immune from liability to the same extent as a school district, and the juvenile board's or county's employees and volunteers are immune from liability to the same extent as a school district's employees and volunteers.

(p) If a district elects to contract with the juvenile board for placement in the juvenile justice alternative education program of students expelled under Section 37.007(b), (c), and (f) and the juvenile board and district are unable to reach an agreement in the memorandum of understanding, either party may request that the issues of dispute be referred to a binding arbitration process that uses a qualified alternative dispute resolution arbitrator in which each party will pay its pro rata share of the arbitration costs. Each party must submit its final proposal to the arbitrator. If the parties cannot agree on an arbitrator, the juvenile board shall select an arbitrator, the school districts shall select an arbitrator, and those two arbitrators shall select an arbitrator who will decide the issues in dispute. An arbitration decision issued under this subsection is enforceable in a court in the county in which the juvenile justice alternative education program is located. Any decision by an arbitrator concerning the amount of the funding for a student who is expelled and attending a juvenile justice alternative education program must provide an

amount sufficient based on operation of the juvenile justice alternative education program in accordance with this chapter. In determining the amount to be paid by a school district for an expelled student enrolled in a juvenile justice alternative education program, the arbitrator shall consider the relevant factors, including evidence of:

(1) the actual average total per student expenditure in the district's alternative education setting;

(2) the expected per student cost in the juvenile justice alternative education program as described and agreed on in the memorandum of understanding and in compliance with this chapter; and

(3) the costs necessary to achieve the accountability goals under this chapter.

(q) In accordance with rules adopted by the board of trustees for the Teacher Retirement System of Texas, a certified educator employed by a juvenile board in a juvenile justice alternative education program shall be eligible for membership and participation in the system to the same extent that an employee of a public school district is eligible. The juvenile board shall make any contribution that otherwise would be the responsibility of the school district if the person were employed by the school district, and the state shall make any contribution to the same extent as if the person were employed by a school district.

§ 37.012. Funding of Juvenile Justice Alternative Education Programs

(a) Subject to Section 37.011(n), the school district in which a student is enrolled on the date the student is expelled for conduct for which expulsion is permitted but not required under Section 37.007 shall, if the student is served by the juvenile justice alternative education program, provide funding to the juvenile board for the portion of the school year for which the juvenile justice alternative education program provides educational services in an amount determined by the memorandum of understanding under Section 37.011(k)(2).

(b) Funds received under this section must be expended on juvenile justice alternative education programs.

(c) The Office of State-Federal Relations shall assist a local juvenile probation department in identifying additional state or federal funds to assist local juvenile probation departments conducting educational or job training programs within juvenile justice alternative education programs.

(d) A school district is not required to provide funding to a juvenile board for a student who is assigned by a court to a juvenile justice alternative education program but who has not been expelled.

(e) Except as otherwise authorized by law, a juvenile justice alternative education program may not require a student or the parent or guardian of a student to pay any fee, including an entrance fee or supply fee, for participating in the program.

§ 37.019. Emergency Placement or Expulsion

(a) This subchapter does not prevent the principal or the principal's designee from ordering the immediate placement of a student in a disciplinary alternative education program if the principal or the principal's designee reasonably believes the student's behavior is so unruly, disruptive, or abusive that it seriously interferes with a teacher's ability to communicate effectively with the students in a class, with the ability of the student's classmates to learn, or with the operation of school or a school-sponsored activity.

(b) This subchapter does not prevent the principal or the principal's designee from ordering the immediate expulsion of a student if the principal or the principal's designee reasonably believes that action is necessary to protect persons or property from imminent harm.

(c) At the time of an emergency placement or expulsion, the student shall be given oral notice of the reason for the action. The reason must be a reason for which placement in a disciplinary alternative education program or expulsion may be made on a nonemergency basis. Within a reasonable time after

the emergency placement or expulsion, but not later than the 10th day after the date of the placement or expulsion, the student shall be accorded the appropriate due process as required under Section 37.009. If the student subject to the emergency placement or expulsion is a student with disabilities who receives special education services, the emergency placement or expulsion is subject to federal law and regulations and must be consistent with the consequences that would apply under this subchapter to a student without a disability.

(d) A principal or principal's designee is not liable in civil damages for an emergency placement under this section.

ADMINISTRATIVE CODE

19 TAC § 89.1052. Discretionary Placements in Juvenile Justice Alternative Education Programs (JJAEP)

(a) This section applies only to the expulsion of a student with a disability under:

(1) Texas Education Code (TEC), § 37.007(b), (c), or (f); or

(2) TEC, § 37.007(d), as a result of conduct that contains the elements of any offense listed in TEC, § 37.007(b)(2)(C), against any employee or volunteer in retaliation for or as a result of the person's employment or association with a school district.

(b) In a county with a JJAEP, a local school district shall invite the administrator of the JJAEP or the administrator's designee to an admission, review, and dismissal (ARD) committee meeting convened to discuss the expulsion of a student with a disability under one of the provisions listed in subsection (a) of this section, relating to offenses for which a school district may expel a student. The reasonable notice of the ARD committee meeting must be provided consistent with 34 Code of Federal Regulations (CFR), § 300.322 and § 300.503, and § 89.1015 of this title (relating to Time Line for All Notices). A copy of the student's current individualized education program (IEP) must be provided to the JJAEP administrator or designee with the notice. If the JJAEP representative is unable to attend the ARD committee meeting, the representative must be given the opportunity to participate in the meeting through alternative means including conference telephone calls. The JJAEP representative may participate in the meeting to the extent that the meeting relates to the student's placement in the JJAEP and implementation of the student's current IEP in the JJAEP.

(c) For a student with a disability who was expelled under one of the provisions listed in subsection (a) of this section, an ARD committee meeting must be convened to reconsider placement of the student in the JJAEP, if the JJAEP administrator or designee provides written notice to the school district of specific concerns that the student's educational or behavioral needs cannot be met in the JJAEP. The reasonable notice of the ARD committee meeting must be provided consistent with 34 CFR, § 300.322 and § 300.503, and § 89.1015 of this title (relating to Time Line for All Notices). If the JJAEP representative is unable to attend the ARD committee meeting, the representative must be given the opportunity to participate in the meeting through alternative means including conference telephone calls. The JJAEP representative may participate in the meeting to the extent that the meeting relates to the student's continued placement in the JJAEP.

19 TAC § 103.1201 Standards for the Operation of School District Disciplinary Alternative Education Programs

(a) A disciplinary alternative education program (DAEP) established in conformance with the Tex. Educ. Code (TEC), § 37.008, and this section is defined as an educational and self-discipline alternative instructional program, adopted by local policy, for students in elementary through high school grades who are removed from their regular classes for mandatory or discretionary disciplinary reasons and placed in a DAEP.

(b) Each school district participating in a shared services arrangement (SSA) for DAEP services shall be responsible for ensuring that the board-approved district improvement plan and the improvement plans for each campus required by the TEC, § 11.251 and § 11.252, include the performance of the DAEP student group for the respective district. The identified objectives for the improvement plans shall include:

(1) student groups served, including overrepresentation of students from economically disadvantaged families, with ethnic and racial representations, and with a disability who receive special education and limited English proficiency services;

(2) attendance rates;

(3) pre- and post-assessment results;

(4) dropout rates;

(5) graduation rates; and

(6) recidivism rates.

(c) A DAEP may be located on-campus or off-campus in adherence with requirements specified in § 129.1025 of this title (relating to Adoption By Reference: Student Attendance Accounting Handbook). For reporting purposes, the DAEP shall use the county-district-campus number of the student's locally assigned campus (the campus the student would be attending if the student was not attending the DAEP).

(d) An individual school district or an SSA may contract with third parties for DAEP services. The district must require and ensure compliance with district responsibilities that are transferred to the third-party provider.

(e) The campus of accountability for student performance must be the student's locally assigned campus, including when the individual school district or SSA contracts with a third party for DAEP services.

(f) Each school district shall provide an academic and self-discipline program that leads to graduation and includes instruction in each student's currently enrolled foundation curriculum necessary to meet the student's individual graduation plan, including special education services.

(1) A student's four-year graduation plan (minimum, recommended, or distinguished achievement--advanced) may not be altered when the student is assigned to a DAEP. A student must be offered an opportunity to complete a foundation curriculum course in which the student was enrolled at the time of removal before the beginning of the next school year, including correspondence or distance learning opportunities or summer school. A district may not charge for a course required under this section.

(2) The school day for a DAEP shall be at least seven hours but no more than ten hours in length each day, including intermissions and recesses as required under the TEC, § 25.082(a).

(3) Notwithstanding the TEC, § 37.008(a)(3), summer programs provided by the district may serve students assigned to a DAEP in conjunction with other students, as determined by local policy.

(g) A DAEP program serving a student with a disability who receives special education services shall provide educational services that will support the student in meeting the goals identified in the individualized education program (IEP) established by a duly-constituted admission, review, and dismissal (ARD) committee, in accordance with the TEC, § 37.004, and federal requirements.

(h) Each school district is responsible for the safety and supervision of the students assigned to the DAEP; however, the immunity from the liability established in the TEC, § 22.0511, shall not be impacted.

(1) The certified teacher-to-student ratio in a DAEP shall be one teacher for each 15 students in elementary through high school grades. Elementary grade students assigned to the DAEP shall be separated from secondary grade students assigned to the DAEP. The designation of elementary and secondary will be determined by adopted local policy.

(2) The DAEP staff shall be prepared and trained to respond to health issues and emergencies.

(3) Students in the DAEP shall be separated from students in a juvenile justice alternative education program (JJAEP) and students who are not assigned to the DAEP.

(4) Each district shall establish a board-approved policy for discipline and intervention measures to prevent and intervene against unsafe behavior and include disciplinary actions that do not jeopardize students' physical health and safety, harm emotional well-being, or discourage physical activity.

(i) Staff at each DAEP shall participate in training programs on education, behavior management, and safety procedures that focus on positive and proactive behavior management strategies. The training programs must also target prevention and intervention that include:

(1) training on the education and discipline of students with disabilities who receive special education services;

(2) instruction in social skills and problem-solving skills that addresses diversity, dating violence, anger management, and conflict resolution to teach students how to interact with teachers, family, peers, authority figures, and the general public; and

(3) annual training on established procedures for reporting abuse, neglect, or exploitation of students.

(j) Procedures for each DAEP shall be developed and implemented for newly-entering students and their parents or guardians on the expectations of the DAEP, including written contracts between students, parents or guardians, and the DAEP that formalize expectations and establish the students' individual plans for success.

(k) The transition procedures established for a student who is exiting a DAEP and returning to the student's locally assigned campus shall be implemented and updated annually as needed. The transition procedures shall include:

(1) an established timeline for the student's transition from the DAEP to the student's locally assigned campus; and

(2) written and oral communication from the DAEP staff to the locally assigned campus during the student's assignment to the DAEP, including the student's educational performance and tasks completed.

19 TAC § 103.1203. Assessment of Academic Growth of Students in Disciplinary Alternative Education Programs

(a) Each school district shall be responsible for administering a pre- and post-assessment for each student assigned to the district's disciplinary alternative education program (DAEP) for a period of 90 school days or longer as required by the Tex. Educ. Code (TEC), § 37.0082. Released state assessments for reading and mathematics for the appropriate grade may be used. A school district may apply for approval of an assessment that includes the Texas Essential Knowledge and Skills (TEKS) for reading and mathematics for the student's assigned grade. The commissioner of education will publish on the Texas Education Agency website a list of assessments approved for use in each school year.

(b) The grade level of an assessment shall be based upon the academic grade completed prior to the student being assigned to a DAEP if placement occurs in the fall or first semester of the academic school year. If placement occurs in the spring or second semester of the academic school year, the student shall be administered an assessment based on the current grade level.

(c) Each school district shall provide an academic report to the student's locally assigned campus, which shall include the pre- and post-assessment results of the student's basic skills in reading and mathematics, within ten days of the student completing the post-assessment.

(d) Procedures for administering the pre- and post-assessment shall be developed and implemented in accordance with local school district policy.

(e) A student in the district's DAEP must also be assessed under the requirements of the TEC, Chapter 39.

For information on placement of student sex offenders, see Tex. Educ. Code § 37.301 through 313.

Disciplinary Approaches Addressing Specific Infractions and Conditions

Firearms (as required by the Guns-Free Schools Act)

STATUTES

37.007. Expulsion for Serious Offenses

(a) Except as provided by Subsection (k), a student shall be expelled from a school if the student, on school property or while attending a school-sponsored or school-related activity on or off of school property:

(1) uses, exhibits, or possesses:

(A) a firearm as defined by Section 46.01(3), Penal Code;

(B) an illegal knife as defined by Section 46.01(6), Penal Code, or by local policy;

(C) a club as defined by Section 46.01(1), Penal Code; or

(D) a weapon listed as a prohibited weapon under Section 46.05, Penal Code;

(2) engages in conduct that contains the elements of the offense of:

(A) aggravated assault under Section 22.02, Penal Code, sexual assault under Section 22.011, Penal Code, or aggravated sexual assault under Section 22.021, Penal Code;

(B) arson under Section 28.02, Penal Code;

(C) murder under Section 19.02, Penal Code, capital murder under Section 19.03, Penal Code, or criminal attempt, under Section 15.01, Penal Code, to commit murder or capital murder;

(D) indecency with a child under Section 21.11, Penal Code;

(E) aggravated kidnapping under Section 20.04, Penal Code;

(F) aggravated robbery under Section 29.03, Penal Code;

(G) manslaughter under Section 19.04, Penal Code;

(H) criminally negligent homicide under Section 19.05, Penal Code; or

(I) continuous sexual abuse of young child or children under Section 21.02, Penal Code; or

(3) engages in conduct specified by Section 37.006(a)(2)(C) or (D), if the conduct is punishable as a felony.

(b) A student may be expelled if the student:

(1) engages in conduct involving a public school that contains the elements of the offense of false alarm or report under Section 42.06, Penal Code, or terroristic threat under Section 22.07, Penal Code;

(2) while on or within 300 feet of school property, as measured from any point on the school's real property boundary line, or while attending a school-sponsored or school-related activity on or off of school property:

(A) sells, gives, or delivers to another person or possesses, uses, or is under the influence of any amount of:

(i) marihuana or a controlled substance, as defined by Chapter 481, Health and Safety Code, or by 21 U.S.C. Section 801 et seq.;

(ii) a dangerous drug, as defined by Chapter 483, Health and Safety Code; or

(iii) an alcoholic beverage, as defined by Section 1.04, Alcoholic Beverage Code;

(B) engages in conduct that contains the elements of an offense relating to an abusable volatile chemical under Sections 485.031 through 485.034, Health and Safety Code;

(C) engages in conduct that contains the elements of an offense under Section 22.01(a)(1), Penal Code, against a school district employee or a volunteer as defined by Section 22.053; or

(D) engages in conduct that contains the elements of the offense of deadly conduct under Section 22.05, Penal Code;

(3) subject to Subsection (d), while within 300 feet of school property, as measured from any point on the school's real property boundary line:

(A) engages in conduct specified by Subsection (a); or

(B) possesses a firearm, as defined by 18 U.S.C. Section 921;[...]

(d) A student shall be expelled if the student engages in conduct that contains the elements of any offense listed in Subsection (a), and may be expelled if the student engages in conduct that contains the elements of any offense listed in Subsection (b)(2)(C), against any employee or volunteer in retaliation for or as a result of the person's employment or association with a school district, without regard to whether the conduct occurs on or off of school property or while attending a school-sponsored or school-related activity on or off of school property.

(e) In accordance with 20 U.S.C. Section 7151, a local educational agency, including a school district, home-rule school district, or open-enrollment charter school, shall expel a student who brings a firearm, as defined by 18 U.S.C. Section 921, to school. The student must be expelled from the student's regular campus for a period of at least one year, except that:

(1) the superintendent or other chief administrative officer of the school district or of the other local educational agency, as defined by 20 U. S.C. Section 7801, may modify the length of the expulsion in the case of an individual student;

(2) the district or other local educational agency shall provide educational services to an expelled student in a disciplinary alternative education program as provided by Section 37.008 if the student is younger than 10 years of age on the date of expulsion; and

(3) the district or other local educational agency may provide educational services to an expelled student who is 10 years of age or older in a disciplinary alternative education program as provided in Section 37.008.

(h) Subject to Subsection (e), notwithstanding any other provision of this section, a student who is younger than 10 years of age may not be expelled for engaging in conduct described by this section.

(k) A student may not be expelled solely on the basis of the student's use, exhibition, or possession of a firearm that occurs:

(1) at an approved target range facility that is not located on a school campus; and

(2) while participating in or preparing for a school-sponsored shooting sports competition or a shooting sports educational activity that is sponsored or supported by the Parks and Wildlife Department or a shooting sports sanctioning organization working with the department.

(l) Subsection (k) does not authorize a student to bring a firearm on school property to participate in or prepare for a school-sponsored shooting sports competition or a shooting sports educational activity described by that subsection.

§ 37.125. Exhibition of Firearms

(a) A person commits an offense if, in a manner intended to cause alarm or personal injury to another person or to damage school property, the person intentionally exhibits, uses, or threatens to exhibit or use a firearm:

(1) in or on any property, including a parking lot, parking garage, or other parking area, that is owned by a private or public school; or

(2) on a school bus being used to transport children to or from school-sponsored activities of a private or public school.

(b) An offense under this section is a third degree felony.

Other weapons

STATUTES

37.007. Expulsion for Serious Offenses

(a) Except as provided by Subsection (k), a student shall be expelled from a school if the student, on school property or while attending a school-sponsored or school-related activity on or off of school property:

(1) uses, exhibits, or possesses:

(A) a firearm as defined by Section 46.01(3), Penal Code;

(B) an illegal knife as defined by Section 46.01(6), Penal Code, or by local policy;

(C) a club as defined by Section 46.01(1), Penal Code; or

(D) a weapon listed as a prohibited weapon under Section 46.05, Penal Code;[...]

Students with chronic disciplinary issues

No relevant statutes found.

Attendance and truancy

STATUTES

§ 25.001. Admission

(a) A person who, on the first day of September of any school year, is at least five years of age and under 21 years of age, or is at least 21 years of age and under 26 years of age and is admitted by a school district to complete the requirements for a high school diploma is entitled to the benefits of the available school fund for that year. Any other person enrolled in a prekindergarten class under Section 29.153 is entitled to the benefits of the available school fund.

(b) The board of trustees of a school district or its designee shall admit into the public schools of the district free of tuition a person who is over five and younger than 21 years of age on the first day of September of the school year in which admission is sought, and may admit a person who is at least 21 years of age and under 26 years of age for the purpose of completing the requirements for a high school diploma, if:

(1) the person and either parent of the person reside in the school district;

(2) the person does not reside in the school district but a parent of the person resides in the school district and that parent is a joint managing conservator or the sole managing conservator or possessory conservator of the person;

(3) the person and the person's guardian or other person having lawful control of the person under a court order reside within the school district;

(4) the person has established a separate residence under Subsection (d);

(5) the person is homeless, as defined by 42 U.S.C. Section 11302,regardless of the residence of the person, of either parent of the person, or of the person's guardian or other person having lawful control of the person;

(6) the person is a foreign exchange student placed with a host family that resides in the school district by a nationally recognized foreign exchange program, unless the school district has applied for and been granted a waiver by the commissioner under Subsection (e);

(7) the person resides at a residential facility located in the district;

(8) the person resides in the school district and is 18 years of age or older or the person's disabilities of minority have been removed; or

(9) the person does not reside in the school district but the grandparent of the person:

(A) resides in the school district; and

(B) provides a substantial amount of after-school care for the person as determined by the board.

(b-1) A person who is 21 years of age or older and is admitted by a school district for the purpose stated in Subsection (b) is not eligible for placement in a disciplinary alternative education program or a juvenile justice alternative education program if the person engages in conduct that would require or authorize such placement for a student under the age of 21. If the student engages in conduct that would otherwise require such placement, the district shall revoke admission of the student into the public schools of the district.

(b-2) A person who is 21 years of age or older who is admitted by a school district to complete the requirements for a high school diploma and who has not attended school in the three preceding school years may not be placed with a student who is 18 years of age or younger in a classroom setting, a cafeteria, or another district-sanctioned school activity. Nothing in this subsection prevents a student described by this subsection from attending a school-sponsored event that is open to the public as a member of the public.

(c) The board of trustees of a school district or the board's designee may require evidence that a person is eligible to attend the public schools of the district at the time the board or its designee considers an application for admission of the person. The board of trustees or its designee shall establish minimum proof of residency acceptable to the district. The board of trustees or its designee may make reasonable inquiries to verify a person's eligibility for admission.

(d) For a person under the age of 18 years to establish a residence for the purpose of attending the public schools separate and apart from the person's parent, guardian, or other person having lawful control of the person under a court order, it must be established that the person's presence in the school district is not for the primary purpose of participation in extracurricular activities. The board of trustees shall determine whether an applicant for admission is a resident of the school district for purposes of attending the public schools and may adopt reasonable guidelines for making a determination as necessary to protect the best interests of students. The board of trustees is not required to admit a person under this subsection if the person:

(1) has engaged in conduct or misbehavior within the preceding year that has resulted in:

(A) removal to a disciplinary alternative education program; or

(B) expulsion;

(2) has engaged in delinquent conduct or conduct in need of supervision and is on probation or other conditional release for that conduct; or

(3) has been convicted of a criminal offense and is on probation or other conditional release.

(e) A school district may request that the commissioner waive the requirement that the district admit a foreign exchange student who meets the conditions of Subsection (b)(5). The commissioner shall respond to a district's request not later than the 60th day after the date of receipt of the request. The commissioner shall grant the request and issue a waiver effective for a period not to exceed three years if the commissioner determines that admission of a foreign exchange student would:

(1) create a financial or staffing hardship for the district;

(2) diminish the district's ability to provide high quality educational services for the district's domestic students; or

(3) require domestic students to compete with foreign exchange students for educational resources.

(f) A child placed in foster care by an agency of the state or by a political subdivision shall be permitted to attend the public schools in the district in which the foster parents reside free of any charge to the foster parents or the agency. A durational residence requirement may not be used to prohibit that child from fully participating in any activity sponsored by the school district.

(g) A student enrolled in high school in grade 9, 10, 11, or 12 who is placed in temporary foster care by the Texas Department of Human Services at a residence outside the attendance area for the school or outside the school district is entitled to complete high school at the school in which the student was enrolled at the time of placement without payment of tuition.

(h) In addition to the penalty provided by Section 37.10, Penal Code, a person who knowingly falsifies information on a form required for enrollment of a student in a school district is liable to the district if the student is not eligible for enrollment in the district but is enrolled on the basis of the false information. The person is liable, for the period during which the ineligible student is enrolled, for the greater of:

(1) the maximum tuition fee the district may charge under Section 25.038; or

(2) the amount the district has budgeted for each student as maintenance and operating expenses.

(i) A school district may include on an enrollment form notice of the penalties provided by Section 37.10, Penal Code, and of the liability provided by Subsection (h) for falsifying information on the form.

(j) For the purposes of this subchapter, the board of trustees of a school district by policy may allow a person showing evidence of legal responsibility for a child other than an order of a court to substitute for a guardian or other person having lawful control of the child under an order of a court.

§ 25.0915. Truancy Prevention Measures; Referral and Filing Requirement

(a) A school district shall adopt truancy prevention measures designed to:

(1) address student conduct related to truancy in the school setting;

(2) minimize the need for referrals to juvenile court for conduct described by Section 51.03(b)(2), Family Code; and

(3) minimize the filing of complaints in county, justice, and municipal courts alleging a violation of Section 25.094.

(b) Each referral to juvenile court for conduct described by Section 51.03(b)(2), Family Code, or complaint filed in county, justice, or municipal court alleging a violation by a student of Section 25.094 must:

(1) be accompanied by a statement from the student's school certifying that:

(A) the school applied the truancy prevention measures adopted under Subsection (a) to the student; and

(B) the truancy prevention measures failed to meaningfully address the student's school attendance; and

(2) specify whether the student is eligible for or receives special education services under Subchapter A, Chapter 29.

§ 25.093. Parent Contributing to Nonattendance

(a) If a warning is issued as required by Section 25.095(a), the parent with criminal negligence fails to require the child to attend school as required by law, and the child has absences for the amount of time specified under Section 25.094, the parent commits an offense.

(b) The attendance officer or other appropriate school official shall file a complaint against the parent in:

(1) the constitutional county court of the county in which the parent resides or in which the school is located, if the county has a population of 1.75 million or more;

(2) a justice court of any precinct in the county in which the parent resides or in which the school is located; or

(3) a municipal court of the municipality in which the parent resides or in which the school is located.

(c) An offense under Subsection (a) is a Class C misdemeanor. Each day the child remains out of school may constitute a separate offense. Two or more offenses under Subsection (a) may be consolidated and prosecuted in a single action. If the court orders deferred disposition under Article 45.051, Code of Criminal Procedure, the court may require the defendant to provide personal services to a charitable or educational institution as a condition of the deferral.

(d) A fine collected under this section shall be deposited as follows:

(1) one-half shall be deposited to the credit of the operating fund of, as applicable:

(A) the school district in which the child attends school;

(B) the open-enrollment charter school the child attends; or

(C) the juvenile justice alternative education program that the child has been ordered to attend; and

(2) one-half shall be deposited to the credit of:

(A) the general fund of the county, if the complaint is filed in the justice court or the constitutional county court; or

(B) the general fund of the municipality, if the complaint is filed in municipal court.

(e) At the trial of any person charged with violating this section, the attendance records of the child may be presented in court by any authorized employee of the school district or open-enrollment charter school, as applicable.

(f) The court in which a conviction, deferred adjudication, or deferred disposition for an offense under Subsection (a) occurs may order the defendant to attend a program for parents of students with unexcused absences that provides instruction designed to assist those parents in identifying problems that contribute to the students' unexcused absences and in developing strategies for resolving those problems if a program is available.

(g) If a parent refuses to obey a court order entered under this section, the court may punish the parent for contempt of court under Section 21.002, Government Code.

(h) It is an affirmative defense to prosecution for an offense under Subsection (a) that one or more of the absences required to be proven under Subsection (a) was excused by a school official or should be excused by the court. The burden is on the defendant to show by a preponderance of the evidence that

the absence has been or should be excused. A decision by the court to excuse an absence for purposes of this section does not affect the ability of the school district to determine whether to excuse the absence for another purpose.

(i) In this section, "parent" includes a person standing in parental relation.

§ 25.094. Failure to Attend School

(a) An individual commits an offense if the individual:

(1) is 12 years of age or older and younger than 18 years of age;

(2) is required to attend school under Section 25.085; and

(3) fails to attend school on 10 or more days or parts of days within a six-month period in the same school year or on three or more days or parts of days within a four-week period.

(b) An offense under this section may be prosecuted in:

(1) the constitutional county court of the county in which the individual resides or in which the school is located, if the county has a population of 1.75 million or more;

(2) a justice court of any precinct in the county in which the individual resides or in which the school is located; or

(3) a municipal court in the municipality in which the individual resides or in which the school is located.

(c) On a finding by the county, justice, or municipal court that the individual has committed an offense under Subsection (a) or on a finding by a juvenile court in a county with a population of less than 100,000 that the individual has engaged in conduct that violates Subsection (a), the court may enter an order that includes one or more of the requirements listed inArticle 45.054, Code of Criminal Procedure, as added by Chapter 1514, Acts of the 77th Legislature, Regular Session, 2001.

(d) If the county, justice, or municipal court believes that a child has violated an order issued under Subsection (c), the court may proceed as authorized by Article 45.050, Code of Criminal Procedure.

(d-1) Pursuant to an order of the county, justice, or municipal court based on an affidavit showing probable cause to believe that an individual has committed an offense under this section, a peace officer may take the individual into custody. A peace officer taking an individual into custody under this subsection shall:

(1) promptly notify the individual's parent, guardian, or custodian of the officer's action and the reason for that action; and

(2) without unnecessary delay:

(A) release the individual to the individual's parent, guardian, or custodian or to another responsible adult, if the person promises to bring the individual to the county, justice, or municipal court as requested by the court; or

(B) bring the individual to a county, justice, or municipal court with venue over the offense.

(e) An offense under this section is a Class C misdemeanor.

(f) It is an affirmative defense to prosecution under this section that one or more of the absences required to be proven under Subsection (a) were excused by a school official or by the court or that one or more of the absences were involuntary, but only if there is an insufficient number of unexcused or voluntary absences remaining to constitute an offense under this section. The burden is on the defendant to show by a preponderance of the evidence that the absence has been excused or that the absence was involuntary. A decision by the court to excuse an absence for purposes of this section does not affect the ability of the school district to determine whether to excuse the absence for another purpose.

(g) It is an affirmative defense to prosecution under this section that one or more of the absences required to be proven under Subsection (a) was involuntary. The burden is on the defendant to show by a preponderance of the evidence that the absence was involuntary.

§ 25.095. Warning Notices

(a) A school district or open-enrollment charter school shall notify a student's parent in writing at the beginning of the school year that if the student is absent from school on 10 or more days or parts of days within a six-month period in the same school year or on three or more days or parts of days within a four-week period:

(1) the student's parent is subject to prosecution under Section 25.093; and

(2) the student is subject to prosecution under Section 25.094 or to referral to a juvenile court in a county with a population of less than 100,000 for conduct that violates that section.

(b) A school district shall notify a student's parent if the student has been absent from school, without excuse under Section 25.087, on three days or parts of days within a four-week period. The notice must:

(1) inform the parent that:

(A) it is the parent's duty to monitor the student's school attendance and require the student to attend school; and

(B) the parent is subject to prosecution under Section 25.093; and

(2) request a conference between school officials and the parent to discuss the absences.

(c) The fact that a parent did not receive a notice under Subsection (a) or (b) does not create a defense to prosecution under Section 25.093 or 25.094.

(d) In this section, "parent" includes a person standing in parental relation.

§ 25.0951. School District Complaint or Referral for Failure to Attend School

(a) If a student fails to attend school without excuse on 10 or more days or parts of days within a six-month period in the same school year, a school district shall within 10 school days of the student's 10th absence:

(1) file a complaint against the student or the student's parent or both in a county, justice, or municipal court for an offense under Section 25.093 or 25.094, as appropriate, or refer the student to a juvenile court in a county with a population of less than 100,000 for conduct that violates Section 25.094; or

(2) refer the student to a juvenile court for conduct indicating a need for supervision under Section 51.03(b)(2), Family Code.

(b) If a student fails to attend school without excuse on three or more days or parts of days within a four-week period but does not fail to attend school for the time described by Subsection (a), the school district may:

(1) file a complaint against the student or the student's parent or both in a county, justice, or municipal court for an offense under Section 25.093 or 25.094, as appropriate, or refer the student to a juvenile court in a county with a population of less than 100,000 for conduct that violates Section 25.094; or

(2) refer the student to a juvenile court for conduct indicating a need for supervision under Section 51.03(b)(2), Family Code.

(c) In this section, "parent" includes a person standing in parental relation.

(d) A court shall dismiss a complaint or referral made by a school district under this section that is not made in compliance with this section.

§ 25.0952. Procedures Applicable to School Attendance-Related Offenses

In a proceeding based on a complaint under Section 25.093 or 25.094, the court shall, except as otherwise provided by this chapter, use the procedures and exercise the powers authorized by Chapter 45, Code of Criminal Procedure.

Substance use

STATUTES

37.007. Expulsion for Serious Offenses

(b) A student may be expelled if the student:

(1) engages in conduct involving a public school that contains the elements of the offense of false alarm or report under Section 42.06, Penal Code, or terroristic threat under Section 22.07, Penal Code;

(2) while on or within 300 feet of school property, as measured from any point on the school's real property boundary line, or while attending a school-sponsored or school-related activity on or off of school property:

(A) sells, gives, or delivers to another person or possesses, uses, or is under the influence of any amount of:

(i) marihuana or a controlled substance, as defined by Chapter 481, Health and Safety Code, or by 21 U.S.C. Section 801 et seq.;

(ii) a dangerous drug, as defined by Chapter 483, Health and Safety Code; or

(iii) an alcoholic beverage, as defined by Section 1.04, Alcoholic Beverage Code;[...]

§ 37.016. Report of Drug Offenses; Liability

A teacher, school administrator, or school employee is not liable in civil damages for reporting to a school administrator or governmental authority, in the exercise of professional judgment within the scope of the teacher's, administrator's, or employee's duties, a student whom the teacher suspects of using, passing, or selling, on school property:

(1) marihuana or a controlled substance, as defined by Chapter 481, Health and Safety Code;

(2) a dangerous drug, as defined by Chapter 483, Health and Safety Code;

(3) an abusable glue or aerosol paint, as defined by Chapter 485, Health and Safety Code, or a volatile chemical, as listed in Chapter 484, Health and Safety Code, if the substance is used or sold for the purpose of inhaling its fumes or vapors; or

(4) an alcoholic beverage, as defined by Section 1.04, Alcoholic Beverage Code.

§ 37.122. Possession of Intoxicants on Public School Grounds

(a) A person commits an offense if the person possesses an intoxicating beverage for consumption, sale, or distribution while:

(1) on the grounds or in a building of a public school; or

(2) entering or inside any enclosure, field, or stadium where an athletic event sponsored or participated in by a public school of this state is being held.

(b) An officer of this state who sees a person violating this section shall immediately seize the intoxicating beverage and, within a reasonable time, deliver it to the county or district attorney to be held as evidence until the trial of the accused possessor.

(c) An offense under this section is a Class C misdemeanor.

Bullying, harassment, or hazing

STATUTES

§ 25.0342. Transfer of Students Who Are Victims of or Have Engaged in Bullying

(a) In this section, "bullying" has the meaning assigned by Section 37.0832.

(b) On the request of a parent or other person with authority to act on behalf of a student who is a victim of bullying, the board of trustees of a school district or the board's designee shall transfer the victim to:

(1) another classroom at the campus to which the victim was assigned at the time the bullying occurred; or

(2) a campus in the school district other than the campus to which the victim was assigned at the time the bullying occurred.

(b-1) The board of trustees of a school district may transfer the student who engaged in bullying to:

(1) another classroom at the campus to which the victim was assigned at the time the bullying occurred; or

(2) a campus in the district other than the campus to which the victim was assigned at the time the bullying occurred, in consultation with a parent or other person with authority to act on behalf of the student who engaged in bullying.

(b-2) Section 37.004 applies to a transfer under Subsection (b-1) of a student with a disability who receives special education services.

(c) The board of trustees or the board's designee shall verify that a student has been a victim of bullying before transferring the student under this section.

(d) The board of trustees or the board's designee may consider past student behavior when identifying a bully.

(e) The determination by the board of trustees or the board's designee is final and may not be appealed.

(f) A school district is not required to provide transportation to a student who transfers to another campus under Subsection (b)(2).

(g) Section 25.034 does not apply to a transfer under this section.

§ 37.083. Discipline Management Programs; Sexual Harassment Policies

(a) Each school district shall adopt and implement a discipline management program to be included in the district improvement plan under Section 11.252. The program must provide for prevention of and education concerning unwanted physical or verbal aggression and sexual harassment in school, on school grounds, and in school vehicles.

(b) Each school district may develop and implement a sexual harassment policy to be included in the district improvement plan under Section 11.252

§ 37.0832. Bullying Prevention Policies and Procedures

(a) In this section, "bullying" means, subject to Subsection (b), engaging in written or verbal expression, expression through electronic means, or physical conduct that occurs on school property, at a school-sponsored or school-related activity, or in a vehicle operated by the district and that:

(1) has the effect or will have the effect of physically harming a student, damaging a student's property, or placing a student in reasonable fear of harm to the student's person or of damage to the student's property; or

(2) is sufficiently severe, persistent, and pervasive enough that the action or threat creates an intimidating, threatening, or abusive educational environment for a student.

(b) Conduct described by Subsection (a) is considered bullying if that conduct:

(1) exploits an imbalance of power between the student perpetrator and the student victim through written or verbal expression or physical conduct; and

(2) interferes with a student's education or substantially disrupts the operation of a school.

(c) The board of trustees of each school district shall adopt a policy, including any necessary procedures, concerning bullying that:

(1) prohibits the bullying of a student;

(2) prohibits retaliation against any person, including a victim, a witness, or another person, who in good faith provides information concerning an incident of bullying;

(3) establishes a procedure for providing notice of an incident of bullying to a parent or guardian of the victim and a parent or guardian of the bully within a reasonable amount of time after the incident;

(4) establishes the actions a student should take to obtain assistance and intervention in response to bullying;

(5) sets out the available counseling options for a student who is a victim of or a witness to bullying or who engages in bullying;

(6) establishes procedures for reporting an incident of bullying, investigating a reported incident of bullying, and determining whether the reported incident of bullying occurred;

(7) prohibits the imposition of a disciplinary measure on a student who, after an investigation, is found to be a victim of bullying, on the basis of that student's use of reasonable self-defense in response to the bullying; and

(8) requires that discipline for bullying of a student with disabilities comply with applicable requirements under federal law, including the Individuals with Disabilities Education Act (20 U.S.C. Section 1400 et seq.).

(d) The policy and any necessary procedures adopted under Subsection (c) must be included:

(1) annually, in the student and employee school district handbooks; and

(2) in the district improvement plan under Section 11.252.

(e) The procedure for reporting bullying established under Subsection (c) must be posted on the district's Internet website to the extent practicable.

§ 37.152. Personal Hazing Offense

(a) A person commits an offense if the person:

(1) engages in hazing;

(2) solicits, encourages, directs, aids, or attempts to aid another in engaging in hazing;

(3) recklessly permits hazing to occur; or

(4) has firsthand knowledge of the planning of a specific hazing incident involving a student in an educational institution, or has firsthand knowledge that a specific hazing incident has occurred, and knowingly fails to report that knowledge in writing to the dean of students or other appropriate official of the institution.

(b) The offense of failing to report is a Class B misdemeanor.

(c) Any other offense under this section that does not cause serious bodily injury to another is a Class B misdemeanor.

(d) Any other offense under this section that causes serious bodily injury to another is a Class A misdemeanor.

(e) Any other offense under this section that causes the death of another is a state jail felony.

(f) Except if an offense causes the death of a student, in sentencing a person convicted of an offense under this section, the court may require the person to perform community service, subject to the same conditions imposed on a person placed on community supervision under Section 11, Article 42.12, Code of Criminal Procedure, for an appropriate period of time in lieu of confinement in county jail or in lieu of a part of the time the person is sentenced to confinement in county jail.

§ 37.153. Organization Hazing Offense

(a) An organization commits an offense if the organization condones or encourages hazing or if an officer or any combination of members, pledges, or alumni of the organization commits or assists in the commission of hazing.

(b) An offense under this section is a misdemeanor punishable by:

(1) a fine of not less than $ 5,000 nor more than $ 10,000; or

(2) if the court finds that the offense caused personal injury, property damage, or other loss, a fine of not less than $ 5,000 nor more than double the amount lost or expenses incurred because of the injury, damage, or loss.

§ 37.154. Consent Not a Defense

It is not a defense to prosecution of an offense under this subchapter that the person against whom the hazing was directed consented to or acquiesced in the hazing activity.

§ 37.155. Immunity from Prosecution Available

In the prosecution of an offense under this subchapter, the court may grant immunity from prosecution for the offense to each person who is subpoenaed to testify for the prosecution and who does testify for the prosecution. Any person reporting a specific hazing incident involving a student in an educational institution to the dean of students or other appropriate official of the institution is immune from civil or criminal liability that might otherwise be incurred or imposed as a result of the report. Immunity extends to participation in any judicial proceeding resulting from the report. A person reporting in bad faith or with malice is not protected by this section.

§ 37.156. Offenses in Addition to Other Penal Provisions

This subchapter does not affect or repeal any penal law of this state. This subchapter does not limit or affect the right of an educational institution to enforce its own penalties against hazing.

§ 37.157. Reporting by Medical Authorities

A doctor or other medical practitioner who treats a student who may have been subjected to hazing activities:

(1) may report the suspected hazing activities to police or other law enforcement officials; and

(2) is immune from civil or other liability that might otherwise be imposed or incurred as a result of the report, unless the report is made in bad faith or with malice.

Other special infractions or conditions

STATUTES

§ 37.0831. Dating Violence Policies

(a) Each school district shall adopt and implement a dating violence policy to be included in the district improvement plan under Section 11.252.

(b) A dating violence policy must:

(1) include a definition of dating violence that includes the intentional use of physical, sexual, verbal, or emotional abuse by a person to harm, threaten, intimidate, or control another person in a dating relationship, as defined by Section 71.0021, Family Code; and

(2) address safety planning, enforcement of protective orders, school-based alternatives to protective orders, training for teachers and administrators, counseling for affected students, and awareness education for students and parents.

§ 37.121. Fraternities, Sororities, Secret Societies, and Gangs

(a) A person commits an offense if the person:

(1) is a member of, pledges to become a member of, joins, or solicits another person to join or pledge to become a member of a public school fraternity, sorority, secret society, or gang; or

(2) is not enrolled in a public school and solicits another person to attend a meeting of a public school fraternity, sorority, secret society, or gang or a meeting at which membership in one of those groups is encouraged.

(b) A school district board of trustees or an educator shall recommend placing in a disciplinary alternative education program any student under the person's control who violates Subsection (a).

(c) An offense under this section is a Class C misdemeanor.

(d) In this section, "public school fraternity, sorority, secret society, or gang" means an organization composed wholly or in part of students of public primary or secondary schools that seeks to perpetuate itself by taking in additional members from the students enrolled in school on the basis of the decision of its membership rather than on the free choice of a student in the school who is qualified by the rules of the school to fill the special aims of the organization. The term does not include an agency for public welfare, including Boy Scouts, Hi-Y, Girl Reserves, DeMolay, Rainbow Girls, Pan-American Clubs, scholarship societies, or other similar educational organizations sponsored by state or national education authorities.

§ 37.123. Disruptive Activities

(a) A person commits an offense if the person, alone or in concert with others, intentionally engages in disruptive activity on the campus or property of any private or public school.

(b) For purposes of this section, disruptive activity is:

(1) obstructing or restraining the passage of persons in an exit, entrance, or hallway of a building without the authorization of the administration of the school;

(2) seizing control of a building or portion of a building to interfere with an administrative, educational, research, or other authorized activity;

(3) preventing or attempting to prevent by force or violence or the threat of force or violence a lawful assembly authorized by the school administration so that a person attempting to participate in the assembly is unable to participate due to the use of force or violence or due to a reasonable fear that force or violence is likely to occur;

(4) disrupting by force or violence or the threat of force or violence a lawful assembly in progress; or

(5) obstructing or restraining the passage of a person at an exit or entrance to the campus or property or preventing or attempting to prevent by force or violence or by threats of force or violence the ingress or egress of a person to or from the property or campus without the authorization of the administration of the school.

(c) An offense under this section is a Class B misdemeanor.

(d) Any person who is convicted the third time of violating this section is ineligible to attend any institution of higher education receiving funds from this state before the second anniversary of the third conviction.

(e) This section may not be construed to infringe on any right of free speech or expression guaranteed by the constitution of the United States or of this state.

§ 37.124. Disruption of Classes

(a) A person commits an offense if the person, on school property or on public property within 500 feet of school property, alone or in concert with others, intentionally disrupts the conduct of classes or other school activities.

(b) An offense under this section is a Class C misdemeanor.

(c) In this section:

(1) "Disrupting the conduct of classes or other school activities" includes:

(A) emitting noise of an intensity that prevents or hinders classroom instruction;

(B) enticing or attempting to entice a student away from a class or other school activity that the student is required to attend;

(C) preventing or attempting to prevent a student from attending a class or other school activity that the student is required to attend; and

(D) entering a classroom without the consent of either the principal or the teacher and, through either acts of misconduct or the use of loud or profane language, disrupting class activities.

(2) "Public property" includes a street, highway, alley, public park, or sidewalk.

(3) "School property" includes a public school campus or school grounds on which a public school is located and any grounds or buildings used by a school for an assembly or other school-sponsored activity.

(d) It is an exception to the application of Subsection (a) that, at the time the person engaged in conduct prohibited under that subsection, the person was a student in the sixth grade or a lower grade level.

§ 37.126. Disruption of Transportation

(a) Except as provided by Section 37.125, a person commits an offense if the person intentionally disrupts, prevents, or interferes with the lawful transportation of children:

(1) to or from school on a vehicle owned or operated by a county or independent school district; or

(2) to or from an activity sponsored by a school on a vehicle owned or operated by a county or independent school district.

(b) An offense under this section is a Class C misdemeanor.

(c) It is an exception to the application of Subsection (a)(1) that, at the time the person engaged in conduct prohibited under that subdivision, the person was a student in the sixth grade or a lower grade level.

§ 37.151. Definitions

In this subchapter:

(1) "Educational institution" includes a public or private high school.

(2) "Pledge" means any person who has been accepted by, is considering an offer of membership from, or is in the process of qualifying for membership in an organization.

(3) "Pledging" means any action or activity related to becoming a member of an organization.

(4) "Student" means any person who:

(A) is registered in or in attendance at an educational institution;

(B) has been accepted for admission at the educational institution where the hazing incident occurs; or

(C) intends to attend an educational institution during any of its regular sessions after a period of scheduled vacation.

(5) "Organization" means a fraternity, sorority, association, corporation, order, society, corps, club, or service, social, or similar group, whose members are primarily students.

(6) "Hazing" means any intentional, knowing, or reckless act, occurring on or off the campus of an educational institution, by one person alone or acting with others, directed against a student, that endangers the mental or physical health or safety of a student for the purpose of pledging, being initiated into, affiliating with, holding office in, or maintaining membership in an organization. The term includes:

(A) any type of physical brutality, such as whipping, beating, striking, branding, electronic shocking, placing of a harmful substance on the body, or similar activity;

(B) any type of physical activity, such as sleep deprivation, exposure to the elements, confinement in a small space, calisthenics, or other activity that subjects the student to an unreasonable risk of harm or that adversely affects the mental or physical health or safety of the student;

(C) any activity involving consumption of a food, liquid, alcoholic beverage, liquor, drug, or other substance that subjects the student to an unreasonable risk of harm or that adversely affects the mental or physical health or safety of the student;

(D) any activity that intimidates or threatens the student with ostracism, that subjects the student to extreme mental stress, shame, or humiliation, that adversely affects the mental health or dignity of the student or discourages the student from entering or remaining registered in an educational institution, or that may reasonably be expected to cause a student to leave the organization or the institution rather than submit to acts described in this subdivision; and

(E) any activity that induces, causes, or requires the student to perform a duty or task that involves a violation of the Penal Code.

Prevention and Behavioral Interventions (Non-Punitive)

Prevention

STATUTES

§ 11.252. District-Level Planning and Decision-Making

(a) Each school district shall have a district improvement plan that is developed, evaluated, and revised annually, in accordance with district policy, by the superintendent with the assistance of the district-level committee established under Section 11.251. The purpose of the district improvement plan is to guide district and campus staff in the improvement of student performance for all student groups in order to attain state standards in respect to the student achievement indicators adopted under Section 39.053. The district improvement plan must include provisions for:

[...](3) strategies for improvement of student performance that include:

[...](B) methods for addressing the needs of students for special programs, including:

(i) suicide prevention programs, in accordance with Subchapter O-1, Chapter 161, Health and Safety Code, which includes a parental or guardian notification procedure;

(ii) conflict resolution programs;

(iii) violence prevention programs; and

(iv) dyslexia treatment programs;

(C) dropout reduction;

(D) integration of technology in instructional and administrative programs;

(E) discipline management;[...]

§ 37.083. Discipline Management Programs; Sexual Harassment Policies

(a) Each school district shall adopt and implement a discipline management program to be included in the district improvement plan under Section 11.252. The program must provide for prevention of and education concerning unwanted physical or verbal aggression and sexual harassment in school, on school grounds, and in school vehicles[...]

§ 37.201. Definition.

In this subchapter, "center" means the Texas School Safety Center.

§ 37.202. Purpose.

The purpose of the center is to serve as:

(1) a central location for school safety and security information, including research, training, and technical assistance related to successful school safety and security programs;

(2) a central registry of persons providing school safety and security consulting services in the state; and

(3) a resource for the prevention of youth violence and the promotion of safety in the state.

§ 37.205. Safety Training Programs.

The center shall conduct for school districts a safety training program that includes:
(1) development of a positive school environment and proactive safety measures designed to address local concerns;

(2) school safety courses for law enforcement officials, with a focus on school district police officers and school resource officers;
(3) discussion of school safety issues with parents and community members; and
(4) assistance in developing a multihazard emergency operations plan for adoption under Section 37.108.

§ 37.218. Programs on Dangers of Students Sharing Visual Material Depicting Minor Engaged in Sexual Conduct

(a) In this section:

(1) "Bullying" has the meaning assigned by Section 25.0342.

(2) "Cyberbullying" means the use of any electronic communication device to engage in bullying or intimidation.

(3) "Harassment" has the meaning assigned by Section 37.001.

(4) "Sexual conduct" has the meaning assigned by Section 43.25, Penal Code.

(b) The center, in consultation with the office of the attorney general, shall develop programs for use by school districts that address:

(1) the possible legal consequences, including criminal penalties, of sharing visual material depicting a minor engaged in sexual conduct;

(2) other possible consequences of sharing visual material depicting a minor engaged in sexual conduct, including:

(A) negative effects on relationships;

(B) loss of educational and employment opportunities; and

(C) possible removal, if applicable, from certain school programs or extracurricular activities;

(3) the unique characteristics of the Internet and other communications networks that could affect visual material depicting a minor engaged in sexual conduct, including:

(A) search and replication capabilities; and

(B) a potentially worldwide audience;

(4) the prevention of, identification of, responses to, and reporting of incidents of bullying; and

(5) the connection between bullying, cyberbullying, harassment, and a minor sharing visual material depicting a minor engaged in sexual conduct.

(c) Each school district shall annually provide or make available information on the programs developed under Subsection (b) to parents and students in a grade level the district considers appropriate. Each district shall provide or make available the information by any means the district considers appropriate.

Behavioral interventions and student support services

STATUTES

§ 37.051. Establishment

Each school district may establish a school-community guidance center designed to locate and assist children with problems that interfere with education, including juvenile offenders and children with severe behavioral problems or character disorders. Each center shall coordinate the efforts of school district personnel, local police departments, school attendance officers, and probation officers in working with students, dropouts, and parents in identifying and correcting factors that adversely affect the education of the children.

§ 37.052. Cooperative Programs

The board of trustees of a school district may develop cooperative programs with state youth agencies for children found to have engaged in delinquent conduct.

§ 37.053. Cooperation of Governmental Agencies

(a) Each governmental agency that is concerned with children and that has jurisdiction in the school district shall cooperate with the school-community guidance centers on the request of the superintendent of the district and shall designate a liaison to work with the centers in identifying and correcting problems affecting school-age children in the district.

(b) The governmental agency may establish or finance a school-community guidance center jointly with the school district according to terms approved by the governing body of each entity participating in the joint establishment or financing of the center.

§ 37.054. Parental Notice, Consent, and Access to Information

(a) Before a student is admitted to a school-community guidance center, the administrator of the center must notify the student's parent or guardian that the student has been assigned to attend the center.

(b) The notification must include:

(1) the reason that the student has been assigned to the center;

(2) a statement that on request the parent or guardian is entitled to be fully informed in writing of any treatment method or testing program involving the student; and

(3) a statement that the parent or guardian may request to be advised and to give written, signed consent for any psychological testing or treatment involving the student.

(c) If, after notification, a parent refuses to consent to testing or treatment of the student, the center may not provide any further psychological treatment or testing.

(d) A parent or guardian of a student attending a center is entitled to inspect:

(1) any instructional or guidance material to be used by the student, including teachers' manuals, tapes, and films; and

(2) the results of any treatment, testing, or guidance method involving the student.

(e) The administrator of the center may set a schedule for inspection of materials that allows reasonable access but does not interfere with the conduct of classes or business activities of the school.

§ 37.055. Parental Involvement

(a) On admitting a student to a school-community guidance center, a representative of the school district, the student, and the student's parent shall develop an agreement that specifies the responsibilities of the parent and the student. The agreement must include:

(1) a statement of the student's behavioral and learning objectives;

(2) a requirement that the parent attend specified meetings and conferences for teacher review of the student's progress; and

(3) the parent's acknowledgement that the parent understands and accepts the responsibilities imposed by the agreement regarding attendance at meetings and conferences and assistance in meeting other objectives, defined by the district, to aid student remediation.

(b) The superintendent of the school district may obtain a court order from a district court in the school district requiring a parent to comply with an agreement made under this section. A parent who violates a court order issued under this subsection may be punished for contempt of court.

(c) In this section, "parent" includes a legal guardian.

§ 37.056. Court Supervision

(a) In this section, "court" means a juvenile court or alternate juvenile court designated under Chapter 51, Family Code. The court may delegate responsibility under this section to a referee appointed under Section 51.04, Family Code.

(b) If a representative of the school district, the student, and the parent or guardian for any reason fail to reach an agreement under Section 37.055, the court may, on the request of any party and after a hearing, enter an order establishing the responsibilities and duties of each of the parties as the court considers appropriate.

(c) The court may compel attendance at any hearing held under this section through any legal process, including subpoena and habeas corpus.

(d) If the parties reach an agreement under Section 37.055, and if the written agreement so provides, the court may enter an order that incorporates the terms of the agreement.

(e) Any party who violates an order issued under this section may be punished for contempt of court.

(f) A school district may enter into an agreement to share the costs incurred by a county under this section.

Professional development

No relevant statutes found.

Monitoring and Accountability

Formal incident reporting of conduct violations

STATUTES

§ 37.020. Reports Relating to Expulsions and Disciplinary Alternative Education Program Placements

(a) In the manner required by the commissioner, each school district shall annually report to the commissioner the information required by this section.

(b) For each placement in a disciplinary alternative education program established under Section 37.008, the district shall report:

(1) information identifying the student, including the student's race, sex, and date of birth, that will enable the agency to compare placement data with information collected through other reports;

(2) information indicating whether the placement was based on:

(A) conduct violating the student code of conduct adopted under Section 37.001;

(B) conduct for which a student may be removed from class under Section 37.002(b);

(C) conduct for which placement in a disciplinary alternative education program is required by Section 37.006; or

(D) conduct occurring while a student was enrolled in another district and for which placement in a disciplinary alternative education program is permitted by Section 37.008(j);

(3) the number of full or partial days the student was assigned to the program and the number of full or partial days the student attended the program; and

(4) the number of placements that were inconsistent with the guidelines included in the student code of conduct under Section 37.001(a)(5).

(c) For each expulsion under Section 37.007, the district shall report:

(1) information identifying the student, including the student's race, sex, and date of birth, that will enable the agency to compare placement data with information collected through other reports;

(2) information indicating whether the expulsion was based on:

(A) conduct for which expulsion is required under Section 37.007, including information specifically indicating whether a student was expelled on the basis of Section 37.007(e); or

(B) conduct for which expulsion is permitted under Section 37.007;

(3) the number of full or partial days the student was expelled;

(4) information indicating whether:

(A) the student was placed in a juvenile justice alternative education program under Section 37.011;

(B) the student was placed in a disciplinary alternative education program; or

(C) the student was not placed in a juvenile justice or other disciplinary alternative education program; and

(5) the number of expulsions that were inconsistent with the guidelines included in the student code of conduct under Section 37.001(a)(5).

§ 39.306. Performance Report

(a) Each board of trustees shall publish an annual report describing the educational performance of the district and of each campus in the district that includes uniform student performance and descriptive information as determined under rules adopted by the commissioner. The annual report must also include:

(1) campus performance objectives established under Section 11.253 and the progress of each campus toward those objectives, which shall be available to the public;

(2) information indicating the district's accreditation status and identifying each district campus awarded a distinction designation under Subchapter G or considered an unacceptable campus under Subchapter E;

(3) the district's current special education compliance status with the agency;

(4) a statement of the number, rate, and type of violent or criminal incidents that occurred on each district campus, to the extent permitted under the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g);

(5) information concerning school violence prevention and violence intervention policies and procedures that the district is using to protect students;[...]

ADMINISTRATIVE CODE

19 TAC § 89.1053. Procedures for Use of Restraint and Time-Out

(e) Documentation and notification on use of restraint. In a case in which restraint is used, school employees, volunteers, or independent contractors shall implement the following documentation requirements.

(1) On the day restraint is utilized, the campus administrator or designee must be notified verbally or in writing regarding the use of restraint.

(2) On the day restraint is utilized, a good faith effort shall be made to verbally notify the parent(s) regarding the use of restraint.

(3) Written notification of the use of restraint must be placed in the mail or otherwise provided to the parent within one school day of the use of restraint.

(4) Written documentation regarding the use of restraint must be placed in the student's special education eligibility folder in a timely manner so the information is available to the ARD committee when it considers the impact of the student's behavior on the student's learning and/or the creation or revision of a behavioral intervention plan (BIP).

(5) Written notification to the parent(s) and documentation to the student's special education eligibility folder shall include the following:

(A) name of the student;

(B) name of the staff member(s) administering the restraint;

(C) date of the restraint and the time the restraint began and ended;

(D) location of the restraint;

(E) nature of the restraint;

(F) a description of the activity in which the student was engaged immediately preceding the use of restraint;

(G) the behavior that prompted the restraint;

(H) the efforts made to de-escalate the situation and alternatives to restraint that were attempted; and

(I) information documenting parent contact and notification.

(i) Documentation on use of time-out. Necessary documentation or data collection regarding the use of time-out, if any, must be addressed in the IEP or BIP. The admission, review, and dismissal (ARD) committee must use any collected data to judge the effectiveness of the intervention and provide a basis for making determinations regarding its continued use.

(k) Data reporting. With the exception of actions covered by subsection (f) of this section, data regarding the use of restraint must be electronically reported to the Texas Education Agency in accordance with reporting standards specified by the agency.

(l) The provisions adopted under this section do not apply to:

(1) a peace officer while performing law enforcement duties;

(2) juvenile probation, detention, or corrections personnel; or

(3) an educational services provider with whom a student is placed by a judicial authority, unless the services are provided in an educational program of a school district.

19 TAC § 100.1211. Students

(c) Notice of expulsion or withdrawal. A charter holder shall notify the school district in which the student resides within three business days of any action expelling or withdrawing a student from the charter school[...]

Parental notification

STATUTES

§ 37.0091. Notice to Noncustodial Parent

(a) A noncustodial parent may request in writing that a school district or school, for the remainder of the school year in which the request is received, provide that parent with a copy of any written notification relating to student misconduct under Section 37.006 or 37.007 that is generally provided by the district or school to a student's parent or guardian.

(b) A school district or school may not unreasonably deny a request authorized by Subsection (a).

(c) Notwithstanding any other provision of this section, a school district or school shall comply with any applicable court order of which the district or school has knowledge.

§ 37.054. Parental Notice, Consent, and Access to Information

(a) Before a student is admitted to a school-community guidance center, the administrator of the center must notify the student's parent or guardian that the student has been assigned to attend the center.

(b) The notification must include:

(1) the reason that the student has been assigned to the center;

(2) a statement that on request the parent or guardian is entitled to be fully informed in writing of any treatment method or testing program involving the student; and

(3) a statement that the parent or guardian may request to be advised and to give written, signed consent for any psychological testing or treatment involving the student.

(c) If, after notification, a parent refuses to consent to testing or treatment of the student, the center may not provide any further psychological treatment or testing.

(d) A parent or guardian of a student attending a center is entitled to inspect:

(1) any instructional or guidance material to be used by the student, including teachers' manuals, tapes, and films; and

(2) the results of any treatment, testing, or guidance method involving the student.

(e) The administrator of the center may set a schedule for inspection of materials that allows reasonable access but does not interfere with the conduct of classes or business activities of the school.

§ 37.055. Parental Involvement

(a) On admitting a student to a school-community guidance center, a representative of the school district, the student, and the student's parent shall develop an agreement that specifies the responsibilities of the parent and the student. The agreement must include:

(1) a statement of the student's behavioral and learning objectives;

(2) a requirement that the parent attend specified meetings and conferences for teacher review of the student's progress; and

(3) the parent's acknowledgement that the parent understands and accepts the responsibilities imposed by the agreement regarding attendance at meetings and conferences and assistance in meeting other objectives, defined by the district, to aid student remediation.

(b) The superintendent of the school district may obtain a court order from a district court in the school district requiring a parent to comply with an agreement made under this section. A parent who violates a court order issued under this subsection may be punished for contempt of court.

(c) In this section, "parent" includes a legal guardian.

ADMINISTRATIVE CODE

19 TAC § 89.1053. Procedures for Use of Restraint and Time-Out

(e) Documentation and notification on use of restraint. In a case in which restraint is used, school employees, volunteers, or independent contractors shall implement the following documentation requirements.

(1) On the day restraint is utilized, the campus administrator or designee must be notified verbally or in writing regarding the use of restraint.

(2) On the day restraint is utilized, a good faith effort shall be made to verbally notify the parent(s) regarding the use of restraint.

(3) Written notification of the use of restraint must be placed in the mail or otherwise provided to the parent within one school day of the use of restraint.

(4) Written documentation regarding the use of restraint must be placed in the student's special education eligibility folder in a timely manner so the information is available to the ARD committee when it considers the impact of the student's behavior on the student's learning and/or the creation or revision of a behavioral intervention plan (BIP).

(5) Written notification to the parent(s) and documentation to the student's special education eligibility folder shall include the following:

(A) name of the student;

(B) name of the staff member(s) administering the restraint;

(C) date of the restraint and the time the restraint began and ended;

(D) location of the restraint;

(E) nature of the restraint;

(F) a description of the activity in which the student was engaged immediately preceding the use of restraint;

(G) the behavior that prompted the restraint;

(H) the efforts made to de-escalate the situation and alternatives to restraint that were attempted; and

(I) information documenting parent contact and notification.

Reporting and referrals between schools and law enforcement

STATUTES

§ 37.006. Removal for Certain Conduct

(h) On receipt of notice under Article 15.27(g), Code of Criminal Procedure, the superintendent or the superintendent's designee shall review the student's placement in the disciplinary alternative education program. The student may not be returned to the regular classroom pending the review. The superintendent or the superintendent's designee shall schedule a review of the student's placement with the student's parent or guardian not later than the third class day after the superintendent or superintendent's designee receives notice from the office or official designated by the court. After reviewing the notice and receiving information from the student's parent or guardian, the superintendent or the superintendent's designee may continue the student's placement in the disciplinary alternative education program if there is reason to believe that the presence of the student in the regular classroom threatens the safety of other students or teachers.

(o) In addition to any notice required under Article 15.27, Code of Criminal Procedure, a principal or a principal's designee shall inform each educator who has responsibility for, or is under the direction and supervision of an educator who has responsibility for, the instruction of a student who has engaged in any violation listed in this section of the student's misconduct. Each educator shall keep the information received under this subsection confidential from any person not entitled to the information under this subsection, except that the educator may share the information with the student's parent or guardian as provided for by state or federal law. The State Board for Educator Certification may revoke or suspend the certification of an educator who intentionally violates this subsection.

§ 37.010. Court Involvement

(a) Not later than the second business day after the date a hearing is held under Section 37.009, the board of trustees of a school district or the board's designee shall deliver a copy of the order placing a student in a disciplinary alternative education program under Section 37.006 or expelling a student under Section 37.007 and any information required under Section 52.04, Family Code, to the authorized officer of the juvenile court in the county in which the student resides. In a county that operates a program under Section 37.011, an expelled student shall to the extent provided by law or by the memorandum of understanding immediately attend the educational program from the date of expulsion, except that in a county with a population greater than 125,000, every expelled student who is not detained or receiving treatment under an order of the juvenile court must be enrolled in an educational program.

(b) If a student is expelled under Section 37.007(c), the board or its designee shall refer the student to the authorized officer of the juvenile court for appropriate proceedings under Title 3, Family Code.

§ 37.013. Coordination Between School Districts and Juvenile Boards

The board of trustees of the school district or the board's designee shall at the call of the president of the board of trustees regularly meet with the juvenile board for the county in which the district's central administrative office is located or the juvenile board's designee concerning supervision and rehabilitative services appropriate for expelled students and students assigned to disciplinary alternative education

programs. Matters for discussion shall include service by probation officers at the disciplinary alternative education program site, recruitment of volunteers to serve as mentors and provide tutoring services, and coordination with other social service agencies.

§ 37.015. Reports to Local Law Enforcement; Liability

(a) The principal of a public or private primary or secondary school, or a person designated by the principal under Subsection (d), shall notify any school district police department and the police department of the municipality in which the school is located or, if the school is not in a municipality, the sheriff of the county in which the school is located if the principal has reasonable grounds to believe that any of the following activities occur in school, on school property, or at a school-sponsored or school-related activity on or off school property, whether or not the activity is investigated by school security officers:

(1) conduct that may constitute an offense listed under Section 508.149, Government Code;

(2) deadly conduct under Section 22.05, Penal Code;

(3) a terroristic threat under Section 22.07, Penal Code;

(4) the use, sale, or possession of a controlled substance, drug paraphernalia, or marihuana under Chapter 481, Health and Safety Code;

(5) the possession of any of the weapons or devices listed under Sections 46.01(1)--(14) or Section 46.01(16), Penal Code;

(6) conduct that may constitute a criminal offense under Section 71.02, Penal Code; or

(7) conduct that may constitute a criminal offense for which a student may be expelled under Section 37.007(a), (d), or (e).

(b) A person who makes a notification under this section shall include the name and address of each student the person believes may have participated in the activity.

(c) A notification is not required under Subsection (a) if the person reasonably believes that the activity does not constitute a criminal offense.

(d) The principal of a public or private primary or secondary school may designate a school employee who is under the supervision of the principal to make the reports required by this section.

(e) The person who makes the notification required under Subsection (a) shall also notify each instructional or support employee of the school who has regular contact with a student whose conduct is the subject of the notice.

(f) A person is not liable in civil damages for reporting in good faith as required by this section.

§ 37.017. Destruction of Certain Records

Information received by a school district under Article 15.27, Code of Criminal Procedure, may not be attached to the permanent academic file of the student who is the subject of the report. The school district shall destroy the information at the end of the school year in which the report was filed.

Disclosure of school records

STATUTES

§ 37.022. Notice of Disciplinary Action

(b) If a district or school takes disciplinary action against a student and the student subsequently enrolls in another district or school before the expiration of the period of disciplinary action, the governing body of the district or school taking the disciplinary action shall provide to the district or school in which the

student enrolls, at the same time other records of the student are provided, a copy of the order of disciplinary action.

37.084. Interagency Sharing of Records

(a) A school district superintendent or the superintendent's designee shall disclose information contained in a student's educational records to a juvenile service provider as required by Section 58.0051, Family Code.

(b) The commissioner may enter into an interagency agreement to share educational information for research and analytical purposes with the:

(1) Texas Juvenile Probation Commission;

(2) Texas Youth Commission;

(3) Texas Department of Criminal Justice; and

(4) Criminal Justice Policy Council.

(c) This section does not require or authorize release of student-level information except in conformity with the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g), as amended.

Data collection, review, and reporting of disciplinary policies and actions

ADMINISTRATIVE CODE

19 TAC § 103.1201 Standards for the Operation of School District Disciplinary Alternative Education Programs

(a) A disciplinary alternative education program (DAEP) established in conformance with the Tex. Educ. Code (TEC), § 37.008, and this section is defined as an educational and self-discipline alternative instructional program, adopted by local policy, for students in elementary through high school grades who are removed from their regular classes for mandatory or discretionary disciplinary reasons and placed in a DAEP.

(b) Each school district participating in a shared services arrangement (SSA) for DAEP services shall be responsible for ensuring that the board-approved district improvement plan and the improvement plans for each campus required by the TEC, § 11.251 and § 11.252, include the performance of the DAEP student group for the respective district. The identified objectives for the improvement plans shall include:

(1) student groups served, including overrepresentation of students from economically disadvantaged families, with ethnic and racial representations, and with a disability who receive special education and limited English proficiency services;

(2) attendance rates;

(3) pre- and post-assessment results;

(4) dropout rates;

(5) graduation rates; and

(6) recidivism rates[...]

School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers

Authority and power to implement school arrest

STATUTES

§ 25.091. Powers and Duties of Peace Officers and Other Attendance Officers

(a) A peace officer serving as an attendance officer has the following powers and duties concerning enforcement of compulsory school attendance requirements:

(1) to investigate each case of a violation of compulsory school attendance requirements referred to the peace officer;

(2) to enforce compulsory school attendance requirements by:

(A) applying truancy prevention measures adopted under Section 25.0915 to the student; and

(B) if the truancy prevention measures fail to meaningfully address the student's conduct:

(i) referring the student to a juvenile court or filing a complaint against the student in a county, justice, or municipal court if the student has unexcused absences for the amount of time specified under Section 25.094 or under Section 51.03(b)(2), Family Code; or

(ii) filing a complaint in a county, justice, or municipal court against a parent who violates Section 25.093;

(3) to serve court-ordered legal process;

(4) to review school attendance records for compliance by each student investigated by the officer;

(5) to maintain an investigative record on each compulsory school attendance requirement violation and related court action and, at the request of a court, the board of trustees of a school district, or the commissioner, to provide a record to the individual or entity requesting the record;

(6) to make a home visit or otherwise contact the parent of a student who is in violation of compulsory school attendance requirements, except that a peace officer may not enter a residence without the permission of the parent of a student required under this subchapter to attend school or of the tenant or owner of the residence except to lawfully serve court-ordered legal process on the parent; and

(7) to take a student into custody with the permission of the student's parent or in obedience to a court-ordered legal process.

(b) An attendance officer employed by a school district who is not commissioned as a peace officer has the following powers and duties with respect to enforcement of compulsory school attendance requirements:

(1) to investigate each case of a violation of the compulsory school attendance requirements referred to the attendance officer;

(2) to enforce compulsory school attendance requirements by:

(A) applying truancy prevention measures adopted under Section 25.0915 to the student; and

(B) if the truancy prevention measures fail to meaningfully address the student's conduct:

(i) referring the student to a juvenile court or filing a complaint against the student in a county, justice, or municipal court if the student has unexcused absences for the amount of time specified under Section 25.094 or under Section 51.03(b)(2), Family Code; and

(ii) filing a complaint in a county, justice, or municipal court against a parent who violates Section 25.093;

(3) to monitor school attendance compliance by each student investigated by the officer;

(4) to maintain an investigative record on each compulsory school attendance requirement violation and related court action and, at the request of a court, the board of trustees of a school district, or the commissioner, to provide a record to the individual or entity requesting the record;

(5) to make a home visit or otherwise contact the parent of a student who is in violation of compulsory school attendance requirements, except that the attendance officer may not enter a residence without permission of the parent or of the owner or tenant of the residence;

(6) at the request of a parent, to escort a student from any location to a school campus to ensure the student's compliance with compulsory school attendance requirements; and

(7) if the attendance officer has or is informed of a court-ordered legal process directing that a student be taken into custody and the school district employing the officer does not employ its own police department, to contact the sheriff, constable, or any peace officer to request that the student be taken into custody and processed according to the legal process.

(b-1) A peace officer who has probable cause to believe that a child is in violation of the compulsory school attendance law under Section 25.085 may take the child into custody for the purpose of returning the child to the school campus of the child to ensure the child's compliance with compulsory school attendance requirements.

(c) In this section:

(1) "Parent" includes a person standing in parental relation.

(2) "Peace officer" has the meaning assigned by Article 2.12, Code of Criminal Procedure.

Certification or training

No relevant statutes found.

MOUs, authorization, and/or funding

STATUTES

§ 25.088. School Attendance Officer

The school attendance officer may be selected by:

(1) the county school trustees of any county;

(2) the board of trustees of any school district or the boards of trustees of two or more school districts jointly; or

(3) the governing body of an open-enrollment charter school.

§ 25.089. Compensation of Attendance Officer; Dual Service

(a) An attendance officer may be compensated from the funds of the county, independent school district, or open-enrollment charter school, as applicable.

(b) An attendance officer may be the probation officer or an officer of the juvenile court of the county.

§ 25.090. Attendance Officer Not Selected

(a) In those counties and independent school districts where an attendance officer has not been selected, the duties of attendance officer shall be performed by the school superintendents and peace officers of the counties and districts.

(b) If the governing body of an open-enrollment charter school has not selected an attendance officer, the duties of attendance officer shall be performed by the peace officers of the county in which the school is located.

(c) Additional compensation may not be paid for services performed under this section.

§ 37.0021. Use of Confinement, Restraint, Seclusion, and Time-Out

(g) This section and any rules or procedures adopted under this section do not apply to:

(1) a peace officer performing law enforcement duties, except as provided by Subsection (i);

(2) juvenile probation, detention, or corrections personnel; or

(3) an educational services provider with whom a student is placed by a judicial authority, unless the services are provided in an educational program of a school district.

(h) This section and any rules or procedures adopted under this section apply to a peace officer only if the peace officer:

(1) is employed or commissioned by a school district; or

(2) provides, as a school resource officer, a regular police presence on a school district campus under a memorandum of understanding between the district and a local law enforcement agency[...]

§ 37.081. School District Peace Officers and Security Personnel

(a) The board of trustees of any school district may employ security personnel and may commission peace officers to carry out this subchapter. If a board of trustees authorizes a person employed as security personnel to carry a weapon, the person must be a commissioned peace officer. The jurisdiction of a peace officer or security personnel under this section shall be determined by the board of trustees and may include all territory in the boundaries of the school district and all property outside the boundaries of the district that is owned, leased, or rented by or otherwise under the control of the school district and the board of trustees that employ the peace officer or security personnel.

(b) In a peace officer's jurisdiction, a peace officer commissioned under this section:

(1) has the powers, privileges, and immunities of peace officers;

(2) may enforce all laws, including municipal ordinances, county ordinances, and state laws; and

(3) may, in accordance with Chapter 52, Family Code, take a juvenile into custody.

(c) A school district peace officer may provide assistance to another law enforcement agency. A school district may contract with a political subdivision for the jurisdiction of a school district peace officer to include all territory in the jurisdiction of the political subdivision.

(d) A school district peace officer shall perform administrative and law enforcement duties for the school district as determined by the board of trustees of the school district. Those duties must include protecting:

(1) the safety and welfare of any person in the jurisdiction of the peace officer; and

(2) the property of the school district.

(e) The board of trustees of the district shall determine the scope of the on-duty and off-duty law enforcement activities of school district peace officers. A school district must authorize in writing any off-duty law enforcement activities performed by a school district peace officer.

(f) The chief of police of the school district police department shall be accountable to the superintendent and shall report to the superintendent or the superintendent's designee. School district police officers shall be supervised by the chief of police of the school district or the chief of police's designee and shall be licensed by the Commission on Law Enforcement Officer Standards and Education.

(g) A school district police department and the law enforcement agencies with which it has overlapping jurisdiction shall enter into a memorandum of understanding that outlines reasonable communication and coordination efforts between the department and the agencies.

(h) A peace officer assigned to duty and commissioned under this section shall take and file the oath required of peace officers and shall execute and file a bond in the sum of $ 1,000, payable to the board of trustees, with two or more sureties, conditioned that the peace officer will fairly, impartially, and faithfully perform all the duties that may be required of the peace officer by law. The bond may be sued on in the name of any person injured until the whole amount of the bond is recovered. Any peace officer commissioned under this section must meet all minimum standards for peace officers established by the Commission on Law Enforcement Officer Standards and Education.

Sec. 37.2121. Memoranda of understanding and mutual aid agreements.

(a) The center shall identify and inform school districts of the types of entities, including local and regional authorities, other school districts, and emergency first responders, with whom school districts should customarily make efforts to enter into memoranda of understanding or mutual aid agreements addressing issues that affect school safety and security.

(b) The center shall develop guidelines regarding memoranda of understanding and mutual aid agreements between school districts and the entities identified in accordance with Subsection (a). The guidelines:

(1) must include descriptions of the provisions that should customarily be included in each memorandum or agreement with a particular type of entity;

(2) may include sample language for those provisions; and

(3) must be consistent with the Texas Statewide Mutual Aid System established under Subchapter E-1, Chapter 418, Government Code.

(c) The center shall encourage school districts to enter into memoranda of understanding and mutual aid agreements with entities identified in accordance with Subsection (a) that comply with the guidelines developed under Subsection (b).

(d) Each school district that enters into a memorandum of understanding or mutual aid agreement addressing issues that affect school safety and security shall, at the center's request, provide the following information to the center:

(1) the name of each entity with which the school district has entered into a memorandum of understanding or mutual aid agreement;

(2) the effective date of each memorandum or agreement; and

(3) a summary of each memorandum or agreement.

(e) The center shall include information regarding the center's efforts under this section in the report required by Section 37.216.

State Education Agency Support

State model policies and implementation support

No relevant statutes found.

Funding appropriations

No relevant statutes found.

Other/Uncategorized

Professional immunity or liability

STATUTES

§ 37.010. Court Involvement

(h) A person is not liable in civil damages for a referral to juvenile court as required by this section.

§ 37.015. Reports to Local Law Enforcement; Liability

(f) A person is not liable in civil damages for reporting in good faith as required by this section.

§ 37.016. Report of Drug Offenses; Liability

A teacher, school administrator, or school employee is not liable in civil damages for reporting to a school administrator or governmental authority, in the exercise of professional judgment within the scope of the teacher's, administrator's, or employee's duties, a student whom the teacher suspects of using, passing, or selling, on school property:

(1) marihuana or a controlled substance, as defined by Chapter 481, Health and Safety Code;

(2) a dangerous drug, as defined by Chapter 483, Health and Safety Code;

(3) an abusable glue or aerosol paint, as defined by Chapter 485, Health and Safety Code, or a volatile chemical, as listed in Chapter 484, Health and Safety Code, if the substance is used or sold for the purpose of inhaling its fumes or vapors; or

(4) an alcoholic beverage, as defined by Section 1.04, Alcoholic Beverage Code.

§ 37.019. Emergency Placement or Expulsion

(d) A principal or principal's designee is not liable in civil damages for an emergency placement under this section.

§ 37.155. Immunity from Prosecution Available

In the prosecution of an offense under this subchapter, the court may grant immunity from prosecution for the offense to each person who is subpoenaed to testify for the prosecution and who does testify for the prosecution. Any person reporting a specific hazing incident involving a student in an educational institution to the dean of students or other appropriate official of the institution is immune from civil or criminal liability that might otherwise be incurred or imposed as a result of the report. Immunity extends to participation in any judicial proceeding resulting from the report. A person reporting in bad faith or with malice is not protected by this section.

Community input or involvement

No relevant statutes found.

Other/Uncategorized

No relevant statutes found.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by Texas provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
Website		
Proposed Commissioner of Education Rules	All proposed new rules and proposed amendments to existing rules being considered by the Commissioner of Education are available on this site	http://www.tea.state.tx.us/index4.aspx?id=2388
Proposed State Board of Education Rules	All proposed new rules, proposed amendments to existing rules, and proposed repeals approved for first reading by the State Board of Education (SBOE) and filed with the Texas Register are available here	http://www.tea.state.tx.us/index4.aspx?id=2386
Healthy and Safe School Environment of the Coordinated School Health Model	Texas Education Agency homepage for school safety	http://www.tea.state.tx.us/HealthySafeSchool.html
Coordinated School Health - Bullying and Cyberbullying	Texas Education Agency webpage on bullying	http://www.tea.state.tx.us/CSH_Bullying.html
Documents		
No relevant resources found		
Other Resources		
No relevant resources found		

Utah
Compilation of School Discipline Laws and Regulations

Prepared: August 12, 2013

Introduction

This compilation presents school discipline-related state statutes, school discipline-related regulations, and, where available, links to state-sponsored websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSLE). For example, one major category encompasses all state laws or regulations mandating specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of state legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in each state.

Discipline categories were not mutually exclusive. Statutes and regulations often appeared across multiple categories. For states with more extensive statutes covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. State laws, ordered by chapter and section number, appear first within each category followed by state regulations. All statutes and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists statutes by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to state-sponsored websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of May 2013, with the exception of the state laws related to seclusion and restraint, which are complete and current as of December 2012. Readers should also note that the information in this document was compiled from individual state sources that are created by each state and which are maintained and updated with varying frequencies. Readers should consult the source information provided for each state directly in order to check for updates to this state's laws and regulations or conduct further research.

For further information, including definitions of the different policy categories, please refer to the Discipline Laws and Regulations Compendium posted on the Center's website.

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Safe Supportive Learning
Engagement | Safety | Environment

Table of Contents

Utah State Codes Cited **1**

General Provisions **5**

Authority to develop and establish rules of conduct 5
Scope 8
Communication of policy 9

In-School Discipline **10**

Use of multi-tiered discipline approaches 10
Teacher authority to remove students from classrooms 10
Alternatives to suspension 10
Use of corporal punishment 11
Use of student and locker searches 13
Other in-school disciplinary approaches 14

Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements **15**

Grounds for possible suspension or expulsion 15
Grounds for mandatory suspension or expulsion 16
Limitations, conditions, or exclusions for use of suspension and expulsion 16
Administrative procedures related to suspension and expulsion 17
In-school suspension 17
Return to school following removal 18
Use of restraint and seclusion 18
Alternative placements 19

Disciplinary Approaches Addressing Specific Infractions and Conditions **20**

Firearms (as required by the Guns-Free Schools Act) 20
Other weapons 21
Students with chronic disciplinary issues 22
Attendance and truancy 25
Substance use 32
Bullying, harassment, or hazing 33
Other special infractions or conditions 39

Prevention and Behavioral Interventions (Non-Punitive) **43**

Prevention 43
Behavioral interventions and student support services 46
Professional development 47

Monitoring and Accountability **49**

Formal incident reporting of conduct violations 49
Parental notification 50
Reporting and referrals between schools and law enforcement 54
Disclosure of school records 55
Data collection, review, and reporting of disciplinary policies and actions 56

School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers 57
Authority and power to implement school arrest 57
Certification or training 57
MOUs, authorization, and/or funding 58
State Education Agency Support 59
State model policies and implementation support 59
Funding appropriations 61
Other/Uncategorized 64
Professional immunity or liability 64
Community input or involvement 65
Other/Uncategorized 65
State-Sponsored, Publicly Available Websites or Other Resources on School Discipline 66

Utah State Codes Cited

Utah Revised Statutes

Title 53A. State System of Public Education

Chapter 1. Administration of Public Education at the State Level

§53A-1-603. Duties of State Board of Education

Chapter 11. Students in Public Schools

§ 53A-11-101. Definitions
§ 53A-11-101.3. Preapproval of extended absence
§ 53A-11-101.5. Compulsory education
§ 53A-11-101.7. Truancy -- Notice of truancy -- Failure to cooperate with school authorities -- Habitual truant citation
§ 53A-11-102. Minors exempt from school attendance
§ 53A-11-103. Duties of a school board, local charter board, or school district in resolving attendance problems -- Parental involvement -- Liability not imposed
§ 53A-11-104. Truancy specialists
§ 53A-11-105. Taking custody of a person believed to be a truant minor -- Disposition -- Receiving centers -- Reports -- Immunity from liability
§ 53A-11-106. Truancy support centers
§ 53A-11-404. Immunity from civil or criminal liability
§ 53A-11-801. Definitions
§ 53A-11-802. Prohibition of corporal punishment -- Use of reasonable and necessary physical restraint or force
§ 53A-11-803. Investigation of complaint -- Confidentiality -- Immunity
§ 53A-11-804. Liability
§ 53A-11-805. Exception
§ 53A-11-806. Defacing or injuring school property -- Student's liability -- Voluntary work program alternative
§ 53A-11-901. Public school discipline policies -- Basis of the policies -- Enforcement
§ 53A-11-902. Conduct and discipline policies and procedures
§ 53A-11-903. Suspension and expulsion procedures -- Notice to parents -- Distribution of policies
§ 53A-11-904. Grounds for suspension or expulsion from a public school
§ 53A-11-905. Delegation of authority to suspend or expel a student -- Procedure for suspension -- Readmission
§ 53A-11-906. Alternatives to suspension or expulsion
§ 53A-11-907. Student suspended or expelled -- Responsibility of parent or guardian -- Application for students with disabilities
§ 53A-11-908. Extracurricular activities -- Prohibited conduct -- Reporting of violations -- Limitation of liability
§ 53A-11-910. Disruptive student behavior
§ 53A-11-1001. Notification by juvenile court and law enforcement agencies
§ 53A-11-1002. Superintendent required to notify school
§ 53A-11-1003. Board to set procedures
§ 53A-11-1004. Liability for release of information

§ 53A-11-1101. Notification of teachers of weapons on school property -- Immunity from civil and criminal liability
§ 53A-11-1301. Definitions
§ 53A-11-1302. Reporting of prohibited acts affecting a school -- Confidentiality
§ 53A-11-1303. Immunity from civil or criminal liability
§ 53A-11-1304. Admissibility of evidence in civil and criminal actions
§ 53A-11-1305. Board rules to ensure protection of individual rights

Chapter 11a. Bullying and Hazing

§ 53A-11a-101. Title
§ 53A-11a-102. Definitions
§ 53A-11a-201. Bullying, cyber-bullying, harassment, hazing, sexual battery, and sexual exposure prohibited
§ 53A-11a-202. Retaliation and making false allegation prohibited
§ 53A-11a-203. Parental notification of certain incidents and threats required
§ 53A-11a-301. Bullying, cyber-bullying, harassment, hazing, and retaliation policy
§ 53A-11a-302. Model policy and State Board of Education duties
§ 53A-11a-401. Training, education, and prevention
§ 53A-11a-402. Other forms of legal redress

Chapter 15. Standards and Programs

§ 53A-15-603. Gang prevention and intervention policies
§ 53A-15-1302. Parent education—Mental health—Bullying—Safety

Title 76. Utah Criminal Code

Chapter 3. Punishments

§ 76-3-203.2. Definitions -- Use of dangerous weapon in offenses committed on or about school premises -- Enhanced penalties

Utah Administrative Code

Education

Title R277. Education, Administration

R277-436 Gang Prevention and Intervention Programs in the Schools

R277-436-1. Definitions
R277-436-2. Authority and purpose
R277-436-3. Application, distribution of funds, and administrative support
R277-436-4. Evaluation and reports
R277-436-5. Waivers

R277-460. Distribution of Substance Abuse Prevention Account

R277-460-1. Definitions
R277-460-2. Authority and Purpose
R277-460-3. Fund Allocations.
R277-460-4. Applications
R277-460-5. Limitations on Funds

R277-460-6. Evaluation and Reports
R277-460-7. Waivers

R277-475. Patriotic, Civic and Character Education

R277-475-1. Definitions
R277-475-7. Civic engagement
R277-475-8. Reporting requirements

R277-495. Required Policies for Electronic Devices in Public Schools

R277-495-1. Definitions
R277-495-2. Authority and purpose
R277-495-3. Local board and charter school responsibilities
R277-495-4. Policy requirements
R277-495-5. USOE (Utah State Office of Education) responsibilities

R277-515. Utah Educator Standards

R277-515-4. Educator responsibility for maintaining a safe learning environment and educational standards

R277-607. Truancy Prevention

R277-607-1. Definitions
R277-607-2. Authority and purpose
R277-607-3. General provisions
R277-607-4. School/school district and charter school responsibilities
R277-607-5. Parent responsibilities

R277-608. Prohibition of Corporal Punishment in Utah's Public Schools

R277-608-1. Definitions
R277-608-2. Authority and purpose
R277-608-3. Reporting requirements
R277-608-4. Special education exception(s) to this rule

R277-609. Standards for School District, School and Charter School Discipline Plans

R277-609-1. Definitions
R277-609-2. Authority and purpose
R277-609-3. School district, school and charter school responsibility to develop plans
R277-609-4. Implementation
R277-609-5. Parent/guardian notification and court referral
R277-609-6. USOE (Utah State Office of Education) model policies

R277-613. School District and Charter School Bullying and Hazing Policies and Training

R277-613-1. Definitions
R277-613-2. Authority and purpose
R277-613-3. Utah State Board of Education responsibilities
R277-613-4. Local school district and charter school responsibilities
R277-613-5. Training by school districts and charter schools specific to participants in public school athletic programs and school clubs
R277-613-6. Professional responsibilities of employee and volunteer coaches

R277-615. Standards and Procedures for Student Searches

R277-615-1. Definitions.
R277-615-2. Authority and purpose.
R277-615-3. Board responsibilities.
R277-615-4. LEA (Local Education Agency) responsibilities.

R277-714. Dissemination of Information About Juvenile Offenders

R277-714-2. Authority and purpose
R277-714-3. Dissemination of information

General Provisions

Authority to develop and establish rules of conduct

STATUTES

§ 53A-11-901. Public school discipline policies -- Basis of the policies -- Enforcement

(1) The Legislature recognizes that every student in the public schools should have the opportunity to learn in an environment which is safe, conducive to the learning process, and free from unnecessary disruption.

(2) (a) To foster such an environment, each local school board or governing board of a charter school, with input from school employees, parents and guardians of students, students, and the community at large, shall adopt conduct and discipline policies for the public schools.

(b) Each district or charter school shall base its policies on the principle that every student is expected:

(i) to follow accepted rules of conduct; and

(ii) to show respect for other people and to obey persons in authority at the school.

(c) (i) The State Superintendent of Public Instruction shall develop conduct and discipline policy models for elementary and secondary public schools.

(ii) Each district or charter school shall use the models, where appropriate, in developing its conduct and discipline policies under this chapter.

(d) The policies shall emphasize that certain behavior, most particularly behavior which disrupts, is unacceptable and may result in disciplinary action.

(3) The local superintendent and designated employees of the district or charter school shall enforce the policies so that students demonstrating unacceptable behavior and their parents or guardians understand that such behavior will not be tolerated and will be dealt with in accordance with the district's conduct and discipline policies.

ADMINISTRATIVE CODE

R277-515-4. Educator Responsibility for Maintaining a Safe Learning Environment and Educational Standards

A. A professional educator maintains a positive and safe learning environment for students, and works toward meeting educational standards required by law.

B. Failure to strictly adhere to the following shall result in licensing discipline as defined in R277-515-1G. The professional educator, upon receiving a Utah educator license:

(1) shall take prompt and appropriate action to prevent harassment or discriminatory conduct towards students or school employees that may result in a hostile, intimidating, abusive, offensive, or oppressive learning environment;

(2) shall resolve disciplinary problems according to law, school board policy, and local building procedures and strictly protect student confidentiality and understand laws relating to student information and records;[...]

(4) shall take action to protect a student from any known condition detrimental to that student's physical health, mental health, safety or learning;[...]

R277-609-2. Authority and Purpose

A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of public education in the Board, Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities, Section 53A-1-402(1)(b)which requires the Board to establish rules concerning discipline and control, Section 53A-15-603 which requires the Board to adopt rules that require a local school board or governing board of a charter school to enact gang prevention and intervention policies for all schools within the board's jurisdiction, and Section 53A-11-901 which directs local school boards and charter school governing boards to adopt conduct and discipline policies and directs the Board to develop model policies to assist local school boards and charter school governing boards.

B. The purpose of this rule is to define hazing, bullying, cyber-bullying, and harassment and outline requirements for school discipline plans and policies which school districts and charter schools shall meet.

R277-609-3. School District, School and Charter School Responsibility to Develop Plans

A. Each school district, or school and each charter school shall develop and implement a board approved comprehensive school district, school or charter school plan or policy for student and classroom management, and school discipline. The plan shall include:

(1) the definitions of Section 53A-11-910;

(2) written standards for student behavior expectations, including school and classroom management;

(3) effective instructional practices for teaching student expectations, including self-discipline, citizenship, civic skills, and social skills;

(4) systematic methods for reinforcement of expected behaviors and uniform methods for correction of student behavior;

(5) uniform methods for at least annual school level data-based evaluations of efficiency and effectiveness;

(6) an ongoing staff development program related to development of student behavior expectations, effective instructional practices for teaching and reinforcing behavior expectations, effective intervention strategies, and effective strategies for evaluation of the efficiency and effectiveness of interventions;

(7) policies and procedures relating to the use and abuse of alcohol and controlled substances by students;

(8) policies to define, prohibit, and intervene in bullying, including cyber-bulling, including the requirement of awareness and intervention strategies, including training for social skills, for students, parents, and school staff. The policies shall:

(a) provide for training specific to overt aggression that may include physical fighting such as punching, shoving, kicking, and verbal threatening behavior, such as name calling, or both physical and verbal aggression or threatening behavior;

(b) provide for training specific to relational aggression or indirect, covert, or social aggression, including rumor spreading, intimidation, enlisting a friend to assault a child, and social isolation;

(c) provide training and education specific to bullying based upon students':

(i) actual or perceived identities;

(ii) conformance or failure to conform with stereotypes.

(d) provide for training specific to cyber-bullying, including use of email, web pages, text messaging, instant messaging, three-way calling or messaging or any other electronic means for aggression inside or outside of school;

(e) provide for student assessment of the prevalence of bullying in school districts, schools and charter schools, specifically locations where students are unsafe and additional adult supervision may be required, such as playgrounds, hallways, and lunch areas;

(f) complement existing safe and drug free school policies and school harassment and hazing policies;

(g) include required strong responsive action against retaliation including assistance to harassed students and their parents in reporting subsequent problems and new incidents; and

(h) include strategies for providing students and staff, including aides, custodians, kitchen and lunchroom workers, secretaries, paraprofessionals, and coaches, with awareness and intervention skills such as social skills training.

B. The plan shall also provide direction to school districts for dealing with disruptive students. This part of the plan shall:

(1) direct schools to determine the range of behaviors and establish the continuum of administrative procedures that may be used by school personnel to address the behavior of habitually disruptive students;

(2) provide for identification, by position(s), of individual(s) designated to issue notices of disruptive student behavior; and

(3) provide for documentation of disruptive student behavior prior to referral of disruptive students to juvenile court.

C. School district or school plans or sections of plans, including directives about bullying and disruptive students, shall also:

(1) include strategies to provide for necessary adult supervision;

(2) be clearly written and consistently enforced; and

(3) include administration, instruction and support staff, students, parents, community council and other community members in policy development, training and prevention implementation so as to create a community sense of participation, ownership, support and responsibility.

D. Plans required under R277-609-3 shall include gang prevention and intervention policies.

(1) The required plans shall account for an individual school or school district's unique needs or circumstances.

(2) The required plans may include the provisions of Section 53A-15-603(2).

(3) The required plans may provide for publication of notice to parents and school employees of policies by reasonable means.

R277-609-4. Implementation

A. School districts, schools and charter schools shall implement strategies and policies consistent with their plans.

B. School districts, schools and charter schools shall develop, use and monitor a continuum of intervention strategies to assist students whose behavior in school falls repeatedly short of reasonable expectations, including teaching student behavior expectations, reinforcing student behavior expectations, re-teaching behavior expectations, followed by effective, evidence-based interventions matched to student needs prior to administrative referral.

C. As part of any suspension or expulsion process that results in court involvement, once a school district, school or charter school receives information from the courts that disruptive student behavior will result in court action, the school district, school or charter school shall provide a formal written assessment of

habitually disruptive students. Assessment information shall be used to connect parents and students with supportive school and community resources.

D. Nothing in state law or this rule restricts local districts/charter schools from implementing policies to allow for suspension of students of any age consistent with due process and with all requirements of Individuals with Disabilities Education Act 2004.

R277-613-2. Authority and Purpose

A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of public education in the Board, Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities, and the responsibility of the Board to provide assistance with and ensure school district/charter school compliance with Section 53A-11a-301.

B. The purpose of the rule is to require school districts and charter schools to implement bullying and hazing policies district and school wide, to provide for regular and meaningful training of school employees and students and to provide for enforcement of the policies in schools, at the state level and in public school athletic programs.

Scope

STATUTES

§ 53A-11-902. Conduct and discipline policies and procedures

The conduct and discipline policies required under Section 53A-11-901 shall include:

(1) provisions governing student conduct, safety, and welfare;

(2) standards and procedures for dealing with students who cause disruption in the classroom, on school grounds, on school vehicles, or in connection with school-related activities or events;

(3) procedures for the development of remedial discipline plans for students who cause a disruption at any of the places referred to in Subsection (2);

(4) procedures for the use of reasonable and necessary physical restraint or force in dealing with disruptive students, consistent with Section 53A-11-802;

(5) standards and procedures for dealing with student conduct in locations other than those referred to in Subsection (2), if the conduct threatens harm or does harm to:

(a) the school;

(b) school property;

(c) a person associated with the school; or

(d) property associated with a person described in Subsection (5)(c);

(6) procedures for the imposition of disciplinary sanctions, including suspension and expulsion;

(7) specific provisions, consistent with Section 53A-15-603, for preventing and responding to gang-related activities in the school, on school grounds, on school vehicles, or in connection with school-related activities or events; and

(8) standards and procedures for dealing with habitual disruptive student behavior in accordance with the provisions of this part.

Communication of policy

STATUTES

§ 53A-11-903. Suspension and expulsion procedures -- Notice to parents -- Distribution of policies

(1) (a) Policies required under this part shall include written procedures for the suspension and expulsion of, or denial of admission to, a student, consistent with due process and other provisions of law.

(b) (i) The policies required in Subsection (1)(a) shall include a procedure directing public schools to notify the custodial parent and, if requested in writing by a noncustodial parent, the noncustodial parent of the suspension and expulsion of, or denial of admission to, a student.

(ii) Subsection (1)(b)(i) does not apply to that portion of school records which would disclose any information protected under a court order.

(iii) The custodial parent is responsible for providing to the school a certified copy of the court order under Subsection (1)(b)(ii) through a procedure adopted by the local school board or the governing board of a charter school.

(2) (a) Each local school board or governing board of a charter school shall provide for the distribution of a copy of a school's discipline and conduct policy to each student upon enrollment in the school.

(b) A copy of the policy shall be posted in a prominent location in each school.

(c) Any significant change in a school's conduct and discipline policy shall be distributed to students in the school and posted in the school in a prominent location.

In-School Discipline

Use of multi-tiered discipline approaches

No relevant statutes found.

Teacher authority to remove students from classrooms

No relevant statutes found.

Alternatives to suspension

STATUTES

§ 53A-11-906. Alternatives to suspension or expulsion

(1) Each local school board or governing board of a charter school shall establish:

(a) policies providing that prior to suspending or expelling a student for repeated acts of willful disobedience, defiance of authority, or disruptive behavior which are not of such a violent or extreme nature that immediate removal is required, good faith efforts shall be made to implement a remedial discipline plan that would allow the student to remain in school; and

(b) alternatives to suspension, including policies that allow a student to remain in school under an in-school suspension program or under a program allowing the parent or guardian, with the consent of the student's teacher or teachers, to attend class with the student for a period of time specified by a designated school official.

(2) If the parent or guardian does not agree or fails to attend class with the student, the student shall be suspended in accordance with the conduct and discipline policies of the district or the school.

(3) The parent or guardian of a suspended student and the designated school official may enlist the cooperation of the Division of Child and Family Services, the juvenile court, or other appropriate state agencies, if necessary, in dealing with the student's suspension.

(4) The state superintendent of public instruction, in cooperation with school districts and charter schools, shall:

(a) research methods of motivating and providing incentives to students that:

(i) directly and regularly reward or recognize appropriate behavior;

(ii) impose immediate and direct consequences on students who fail to comply with district or school standards of conduct; and

(iii) keep the students in school, or otherwise continue student learning with appropriate supervision or accountability;

(b) explore funding resources to implement methods of motivating and providing incentives to students that meet the criteria specified in Subsection (4)(a);

(c) evaluate the benefits and costs of methods of motivating and providing incentives to students that meet the criteria specified in Subsection (4)(a);

(d) publish a report that incorporates the research findings, provides model plans with suggested resource pools, and makes recommendations for local school boards and school personnel;

(e) submit the report described in Subsection (4)(d) to the Education Interim Committee; and

(f) maintain data for purposes of accountability, later reporting, and future analysis.

Use of corporal punishment

STATUTES

§ 53A-11-801. Definitions

As used in this part:

(1) "Child" or "minor child" means a person:

(a) under the age of 18; or

(b) under the age of 23 who is receiving educational services as an individual with a disability.

(2) "Corporal punishment" means the intentional infliction of physical pain upon the body of a minor child as a disciplinary measure.

(3) "School" means any public or private elementary or secondary school, pre-school, care center, nursery school, or business which receives compensation for supervising or educating a child.

§ 53A-11-802. Prohibition of corporal punishment -- Use of reasonable and necessary physical restraint or force

(1) A school employee may not inflict or cause the infliction of corporal punishment upon a child who is receiving services from the school, unless written permission has been given by the student's parent or guardian to do so.

(2) This section does not prohibit the use of reasonable and necessary physical restraint or force in self defense or otherwise appropriate to the circumstances to:

(a) obtain possession of a weapon or other dangerous object in the possession or under the control of a child;

(b) protect the child or another person from physical injury;

(c) remove from a situation a child who is violent or disruptive; or

(d) protect property from being damaged.

(3) (a) Any rule, ordinance, policy, practice, or directive which purports to direct or permit the commission of an act prohibited by this part is void and unenforceable.

(b) An employee may not be subjected to any sanction for failure or refusal to commit an act prohibited under this part.

(4) A parochial or private school may exempt itself from the provisions of this section by adopting a policy to that effect and notifying the parents or guardians of children in the school of the exemption.

§ 53A-11-803. Investigation of complaint -- Confidentiality -- Immunity

(1) (a) The reporting and investigation requirements of Title 62A, Chapter 4a, Part 4, Child Abuse or Neglect Reporting Requirements, apply to complaints on corporal punishment.

(b) If a violation is confirmed, school authorities shall take prompt and appropriate action, including in-service training and other administrative action, to ensure against a repetition of the violation.

(2) Reports made on violations of this part are subject to the same requirements of confidentiality as provided under Section 62A-4a-412.

(3) Any school or individual who in good faith makes a report or cooperates in an investigation by a school or authorized public agency concerning a violation of this part is immune from any civil or criminal liability that might otherwise result by reason of those actions.

§ 53A-11-804. Liability

(1) (a) Corporal punishment which would, but for this part, be considered to be reasonable discipline of a minor under Section 76-2-401 may not be used as a basis for any civil or criminal action.

(b) A court of competent jurisdiction may take appropriate action against any employing entity if the court finds that the employing entity has not taken reasonable steps to enforce the provisions of this part.

(2) Civil or criminal action may proceed without hindrance in the case of corporal punishment which would not be reasonable discipline under Sections 76-2-401 and 53A-11-805.

§ 53A-11-805. Exception

Behavior reduction intervention which is in compliance with Section 76-2-401 and with state and local rules adopted under Section 53A-15-301 is excepted from this part.

ADMINISTRATIVE CODE

R277-608-1. Definitions

A. "Board" means the Utah State Board of Education.

B. "Corporal punishment" means the intentional infliction of physical pain upon the body of a minor child as a disciplinary measure.

C. "LEA" means a local education agency, including local school boards/public school districts, charter schools, and the Utah Schools for the Deaf and the Blind.

D. "USOE" means the Utah State Office of Education.

R277-608-2. Authority and Purpose

A. This rule is authorized by Utah Constitution Article X, Section 3 which vests the general control and supervision of public education in the Board, Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities and Sections 53A-11-801 through 53A-11-805 which provide guidelines for the use of reasonable and necessary physical restraint or force in educational settings.

B. The purpose of this rule is to direct LEAs to have policies in place that prohibit corporal punishment consistent with the law.

R277-608-3. Reporting Requirements

A. Each LEA shall incorporate in the LEA plan submitted to the USOE annually, the prohibition of corporal punishment consistent with the law.

B. An LEA policy shall incorporate a prohibition of corporal punishment consistent with the law, appropriate sanctions and appeal procedures for LEA employees disciplined under this rule and the corresponding state statute.

R277-608-4. Special Education Exception(s) to this Rule

LEAs shall have in place, as part of their LEA special education plans, procedures or manuals, criteria and procedures for using appropriate behavior reduction intervention in accordance with state and federal law.

Use of student and locker searches

STATUTES

§ 53A-11-1304. Admissibility of evidence in civil and criminal actions

(1) Evidence relating to violations of this part which is seized by school authorities acting alone, on their own authority, and not in conjunction with or at the behest of law enforcement authorities is admissible in civil and criminal actions.

(2) A search under this section must be based on at least a reasonable belief that the search will turn up evidence of a violation of this part. The measures adopted for the search must be reasonably related to the objectives of the search and not excessively intrusive in light of the circumstances, including the age and sex of the person involved and the nature of the infraction.

§ 53A-11-1305. Board rules to ensure protection of individual rights

The State Board of Education and local boards of education shall adopt rules to implement this part. The rules shall establish procedures to ensure protection of individual rights against excessive and unreasonable intrusion.

ADMINISTRATIVE CODE

R277-615-1. Definitions

A. "Board" means the Utah State Board of Education.

B. "Controlled substances" means substances identified under Sections 58-37-2, 58-37a-3 and 58-37b-2.

C. "Law enforcement authorities" means officers working under the direct supervision and in the employment of police or law enforcement, as opposed to under the supervision of a public education, agency. Law enforcement authorities have received police officer training and are acting in that capacity.

D. "LEA" means a local education agency, including local school boards/public school districts, charter schools, and the Utah Schools for the Deaf and the Blind.

E. "Reasonable suspicion" means a particularized and objective basis, supported by objective and articulable facts leading the searcher to believe that there is a moderate chance of finding evidence of wrongdoing. Reasonableness considers the totality of the circumstances including such factors as the scope and manner of the intrusion, the justification for the search, the nature of the infraction, the place where the search is conducted, the student's age, history and school record, the prevalence and seriousness of the problem in the school, the exigency requiring the search without delay, the reliability of the information used as a justification for the search, and the school official's prior experience with the student. The search shall be reasonable both in inception of the search and the scope of the search.

F. "School official" means a school superintendent, associate superintendent, school district specialist, school principal or assistant principal or charter school employee who is a director, principal, headmaster, or assistant administrator.

G. "Weapon" means any item capable of causing death or serious bodily injury or a facsimile or representation of the item.

R277-615-2. Authority and Purpose

A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of public education in the Board, by Section 53A-11-1305 that directs the Board and LEAs to adopt rules to protect students against unreasonable and excessive intrusion of personal rights and

privacy on school property or at school-sponsored activities, and by Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.

B. The purpose of this rule is to direct LEAs to adopt rules or policies or both to protect student rights with procedures and provisions that balance students' rights and privacy with the responsibility of school officials for the safety and protection of students and adults while on school property or at school-sponsored events.

R277-615-3. Board Responsibilities

A. The Board shall provide consistent definitions for LEAs to include in policies.

B. The Board shall develop a model policy as guidance for LEAs.

C. The Board shall include an assurance for LEAs regarding the student search policy required under Section 53A-11-1305 in the Utah Consolidated Report, beginning with the 2012-13 school year.

R277-615-4. LEA Responsibilities

A. LEAs shall develop a policy for searching students for controlled substances as required under Utah law and for weapons before June 30, 2012.

B. LEAs shall include appropriate interested parties in the development of student search policies, including parents, school employees, and licensed school employees.

C. LEA policies shall ensure protection of individual student rights against excessive and unreasonable intrusion.

D. LEAs shall make policies available to parents electronically and in materials provided to parents and students upon enrollment as soon as reasonably possible following adoption of policies.

E. LEAs shall provide adequate training to appropriate classes of employees for fair and consistent implementation of student search policies.

Other in-school disciplinary approaches

No relevant statutes found.

Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements

Grounds for possible suspension or expulsion

STATUTES

§ 53A-11-806. Defacing or injuring school property -- Student's liability -- Voluntary work program alternative

(1) Any student who willfully defaces or otherwise injures any school property may be suspended or otherwise disciplined.

(2) (a) Any school district whose property has been lost or willfully cut, defaced, or otherwise injured may withhold the issuance of official written grade reports, diploma, and transcripts of the student responsible for the damage or loss until the student or the student's parent or guardian has paid for the damages.

(b) The student's parent or guardian is liable for damages as otherwise provided in Section 78A-6-1113.

(3) (a) If the student and the student's parent or guardian are unable to pay for the damages or if it is determined by the school in consultation with the student's parents that the student's interests would not be served if the parents were to pay for the damages, then, the school district shall provide for a program of voluntary work for the student in lieu of the payment.

(b) The district shall release the official grades, diploma, and transcripts of the student upon completion of the voluntary work.

(4) Before any penalties are assessed under this section, the local school board shall adopt procedures to insure that the student's right to due process is protected.

(5) No penalty may be assessed for damages which may be reasonably attributed to normal wear and tear.

(6) If the Department of Human Services or a licensed child-placing agency has been granted custody of the student, that student's records, if requested by the department or agency, may not be withheld from the department or agency for nonpayment of damages under this section.

§ 53A-11-904. Grounds for suspension or expulsion from a public school

(1) A student may be suspended or expelled from a public school for any of the following reasons:

(a) frequent or flagrant willful disobedience, defiance of proper authority, or disruptive behavior, including the use of foul, profane, vulgar, or abusive language;

(b) willful destruction or defacing of school property;

(c) behavior or threatened behavior which poses an immediate and significant threat to the welfare, safety, or morals of other students or school personnel or to the operation of the school;

(d) possession, control, or use of an alcoholic beverage as defined in Section 32B-1-102;

(e) behavior proscribed under Subsection (2) which threatens harm or does harm to the school or school property, to a person associated with the school, or property associated with that person, regardless of where it occurs; or

(f) possession or use of pornographic material on school property[...]

Grounds for mandatory suspension or expulsion

STATUTES

§ 53A-11-904. Grounds for suspension or expulsion from a public school

(2) (a) A student shall be suspended or expelled from a public school for any of the following reasons:

(i) any serious violation affecting another student or a staff member, or any serious violation occurring in a school building, in or on school property, or in conjunction with any school activity, including:

(A) the possession, control, or actual or threatened use of a real weapon, explosive, or noxious or flammable material;

(B) the actual or threatened use of a look alike weapon with intent to intimidate another person or to disrupt normal school activities; or

(C) the sale, control, or distribution of a drug or controlled substance as defined in Section 58-37-2, an imitation controlled substance defined in Section 58-37b-2, or drug paraphernalia as defined in Section 58-37a-3; or

(ii) the commission of an act involving the use of force or the threatened use of force which if committed by an adult would be a felony or class A misdemeanor.

(b) A student who commits a violation of Subsection (2)(a) involving a real or look alike weapon, explosive, or flammable material shall be expelled from school for a period of not less than one year subject to the following:

(i) within 45 days after the expulsion the student shall appear before the student's local school board superintendent, the superintendent's designee, chief administrative officer of a charter school, or the chief administrative officer's designee, accompanied by a parent or legal guardian; and

(ii) the superintendent, chief administrator, or designee shall determine:

(A) what conditions must be met by the student and the student's parent for the student to return to school;

(B) if the student should be placed on probation in a regular or alternative school setting consistent with Section 53A-11-907, and what conditions must be met by the student in order to ensure the safety of students and faculty at the school the student is placed in; and

(C) if it would be in the best interest of both the school district or charter school, and the student, to modify the expulsion term to less than a year, conditioned on approval by the local school board or governing board of a charter school and giving highest priority to providing a safe school environment for all students[...]

Limitations, conditions, or exclusions for use of suspension and expulsion

STATUTES

§ 53A-11-904. Grounds for suspension or expulsion from a public school

(4) A suspension or expulsion under this section is not subject to the age limitations under Subsection 53A-11-102(1)[...]

Administrative procedures related to suspension and expulsion

STATUTES

§ 53A-11-905. Delegation of authority to suspend or expel a student -- Procedure for suspension -- Readmission

(1) (a) A local board of education may delegate to any school principal or assistant principal within the school district the power to suspend a student in the principal's school for up to ten school days.

(b) A governing board of a charter school may delegate to the chief administrative officer of the charter school the power to suspend a student in the charter school for up to ten school days.

(2) The board may suspend a student for up to one school year or delegate that power to the district superintendent, the superintendent's designee, or chief administrative officer of a charter school.

(3) The board may expel a student for a fixed or indefinite period, provided that the expulsion shall be reviewed by the district superintendent or the superintendent's designee and the conclusions reported to the board, at least once each year.

(4) If a student is suspended, a designated school official shall notify the parent or guardian of the student of the following without delay:

(a) that the student has been suspended;

(b) the grounds for the suspension;

(c) the period of time for which the student is suspended; and

(d) the time and place for the parent or guardian to meet with a designated school official to review the suspension.

(5) (a) A suspended student shall immediately leave the school building and the school grounds following a determination by the school of the best way to transfer custody of the student to the parent or guardian or other person authorized by the parent or applicable law to accept custody of the student.

(b) Except as otherwise provided in Subsection (5)(c), a suspended student may not be readmitted to a public school until:

(i) the student and the parent or guardian have met with a designated school official to review the suspension and agreed upon a plan to avoid recurrence of the problem; or

(ii) in the discretion of the principal or chief administrative officer of a charter school, the parent or guardian of the suspended student and the student have agreed to participate in such a meeting.

(c) A suspension may not extend beyond ten school days unless the student and the student's parent or guardian have been given a reasonable opportunity to meet with a designated school official and respond to the allegations and proposed disciplinary action.

In-school suspension

STATUTES

§ 53A-11-906. Alternatives to suspension or expulsion

(1) Each local school board or governing board of a charter school shall establish:

(b) alternatives to suspension, including policies that allow a student to remain in school under an in-school suspension program or under a program allowing the parent or guardian, with the consent of the student's teacher or teachers, to attend class with the student for a period of time specified by a designated school official.

Return to school following removal

STATUTES

§ 53A-11-904. Grounds for suspension or expulsion from a public school

[...](3) A student may be denied admission to a public school on the basis of having been expelled from that or any other school during the preceding 12 months [...]

Use of restraint and seclusion

STATUTES

§ 53A-11-802. Prohibition of corporal punishment -- Use of reasonable and necessary physical restraint or force

(1) A school employee may not inflict or cause the infliction of corporal punishment upon a child who is receiving services from the school, unless written permission has been given by the student's parent or guardian to do so.

(2) This section does not prohibit the use of reasonable and necessary physical restraint or force in self defense or otherwise appropriate to the circumstances to:

(a) obtain possession of a weapon or other dangerous object in the possession or under the control of a child;

(b) protect the child or another person from physical injury;

(c) remove from a situation a child who is violent or disruptive; or

(d) protect property from being damaged.

(3) (a) Any rule, ordinance, policy, practice, or directive which purports to direct or permit the commission of an act prohibited by this part is void and unenforceable.

(b) An employee may not be subjected to any sanction for failure or refusal to commit an act prohibited under this part.

(4) A parochial or private school may exempt itself from the provisions of this section by adopting a policy to that effect and notifying the parents or guardians of children in the school of the exemption.

ADMINISTRATIVE CODE

R277-608-2. Authority and Purpose

A. This rule is authorized by Utah Constitution Article X, Section 3 which vests the general control and supervision of public education in the Board, Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities and Sections 53A-11-801 through 53A-11-805 which provide guidelines for the use of reasonable and necessary physical restraint or force in educational settings.

B. The purpose of this rule is to direct LEAs to have policies in place that prohibit corporal punishment consistent with the law.

Alternative placements

STATUTES

§ 53A-11-907. Student suspended or expelled -- Responsibility of parent or guardian -- Application for students with disabilities

(1) If a student is suspended or expelled from a public school under this part for more than ten school days, the parent or guardian is responsible for undertaking an alternative education plan which will ensure that the student's education continues during the period of suspension or expulsion.

(2) (a) The parent or guardian shall work with designated school officials to determine how that responsibility might best be met through private education, an alternative program offered by or through the district or charter school, or other alternative which will reasonably meet the educational needs of the student.

(b) The parent or guardian and designated school official may enlist the cooperation of the Division of Child and Family Services, the juvenile court, or other appropriate state agencies to meet the student's educational needs.

(3) Costs for educational services which are not provided by the school district or charter school are the responsibility of the student's parent or guardian.

(4) (a) Each school district or charter school shall maintain a record of all suspended or expelled students and a notation of the recorded suspension or expulsion shall be attached to the individual student's transcript.

(b) The district or charter school shall contact the parent or guardian of each suspended or expelled student under the age of 16 at least once each month to determine the student's progress.

(5) (a) This part applies to students with disabilities to the extent permissible under applicable law or regulation.

(b) If application of any requirement of this part to a student with a disability is not permissible under applicable law or regulation, the responsible school authority shall implement other actions consistent with the conflicting law or regulation which shall most closely correspond to the requirements of this part.

Disciplinary Approaches Addressing Specific Infractions and Conditions

Firearms (as required by the Guns-Free Schools Act)

STATUTES

§ 53A-11-1101. Notification of teachers of weapons on school property -- Immunity from civil and criminal liability

(1) Whenever a student is found on school property during school hours or at a school-sponsored activity in possession of a dangerous weapon and that information is reported to or known by the principal, the principal shall notify law enforcement personnel and school or district personnel who, in the opinion of the principal, should be informed.

(2) A person who in good faith reports information under Subsection (1) and any person who receives the information is immune from any liability, civil or criminal, that might otherwise result from the reporting or receipt of the information.

§ 76-3-203.2. Definitions -- Use of dangerous weapon in offenses committed on or about school premises -- Enhanced penalties

(1) (a) As used in this section "on or about school premises" means:

(i) (A) in a public or private elementary or secondary school; or

(B) on the grounds of any of those schools;

(ii) (A) in a public or private institution of higher education; or

(B) on the grounds of a public or private institution of higher education;

(iii) within 1,000 feet of any school, institution, or grounds included in Subsections (1)(a)(i) and (ii); and

(iv) in or on the grounds of a preschool or child care facility.

(b) As used in this section:

(i) "Dangerous weapon" has the same definition as in Section 76-1-601.

(ii) "Educator" means a person who is:

(A) employed by a public school district; and

(B) required to hold a certificate issued by the State Board of Education in order to perform duties of employment.

(iii) "Within the course of employment" means that an educator is providing services or engaging in conduct required by the educator's employer to perform the duties of employment.

(2) A person who, on or about school premises, commits an offense and uses or threatens to use a dangerous weapon, as defined in Section 76-1-601, in the commission of the offense is subject to an enhanced degree of offense as provided in Subsection (4).

(3) (a) A person who commits an offense against an educator when the educator is acting within the course of employment is subject to an enhanced degree of offense as provided in Subsection (4).

(b) As used in Subsection (3)(a), "offense" means:

(i) an offense under Title 76, Chapter 5, Offenses Against the Person; and

(ii) an offense under Title 76, Chapter 6, Part 3, Robbery.

(4) If the trier of fact finds beyond a reasonable doubt that the defendant, while on or about school premises, commits an offense and in the commission of the offense uses or threatens to use a dangerous weapon, or that the defendant committed an offense against an educator when the educator was acting within the course of the educator's employment, the enhanced penalty for a:

(a) class B misdemeanor is a class A misdemeanor;

(b) class A misdemeanor is a third degree felony;

(c) third degree felony is a second degree felony; or

(d) second degree felony is a first degree felony.

(5) The enhanced penalty for a first degree felony offense of a convicted person:

(a) is imprisonment for a term of not less than five years and which may be for life, and imposition or execution of the sentence may not be suspended unless the court finds that the interests of justice would be best served and states the specific circumstances justifying the disposition on the record; and

(b) is subject also to the dangerous weapon enhancement provided in Section 76-3-203.8, except for an offense committed under Subsection (3) that does not involve a firearm.

(6) The prosecuting attorney, or grand jury if an indictment is returned, shall provide notice upon the information or indictment that the defendant is subject to the enhanced degree of offense or penalty under Subsection (4) or (5).

(7) In cases where an offense is enhanced under Subsection (4), or under Subsection (5)(a) for an offense committed under Subsection (2) that does not involve a firearm, the convicted person is not subject to the dangerous weapon enhancement in Section 76-3-203.8.

(8) The sentencing enhancement described in this section does not apply if:

(a) the offense for which the person is being sentenced is:

(i) a grievous sexual offense;

(ii) child kidnapping under Section 76-5-301.1;

(iii) aggravated kidnapping under Section 76-5-302; or

(iv) forcible sexual abuse under Section 76-5-404; and

(b) applying the sentencing enhancement provided for in this section would result in a lower maximum penalty than the penalty provided for under the section that describes the offense for which the person is being sentenced.

Other weapons

STATUTES

§ 53A-11-904. Grounds for suspension or expulsion from a public school

[...](2) (a) A student shall be suspended or expelled from a public school for any of the following reasons:

(i) any serious violation affecting another student or a staff member, or any serious violation occurring in a school building, in or on school property, or in conjunction with any school activity, including:

(A) the possession, control, or actual or threatened use of a real weapon, explosive, or noxious or flammable material;

(B) the actual or threatened use of a look alike weapon with intent to intimidate another person or to disrupt normal school activities; or

(C) the sale, control, or distribution of a drug or controlled substance as defined in Section 58-37-2, an imitation controlled substance defined in Section 58-37b-2, or drug paraphernalia as defined in Section 58-37a-3; or

(ii) the commission of an act involving the use of force or the threatened use of force which if committed by an adult would be a felony or class A misdemeanor.

(b) A student who commits a violation of Subsection (2)(a) involving a real or look alike weapon, explosive, or flammable material shall be expelled from school for a period of not less than one year subject to the following:

(i) within 45 days after the expulsion the student shall appear before the student's local school board superintendent, the superintendent's designee, chief administrative officer of a charter school, or the chief administrative officer's designee, accompanied by a parent or legal guardian; and

(ii) the superintendent, chief administrator, or designee shall determine:

(A) what conditions must be met by the student and the student's parent for the student to return to school;

(B) if the student should be placed on probation in a regular or alternative school setting consistent with Section 53A-11-907, and what conditions must be met by the student in order to ensure the safety of students and faculty at the school the student is placed in; and

(C) if it would be in the best interest of both the school district or charter school, and the student, to modify the expulsion term to less than a year, conditioned on approval by the local school board or governing board of a charter school and giving highest priority to providing a safe school environment for all students[...]

§ 53A-11-1101. Notification of teachers of weapons on school property -- Immunity from civil and criminal liability

(1) Whenever a student is found on school property during school hours or at a school-sponsored activity in possession of a dangerous weapon and that information is reported to or known by the principal, the principal shall notify law enforcement personnel and school or district personnel who, in the opinion of the principal, should be informed.

(2) A person who in good faith reports information under Subsection (1) and any person who receives the information is immune from any liability, civil or criminal, that might otherwise result from the reporting or receipt of the information.

Students with chronic disciplinary issues

STATUTES

§ 53A-11-101.7. Truancy -- Notice of truancy -- Failure to cooperate with school authorities -- Habitual truant citation

(5) A habitual truant citation may be issued to a habitual truant if:

(a) the local school board, local charter board, or school district has made reasonable efforts, under Section 53A-11-103, to resolve the school attendance problems of the habitual truant; and

(b) the efforts to resolve the school attendance problems, described in Subsection (5)(a), have not been successful.

(6) A habitual truant to whom a habitual truant citation is issued under Subsection (5):

(a) shall be referred to the juvenile court for violation of Subsection (1); and

(b) is subject to the jurisdiction of the juvenile court.

(7) A notice of truancy or a habitual truant citation may only be issued by:

(a) a school administrator, or a truancy specialist, who is authorized by a local school board or local charter board;

(b) a designee of a school administrator described in Subsection (7)(a); or

(c) a law enforcement officer acting as a school resource officer.

(8) Nothing in this part prohibits a local school board, local charter board, or school district from taking action to resolve a truancy problem with a school-age minor who has been truant less than five times, provided that the action does not conflict with the requirements of this part.

§ 53A-11-910. Disruptive student behavior

(1) As used in this section:

(a) "Disruptive student behavior" includes:

(i) the grounds for suspension or expulsion described in Section 53A-11-904; and

(ii) the conduct described in Subsection 53A-11-908(2)(b) [...]

(2) A local school board, school district, governing board of a charter school, or charter school may impose administrative penalties on a school-age minor who violates this part.

(3) (a) It is unlawful for a school-age minor to engage in disruptive student behavior.

(b) A qualifying minor is subject to the jurisdiction of the juvenile court if the qualifying minor:

(i) engages in disruptive student behavior, that does not result in suspension or expulsion, at least six times during the school year;

(ii) (A) engages in disruptive student behavior, that does not result in suspension or expulsion, at least three times during the school year; and

(B) engages in disruptive student behavior, that results in suspension or expulsion, at least once during the school year; or

(iii) engages in disruptive student behavior, that results in suspension or expulsion, at least twice during the school year.

(4) (a) A local school board or governing board of a charter school shall:

(i) authorize a school administrator or a designee of a school administrator to issue notices of disruptive student behavior to qualifying minors; and

(ii) establish a procedure for a qualifying minor, or a qualifying minor's parent, to contest a notice of disruptive student behavior.

(b) A school representative shall provide to a parent of a school-age minor, a list of resources available to assist the parent in resolving the school-age minor's disruptive student behavior problem.

(c) A local school board or governing board of a charter school shall establish procedures for a school counselor or other designated school representative to work with a qualifying minor who engages in disruptive student behavior in order to attempt to resolve the minor's disruptive student behavior problems before the qualifying minor becomes subject to the jurisdiction of the juvenile court as provided for under this section.

(5) The notice of disruptive student behavior described in Subsection (4)(a):

(a) shall be issued to a qualifying minor who:

(i) engages in disruptive student behavior, that does not result in suspension or expulsion, three times during the school year; or

(ii) engages in disruptive student behavior, that results in suspension or expulsion, once during the school year;

(b) shall require that the qualifying minor and a parent of the qualifying minor:

(i) meet with school authorities to discuss the qualifying minor's disruptive student behavior; and

(ii) cooperate with the local school board or governing board of a charter school in correcting the school-age minor's disruptive student behavior;

(c) shall contain a statement indicating:

(i) the number of additional times that, if the qualifying minor engages in disruptive student behavior that does not result in suspension or expulsion, will result in the qualifying minor receiving a habitual disruptive student behavior citation; and

(ii) that the qualifying minor will receive a habitual disruptive student behavior citation if the qualifying minor engages in disruptive student behavior that results in suspension or expulsion; and

(d) shall be mailed by certified mail to, or served on, a parent of the qualifying minor.

(6) A habitual disruptive student behavior citation:

(a) may only be issued to a qualifying minor who:

(i) engages in disruptive student behavior, that does not result in suspension or expulsion, at least six times during the school year;

(ii) (A) engages in disruptive student behavior, that does not result in suspension or expulsion, at least three times during the school year; and

(B) engages in disruptive student behavior, that results in suspension or expulsion, at least once during the school year; or

(iii) engages in disruptive student behavior, that results in suspension or expulsion, at least twice during the school year; and

(b) may only be issued by a school administrator, a designee of a school administrator, or a truancy specialist, who is authorized by a local school board or governing board of a local charter school to issue habitual disruptive student behavior citations.

(7) (a) A qualifying minor to whom a habitual disruptive student behavior citation is issued under Subsection (6) shall be referred to the juvenile court for violation of Subsection (3).

(b) Within five days after the day on which a habitual disruptive student behavior citation is issued, a representative of the school district or charter school shall provide documentation, to a parent of the qualifying minor who receives the citation, of the efforts made by a school counselor or representative under Subsection (4)(c).[…]

ADMINISTRATIVE CODE

R277-609-3. School District, School and Charter School Responsibility to Develop Plans

A. Each school district, or school and each charter school shall develop and implement a board approved comprehensive school district, school or charter school plan or policy for student and classroom management, and school discipline. […]

B. The plan shall also provide direction to school districts for dealing with disruptive students. This part of the plan shall:

(1) direct schools to determine the range of behaviors and establish the continuum of administrative procedures that may be used by school personnel to address the behavior of habitually disruptive students;[…]

Attendance and truancy

STATUTES

§ 53A-11-101. Definitions

For purposes of this part:

(1) (a) "Absence" or "absent" means, consistent with Subsection (1)(b), failure of a school-age minor assigned to a class or class period to attend the entire class or class period.

(b) A school-age minor may not be considered absent under this part more than one time during one day.

(2) "Habitual truant" means a school-age minor who:

(a) is at least 12 years old;

(b) is subject to the requirements of Section 53A-11-101.5; and

(c) (i) is truant at least ten times during one school year; or

(ii) fails to cooperate with efforts on the part of school authorities to resolve the minor's attendance problem as required under Section 53A-11-103.[...]

(7) "Truant" means absent without a valid excuse.

(8) "Truant minor" means a school-age minor who:

(a) is subject to the requirements of Section 53A-11-101.5 or 53A-11-101.7; and

(b) is truant.

(9) "Valid excuse" means:

(a) an illness;

(b) a family death;

(c) an approved school activity;

(d) an absence permitted by a school-age minor's:

(i) individualized education program, developed pursuant to the Individuals with Disabilities Education Improvement Act of 2004, as amended; or

(ii) accommodation plan, developed pursuant to Section 504 of the Rehabilitation Act of 1973, as amended; or

(e) any other excuse established as valid by a local school board, local charter board, or school district.

§ 53A-11-101.3. Preapproval of extended absence

In determining whether to preapprove an extended absence of a school-age minor as a valid excuse under Subsection 53A-11-101(9)(e), a local school board, local charter board, or school district shall approve the absence if the local school board, local charter board, or school district determines that the extended absence will not adversely impact the school-age minor's education.

§ 53A-11-101.5. Compulsory education

(1) For purposes of this section:

(a) "Intentionally" is as defined in Section 76-2-103.

(b) "Recklessly" is as defined in Section 76-2-103.

(c) "Remainder of the school year" means the portion of the school year beginning on the day after the day on which the notice of compulsory education violation described in Subsection (3) is served and ending on the last day of the school year.

(d) "School-age child" means a school-age minor under the age of 14.

(2) Except as provided in Section 53A-11-102 or 53A-11-102.5, the parent of a school-age minor shall enroll and send the school-age minor to a public or regularly established private school.

(3) A school administrator, a designee of a school administrator, a law enforcement officer acting as a school resource officer, or a truancy specialist may issue a notice of compulsory education violation to a parent of a school-age child if the school-age child is absent without a valid excuse at least five times during the school year.

(4) The notice of compulsory education violation, described in Subsection (3):

(a) shall direct the parent of the school-age child to:

(i) meet with school authorities to discuss the school-age child's school attendance problems; and

(ii) cooperate with the school board, local charter board, or school district in securing regular attendance by the school-age child;

(b) shall designate the school authorities with whom the parent is required to meet;

(c) shall state that it is a class B misdemeanor for the parent of the school-age child to intentionally or recklessly:

(i) fail to meet with the designated school authorities to discuss the school-age child's school attendance problems; or

(ii) fail to prevent the school-age child from being absent without a valid excuse five or more times during the remainder of the school year;

(d) shall be served on the school-age child's parent by personal service or certified mail; and

(e) may not be issued unless the school-age child has been truant at least five times during the school year.

(5) It is a class B misdemeanor for a parent of a school-age minor to intentionally or recklessly fail to enroll the school-age minor in school, unless the school-age minor is exempt from enrollment under Section 53A-11-102 or 53A-11-102.5.

(6) It is a class B misdemeanor for a parent of a school-age child to, after being served with a notice of compulsory education violation in accordance with Subsections (3) and (4), intentionally or recklessly:

(a) fail to meet with the school authorities designated in the notice of compulsory education violation to discuss the school-age child's school attendance problems; or

(b) fail to prevent the school-age child from being absent without a valid excuse five or more times during the remainder of the school year.

(7) A local school board, local charter board, or school district shall report violations of this section to the appropriate county or district attorney.

§ 53A-11-101.7. Truancy -- Notice of truancy -- Failure to cooperate with school authorities -- Habitual truant citation

(1) Except as provided in Section 53A-11-102 or 53A-11-102.5, a school-age minor who is enrolled in a public school shall attend the public school in which the school-age minor is enrolled.

(2) A local school board, local charter board, or school district may impose administrative penalties on a school-age minor who is truant.

(3) A local school board or local charter board:

(a) may authorize a school administrator, a designee of a school administrator, a law enforcement officer acting as a school resource officer, or a truancy specialist to issue notices of truancy to school-age minors who are at least 12 years old; and

(b) shall establish a procedure for a school-age minor, or the school-age minor's parents, to contest a notice of truancy.

(4) The notice of truancy described in Subsection (3):

(a) may not be issued until the school-age minor has been truant at least five times during the school year;

(b) may not be issued to a school-age minor who is less than 12 years old;

(c) may not be issued to a minor exempt from school attendance as provided in Section 53A-11-102 or 53A-11-102.5;

(d) shall direct the school-age minor and the parent of the school-age minor to:

(i) meet with school authorities to discuss the school-age minor's truancies; and

(ii) cooperate with the school board, local charter board, or school district in securing regular attendance by the school-age minor; and

(e) shall be mailed to, or served on, the school-age minor's parent.

(5) A habitual truant citation may be issued to a habitual truant if:

(a) the local school board, local charter board, or school district has made reasonable efforts, under Section 53A-11-103, to resolve the school attendance problems of the habitual truant; and

(b) the efforts to resolve the school attendance problems, described in Subsection (5)(a), have not been successful.

(6) A habitual truant to whom a habitual truant citation is issued under Subsection (5):

(a) shall be referred to the juvenile court for violation of Subsection (1); and

(b) is subject to the jurisdiction of the juvenile court.

(7) A notice of truancy or a habitual truant citation may only be issued by:

(a) a school administrator, or a truancy specialist, who is authorized by a local school board or local charter board;

(b) a designee of a school administrator described in Subsection (7)(a); or

(c) a law enforcement officer acting as a school resource officer.

(8) Nothing in this part prohibits a local school board, local charter board, or school district from taking action to resolve a truancy problem with a school-age minor who has been truant less than five times, provided that the action does not conflict with the requirements of this part.

(9) Nothing in this part allows a local school board or charter school governing board to issue a citation pursuant to this section if the minor is exempt from school attendance as provided in Section 53A-11-102 or 53A-11-102.5.

§ 53A-11-102. Minors exempt from school attendance

(1) (a) A school-age minor may be excused from attendance by the local board of education and a parent exempted from application of Subsections 53A-11-101.5(2), (5), and (6) for any of the following reasons:

(i) a minor over age 16 may receive a partial release from school to enter employment, or attend a trade school, if the minor has completed the eighth grade; or

(ii) on an annual basis, a minor may receive a full release from attending a public, regularly established private, or part-time school or class if:

(A) the minor has already completed the work required for graduation from high school, or has demonstrated mastery of required skills and competencies in accordance with Subsection 53A-15-102(1);

(B) the minor is in a physical or mental condition, certified by a competent physician if required by the district board, which renders attendance inexpedient and impracticable;

(C) proper influences and adequate opportunities for education are provided in connection with the minor's employment; or

(D) the district superintendent has determined that a minor over the age of 16 is unable to profit from attendance at school because of inability or a continuing negative attitude toward school regulations and discipline.

(b) Minors receiving a partial release from school under Subsection (1)(a)(i) are required to attend:

(i) school part-time as prescribed by the local school board; or

(ii) a home school part-time.

(c) In each case, evidence of reasons for granting an exemption under Subsection (1) must be sufficient to satisfy the local board.

(2) (a) On an annual basis, a school-age minor shall be excused from attendance by a local board of education and a parent exempted from application of Subsections 53A-11-101.5(2), (5), and (6), if the minor's parent files a signed affidavit with the minor's school district of residence, as defined in Section 53A-2-201, that the minor will attend a home school and receive instruction as required by Subsection (2)(b).

(b) Each minor who attends a home school shall receive instruction:

(i) in the subjects the State Board of Education requires to be taught in public schools in accordance with the law; and

(ii) for the same length of time as minors are required by law to receive instruction in public schools, as provided by rules of the State Board of Education.

(c) Subject to the requirements of Subsection (2)(b), a parent of a minor who attends a home school is solely responsible for:

(i) the selection of instructional materials and textbooks;

(ii) the time, place, and method of instruction, and

(iii) the evaluation of the home school instruction.

(d) A local school board may not:

(i) require a parent of a minor who attends a home school to maintain records of instruction or attendance;

(ii) require credentials for individuals providing home school instruction;

(iii) inspect home school facilities; or

(iv) require standardized or other testing of home school students.

(3) (a) Boards excusing minors from attendance as provided by Subsections (1) and (2) shall issue a certificate stating that the minor is excused from attendance during the time specified on the certificate.

(b) A local school board shall issue a certificate excusing a minor from attendance within 30 days after receipt of a signed affidavit filed by the minor's parent pursuant to Subsection (2).

(4) Nothing in this section may be construed to prohibit or discourage voluntary cooperation, resource sharing, or testing opportunities between a school or school district and a parent or guardian of a minor attending a home school.

§ 53A-11-103. Duties of a school board, local charter board, or school district in resolving attendance problems -- Parental involvement -- Liability not imposed

(1) (a) Except as provided in Subsection (1)(b), a local school board, local charter board, or school district shall make efforts to resolve the school attendance problems of each school-age minor who is, or should be, enrolled in the school district.

(b) A minor exempt from school attendance under Section 53A-11-102 or 53A-11-102.5 is not considered to be a minor who is or should be enrolled in a school district or charter school under Subsection (1)(a).

(2) The efforts described in Subsection (1) shall include, as reasonably feasible:

(a) counseling of the minor by school authorities;

(b) issuing a notice of truancy to a school-age minor who is at least 12 years old, in accordance with Section 53A-11-101.7;

(c) issuing a habitual truant citation, in accordance with Section 53A-11-101.7;

(d) issuing a notice of compulsory education violation to a parent of a school-age child, in accordance with Section 53A-11-101.5;

(e) making any necessary adjustment to the curriculum and schedule to meet special needs of the minor;

(f) considering alternatives proposed by a parent;

(g) monitoring school attendance of the minor;

(h) voluntary participation in truancy mediation, if available; and

(i) providing a school-age minor's parent, upon request, with a list of resources available to assist the parent in resolving the school-age minor's attendance problems.

(3) In addition to the efforts described in Subsection (2), the local school board, local charter board, or school district may enlist the assistance of community and law enforcement agencies as appropriate and reasonably feasible.

(4) This section shall not impose any civil liability on boards of education, local school boards, local charter boards, school districts, or their employees.

(5) Proceedings initiated under this part do not obligate or preclude action by the Division of Child and Family Services under Section 78A-6-319.

§ 53A-11-104. Truancy specialists

A local school board or local charter board may appoint and fix the compensation of a truancy specialist to assist in enforcing laws related to school attendance and to perform other duties prescribed by law or the board.

§ 53A-11-105. Taking custody of a person believed to be a truant minor -- Disposition -- Receiving centers -- Reports -- Immunity from liability

(1) A peace officer or public school administrator may take a minor into temporary custody if there is reason to believe the minor is a truant minor.

(2) An individual taking a school-age minor into custody under Subsection (1) shall, without unnecessary delay, release the minor to:

(a) the principal of the minor's school;

(b) a person who has been designated by the local school board or local charter board to receive and return the minor to school; or

(c) a receiving center established under Subsection (5).

(3) If the minor refuses to return to school or go to the receiving center, the officer or administrator shall, without unnecessary delay, notify the minor's parents and release the minor to their custody.

(4) If the parents cannot be reached or are unable or unwilling to accept custody, the minor shall be referred to the Division of Child and Family Services.

(5) (a) A local school board or local charter board, singly or jointly with another school board, may establish or designate receiving centers within existing school buildings and staff the centers with existing teachers or staff to provide educational guidance and counseling for truant minors. Upon receipt of a truant minor, the center shall, without unnecessary delay, notify and direct the minor's parents to come to the center, pick up the minor, and return the minor to the school in which the minor is enrolled.

(b) If the parents cannot be reached or are unable or unwilling to comply with the request within a reasonable time, the center shall take such steps as are reasonably necessary to insure the safety and well being of the minor, including, when appropriate, returning the minor to school or referring the minor to the Division of Child and Family Services. A minor taken into custody under this section may not be placed in a detention center or other secure confinement facility.

(6) Action taken under this section shall be reported to the appropriate school district. The district shall promptly notify the minor's parents of the action taken.

(7) The Utah Governmental Immunity Act applies to all actions taken under this section.

(8) Nothing in this section may be construed to grant authority to a public school administrator to place a minor in the custody of the Division of Child and Family Services, without complying with the provisions of Title 62A, Chapter 4a, Parts 2, Child Welfare Services, and 2A, Minors in Custody on Grounds Other Than Abuse or Neglect, and of Title 78A, Chapter 6, Parts 3, Abuse, Neglect, and Dependency Proceedings, and 4, Minors in Custody on Grounds Other Than Abuse or Neglect.

§ 53A-11-106. Truancy support centers

(1) A school district may establish one or more truancy support centers for:

(a) truant minors taken into custody under Section 53A-11-105; or

(b) students suspended or expelled from school.

(2) A truancy support center shall provide services to the truant minor and the truant minor's family, including:

(a) assessments of the truant minor's needs and abilities;

(b) support for the parents and truant minor through counseling and community programs; and

(c) tutoring for the truant minor during the time spent at the center.

(3) For the suspended or expelled student, the truancy support center shall provide an educational setting, staffed with certified teachers and aides, to provide the student with ongoing educational programming appropriate to the student's grade level.

(4) In a district with a truancy support center, all students suspended or expelled from school shall be referred to the center. A parent or guardian shall appear with the student at the center within 48 hours of the suspension or expulsion, not including weekends or holidays. The student shall register and attend classes at the truancy support center for the duration of the suspension or expulsion unless the parent or

guardian demonstrates that alternative arrangements have been made for the education or supervision of the student during the time of suspension or expulsion.

(5) The truancy support center may provide counseling and other support programming for students suspended or expelled from school and their parents or guardian.

R277-607-1. Definitions

A. "Absence" means a student's non-attendance at school for one school day or part of one school day.

B. "Habitual truant" means a school-age minor who:

(1) is at least 12 years old;

(2) is subject to the requirements of Section 53A-11-101.5; and

(3)(a) is truant at least ten times during one school year; and

(b) fails to cooperate with efforts on the part of school authorities to resolve the minor's attendance problem as required under Section 53A-11-103.

C. "Habitual truant citation" is a citation issued only consistent with Section 53A-11-101.7.

D. "IEP team" means an local education agency representative, a parent, a regular and special education educator, and person qualified to interpret evaluation results, in accordance with the Individuals with Disabilities Education Act (IDEA).

E. "Truant" means absent without a valid excuse.

F. "Unexcused absence" means a student's absence from school for reasons other than those authorized under the school or district policy.

G. "USOE" means the Utah State Office of Education.

H. "Valid excuse" means an excuse for an absence from school consistent with Section 53A-11-101(9) and may include:

(1) illness;

(2) family death;

(3) approved school activity;

(4) excuse consistent with student's IEP, Section 504 accommodation plan, or a school/school district valid excuse definition.

R277-607-2. Authority and Purpose

A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of public education in the Board, Section 53A-1-401(3) which permits the Board to adopt rules in accordance with its responsibilities, and Sections 53A-11-101 through 53A-11-106 which direct educational entities and parents working on behalf of children to encourage compliance with the compulsory education law, school attendance for all students, and cooperation in these important efforts.

B. The purpose of this rule is to direct schools/school districts and charter schools to establish procedures for:

(1) informing parents about compulsory education laws;

(2) encouraging and monitoring school attendance consistent with the law; and

(3) providing firm consequences for noncompliance.

C. This rule encourages meaningful incentives for parental responsibility and directs school districts and charter schools to establish ongoing truancy prevention procedures in schools especially for students in grades 1-8.

R277-607-3. General Provisions

A. Each local school board and charter school board shall develop a truancy policy that encourages regular, punctual attendance of students, consistent with this rule and 53A-11-101 through 53A-11-105 and shall review the policy annually.

B. Local school boards and charter school boards shall annually review attendance data and consider revisions to policies to encourage student attendance.

C. The local school board and charter school board truancy policy shall be available for review by parents or interested parties.

D. Habitual truant citations may be issued to students consistent with Section 53A-11-101.7.

R277-607-4. School/School District and Charter School Responsibilities

A. School districts and charter schools shall:

(1) establish definitions not provided in law or this rule necessary to implement a compulsory attendance policy;

(2) include definitions of approved school activity under Section 53A-11-101(9)(c) and excused absence to be provided locally under Section 53A-11-101(9)(e);

(3) include criteria and procedures for preapproval of extended absences consistent with Section 53A-11-101.3; and

(4) establish programs and meaningful incentives which promote regular, punctual student attendance.

B. School districts and charter schools shall include in their policies provisions for:

(1) notice to parents of the policy;

(2) notice to parents as discipline or consequences progress; and

(3) opportunity to appeal disciplinary measures.

C. School districts and charter schools shall establish and publish procedures by which school-age minors or their parents may contest notices of truancy.

R277-607-5. Parent Responsibilities

Parents of school-age minors shall cooperate with school boards and charter school boards to secure regular attendance at school by school-age minors for whom they are responsible.

Substance use

STATUTES

§ 53A-11-904. Grounds for suspension or expulsion from a public school

(1)A student may be suspended or expelled from a public school for any of the following reasons:

[...] (d) possession, control, or use of an alcoholic beverage as defined in Section 32B-1-102;

(2) (a) A student shall be suspended or expelled from a public school for any of the following reasons:

(C) the sale, control, or distribution of a drug or controlled substance as defined in Section 58-37-2, an imitation controlled substance defined in Section 58-37b-2, or drug paraphernalia as defined in Section 58-37a-3; [...]

§ 53A-11-1301. Definitions

(1) The definitions in Sections 58-37-2, 58-37a-3, and 58-37b-2 apply to this part.

(2) As used in this part:

(a) "Prohibited act" means an act punishable under Section 53A-3-501, Section 58-37-8, Section 58-37a-5, or Title 58, Chapter 37b.

(b) "School" means a public or private elementary or secondary school.

Bullying, harassment, or hazing

STATUTES

§ 53A-11a-101. Title

This chapter is known as "Bullying and Hazing."

§ 53A-11a-102. Definitions

As used in this chapter:

(1) (a) "Bullying" means intentionally or knowingly committing an act that:

(i) (A) endangers the physical health or safety of a school employee or student;

(B) involves any brutality of a physical nature such as whipping, beating, branding, calisthenics, bruising, electric shocking, placing of a harmful substance on the body, or exposure to the elements;

(C) involves consumption of any food, liquor, drug, or other substance;

(D) involves other physical activity that endangers the physical health and safety of a school employee or student; or

(E) involves physically obstructing a school employee's or student's freedom to move; and

(ii) is done for the purpose of placing a school employee or student in fear of:

(A) physical harm to the school employee or student; or

(B) harm to property of the school employee or student.

(b) The conduct described in Subsection (1)(a) constitutes bullying, regardless of whether the person against whom the conduct is committed directed, consented to, or acquiesced in, the conduct.

(2) "Communication" means the conveyance of a message, whether verbal, written, or electronic.

(3) "Cyber-bullying" means using the Internet, a cell phone, or another device to send or post text, video, or an image with the intent or knowledge, or with reckless disregard, that the text, video, or image will hurt, embarrass, or threaten an individual, regardless of whether the individual directed, consented to, or acquiesced in the conduct, or voluntarily accessed the electronic communication.

(4) "Harassment" means repeatedly communicating to another individual, in an objectively demeaning or disparaging manner, statements that contribute to a hostile learning or work environment for the individual.

(5) (a) "Hazing" means intentionally or knowingly committing an act that:

(i) (A) endangers the physical health or safety of a school employee or student;

(B) involves any brutality of a physical nature such as whipping, beating, branding, calisthenics, bruising, electric shocking, placing of a harmful substance on the body, or exposure to the elements;

(C) involves consumption of any food, liquor, drug, or other substance;

(D) involves other physical activity that endangers the physical health and safety of a school employee or student; or

(E) involves physically obstructing a school employee's or student's freedom to move; and

(ii) (A) is done for the purpose of initiation or admission into, affiliation with, holding office in, or as a condition for, membership or acceptance, or continued membership or acceptance, in any school or school sponsored team, organization, program, or event; or

(B) if the person committing the act against a school employee or student knew that the school employee or student is a member of, or candidate for, membership with a school, or school sponsored team, organization, program, or event to which the person committing the act belongs to or participates in.

(b) The conduct described in Subsection (5)(a) constitutes hazing, regardless of whether the person against whom the conduct is committed directed, consented to, or acquiesced in, the conduct.

(6) "Policy" means a bullying and hazing policy described in Section 53A-11a-301.

(7) "Retaliate" means an act or communication intended:

(a) as retribution against a person for reporting bullying or hazing; or

(b) to improperly influence the investigation of, or the response to, a report of bullying or hazing.

(8) "School" means any public elementary or secondary school or charter school.

(9) "School board" means:

(a) a local school board; or

(b) a local charter board.

(10) "School employee" means:

(a) school teachers;

(b) school staff;

(c) school administrators; and

(d) all others employed, directly or indirectly, by the school, school board, or school district.

§ 53A-11a-201. Bullying, cyber-bullying, harassment, hazing, sexual battery, and sexual exposure prohibited

(1) No school employee or student may engage in bullying or harassing a school employee or student:

(a) on school property;

(b) at a school related or sponsored event;

(c) on a school bus;

(d) at a school bus stop; or

(e) while the school employee or student is traveling to or from a location or event described in Subsections (1)(a) through (d).

(2) No school employee or student may engage in hazing or cyber-bullying a school employee or student at any time or in any location.

§ 53A-11a-202. Retaliation and making false allegation prohibited

(1) No school employee or student may engage in retaliation against:

(a) a school employee;

(b) a student; or

(c) an investigator for, or a witness of, an alleged incident of bullying, cyber-bullying, harassment, hazing, or retaliation.

(2) No school employee or student may make a false allegation of bullying, cyber-bullying, harassment, hazing, or retaliation against a school employee or student.

§ 53A-11a-402. Other forms of legal redress

(1) Nothing in this chapter prohibits a victim of bullying, cyber-bullying, harassment, hazing, or retaliation from seeking legal redress under any other provisions of civil or criminal law.

(2) This section does not create or alter tort liability.

ADMINISTRATIVE CODE

R277-609-1. Definitions

B. "Bullying" means intentionally or knowingly committing an act that:

(1)(a) endangers the physical health or safety of a school employee or student;

(b) involves any brutality of a physical nature such as whipping, beating, branding, calisthenics, bruising, electric shocking, placing of a harmful substance on the body, or exposure to the elements;

(c) involves consumption of any food, liquor, drug, or other substance;

(d) involves other physical activity that endangers the physical health and safety of a school employee or student; or

(e) involves physically obstructing a school employee's or student's freedom to move; and

(2) is done for the purpose of placing a school employee or student in fear of:

(a) physical harm to the school employee or student; or

(b) harm to property of the school employee or student.

(3) The conduct described in R277-609-1B constitutes bullying, regardless of whether the person against whom the conduct is committed directed, consented to, or acquiesced in, the conduct.

C. "Cyber-bullying" means using the Internet, a cell phone, or another device to send or post text, video, or an image with the intent or knowledge, or with reckless disregard, that the text, video, or image will hurt, embarrass, or threaten an individual, regardless of whether the individual directed, consented to, or acquiesced in the conduct, or voluntarily accessed the electronic communication.

D. "Discipline" means:

(1) Imposed discipline: Code of conduct prescribed for the highest welfare of the individual and of the society in which the individual lives; and

(2) Self-Discipline: A personal system of organized behavior designed to promote self-interest while contributing to the welfare of others.

E. "Disruptive student behavior" includes:

(1) the grounds for suspension or expulsion described in Section 53A-11-904; and

(2) the conduct described in Section 53A-11-908(2)(b).

F. "Harassment" means repeatedly communicating to another individual, in an objectively demeaning or disparaging manner, statements that contribute to a hostile learning or work environment for the individual.

G. "Hazing" means intentionally or knowingly committing an act that:

(1)(a) endangers the physical health or safety of a school employee or student;

(b) involves any brutality of a physical nature such as whipping, beating, branding, calisthenics, bruising, electric shocking, placing of a harmful substance on the body, or exposure to the elements;

(c) involves consumption of any food, liquor, drug, or other substance;

(d) involves other physical activity that endangers the physical health and safety of a school employee or student; or

(e) involves physically obstructing a school employee's or student's freedom to move; and

(f)(i) is done for the purpose of initiation or admission into, affiliation with, holding office in, or as a condition for, membership or acceptance, or continued membership or acceptance, in any school or school sponsored team, organization, program, or event; or

(ii) if the person committing the act against a school employee or student knew that the school employee or student is a member of, or candidate for, membership with a school, or school sponsored team, organization, program, or event to which the person committing the act belongs to or participates in.

(2) The conduct described in R277-609-1G constitutes hazing, regardless of whether the person against whom the conduct is committed directed, consented to, or acquiesced in, the conduct.

H. "Plan" means a school district-wide and school-wide written model for prevention and intervention for student behavior management and discipline procedures for students who habitually disrupt school environments and processes.

I. "Policy" means standards and procedures that include the provisions of Section 53A-11-901 and additional standards, procedures, and training adopted in an open meeting by a local board of education or charter school board that defines hazing, bullying, cyber-bullying, and harassment, prohibits hazing and bullying, requires annual discussion and training designed to prevent hazing, bullying, cyber-bullying, and harassment among school employees and students, and provides for enforcement through employment action or student discipline.

J. "Retaliate or retaliation" means an act or communication intended:

(1) as retribution against a person for reporting bullying or hazing; or

(2) to improperly influence the investigation of, or the response to, a report of bullying or hazing.

K. "Qualifying minor" means a school-age minor who:

(1) is at least nine years old; or

(2) turns nine years old at any time during the school year.

L. "School" means any public elementary or secondary school or charter school.

M. "School board" means:

(1) a local school board; or

(2) a local charter board.

N. "School employee" means:

(1) school teachers;

(2) school staff;

(3) school administrators; and

(4) all others employed, directly or indirectly, by the school, school board, or school district[...]

O. "USOE" means the Utah State Office of Education.

R277-613-1. Definitions

B. "Bullying" means intentionally or knowingly committing an act that:

(1)(a) endangers the physical health or safety of a school employee or student;

(b) involves any brutality of a physical nature such as whipping, beating, branding, calisthenics, bruising, electric shocking, placing of a harmful substance on the body, or exposure to the elements;

(c) involves consumption of any food, liquor, drug, or other substance;

(d) involves other physical activity that endangers the physical health and safety of a school employee or student; or

(e) involves physically obstructing a school employee's or student's freedom to move; and

(2) is done for the purpose of placing a school employee or student in fear of:

(a) physical harm to the school employee or student; or

(b) harm to property of the school employee or student.

(3) The conduct described in R277-613-1B constitutes bullying, regardless of whether the person against whom the conduct is committed directed, consented to, or acquiesced in, the conduct.

C. "Cyber-bullying" means using the Internet, a cell phone, or another device to send or post text, video, or an image with the intent or knowledge, or with reckless disregard, that the text, video, or image will hurt, embarrass, or threaten an individual, regardless of whether the individual directed, consented to, or acquiesced in the conduct, or voluntarily accessed the electronic communication.

D. "Harassment" means repeatedly communicating to another individual, in an objectively demeaning or disparaging manner, statements that contribute to a hostile learning or work environment for the individual.

E. "Hazing" means intentionally or knowingly committing an act that:

(1)(a) endangers the physical health or safety of a school employee or student;

(b) involves any brutality of a physical nature such as whipping, beating, branding, calisthenics, bruising, electric shocking, placing of a harmful substance on the body, or exposure to the elements;

(c) involves consumption of any food, liquor, drug, or other substance;

(d) involves other physical activity that endangers the physical health and safety of a school employee or student; or

(e) involves physically obstructing a school employee's or student's freedom to move; and

(f)(i) is done for the purpose of initiation or admission into, affiliation with, holding office in, or as a condition for, membership or acceptance, or continued membership or acceptance, in any school or school sponsored team, organization, program, or event; or

(ii) if the person committing the act against a school employee or student knew that the school employee or student is a member of, or candidate for, membership with a school, or school sponsored team, organization, program, or event to which the person committing the act belongs to or participates in.

(2) The conduct described in R277-613-1E constitutes hazing, regardless of whether the person against whom the conduct is committed directed, consented to, or acquiesced in, the conduct.

F. "Policy" means standards and procedures that include the provisions of Section 53A-11-901 and additional standards, procedures, and training adopted in an open meeting by a local board of education or charter school board that define hazing and bullying, prohibit hazing and bullying, require annual discussion and training designed to prevent hazing and bullying among school employees and students and provide for enforcement through employment action or student discipline.

G. "Retaliate or retaliation" means an act or communication intended:

(1) as retribution against a person for reporting bullying or hazing; or

(2) to improperly influence the investigation of, or the response to, a report of bullying or hazing.

R277-613-2. Authority and Purpose

A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of public education in the Board, Section 53A-1-401(3) which allows the Board to adopt rules

in accordance with its responsibilities, and the responsibility of the Board to provide assistance with and ensure school district/charter school compliance with Section 53A-11a-301.

B. The purpose of the rule is to require school districts and charter schools to implement bullying and hazing policies district and school wide, to provide for regular and meaningful training of school employees and students and to provide for enforcement of the policies in schools, at the state level and in public school athletic programs.

R277-613-3. Utah State Board of Education Responsibilities

A. To the extent of resources available, the Board shall provide training opportunities or materials or both for employees of school districts and charter schools on bullying, including cyber-bullying, and hazing.

B. The Board may interrupt disbursements of funds consistent with Section 53A-1-401(3) for failure of a school district or charter school to comply with this rule.

R277-613-4. Local School District and Charter School Responsibilities

A. Each school district and charter school shall implement a policy prohibiting bullying and hazing consistent with Section 53A-11a-301.

B. Each school district and charter school shall:

(1) post a copy of its policy on the school district/charter school website; and

(2) provide a copy of the school district/charter school policy or uniform resource locator (URL) to the State Superintendent of Public Instruction at the Utah State Office of Education.

C. The local board/charter school board shall annually review and immediately post the policy following the first board meeting of the school year.

D. Policies shall provide for training to students, staff, and volunteers consistent with the following:

(1) training specific to overt aggression that may include physical fighting such as punching, shoving, kicking, and verbal threatening behavior, such as name calling, or both physical and verbal aggression or threatening behavior;

(2) training specific to relational aggression or indirect, covert, or social aggression, including rumor spreading, intimidation, enlisting a friend to assault a child, and social isolation;

(3) training specific to prohibitions against bullying or hazing of a sexual nature or with sexual overtones;

(4) training specific to cyber-bullying, including use of email, web pages, text messaging, instant messaging, three-way calling or messaging or any other electronic means for aggression inside or outside of school;

E. Policies shall also:

(1) complement existing safe and drug free school policies and school harassment and hazing policies;

(2) include strategies for providing students and staff, including aides, custodians, kitchen and lunchroom workers, secretaries, paraprofessionals, and coaches, with awareness and intervention skills such as social skills training; and

(3) include required strong responsive action against retaliation including assistance to harassed students and their parents in reporting subsequent problems and new incidents.

F. The policy shall also provide direction to employees about bullying and dealing with disruptive students. This part of the policy shall:

(1) direct schools to determine the range of behaviors and establish the continuum of administrative procedures that may be used by school personnel to address the behavior of habitually disruptive students;

(2) provide for identification, by position(s), of individual(s) designated to issue notices of disruptive student behavior;

(3) designate to whom notices shall be provided;

(4) provide for documentation of disruptive student behavior prior to referral of disruptive students to juvenile court;

(5) include strategies to provide for necessary adult supervision;

(6) be clearly written and consistently enforced;

(7) include administration, instruction and support staff, students, parents, community council and other community members in policy development, training and prevention implementation so as to create a community sense of participation, ownership, support and responsibility; and

(8) provide notice to employees that violation(s) of this rule may result in employment discipline or action.

Other special infractions or conditions

STATUTES

§ 53A-11-806. Defacing or injuring school property -- Student's liability -- Voluntary work program alternative

(1) Any student who willfully defaces or otherwise injures any school property may be suspended or otherwise disciplined.

(2) (a) Any school district whose property has been lost or willfully cut, defaced, or otherwise injured may withhold the issuance of official written grade reports, diploma, and transcripts of the student responsible for the damage or loss until the student or the student's parent or guardian has paid for the damages.

(b) The student's parent or guardian is liable for damages as otherwise provided in Section 78A-6-1113.

(3) (a) If the student and the student's parent or guardian are unable to pay for the damages or if it is determined by the school in consultation with the student's parents that the student's interests would not be served if the parents were to pay for the damages, then, the school district shall provide for a program of voluntary work for the student in lieu of the payment.

(b) The district shall release the official grades, diploma, and transcripts of the student upon completion of the voluntary work.

(4) Before any penalties are assessed under this section, the local school board shall adopt procedures to insure that the student's right to due process is protected.

(5) No penalty may be assessed for damages which may be reasonably attributed to normal wear and tear.

(6) If the Department of Human Services or a licensed child-placing agency has been granted custody of the student, that student's records, if requested by the department or agency, may not be withheld from the department or agency for nonpayment of damages under this section.

§ 53A-11-908. Extracurricular activities -- Prohibited conduct -- Reporting of violations -- Limitation of liability

(1) The Legislature recognizes that:

(a) participation in student government and extracurricular activities may confer important educational and lifetime benefits upon students, and encourages school districts and charter schools to provide a variety of opportunities for all students to participate in such activities in meaningful ways;

(b) there is no constitutional right to participate in these types of activities, and does not through this section or any other provision of law create such a right;

(c) students who participate in student government and extracurricular activities, particularly competitive athletics, and the adult coaches, advisors, and assistants who direct those activities, become role models for others in the school and community;

(d) these individuals often play major roles in establishing standards of acceptable behavior in the school and community, and establishing and maintaining the reputation of the school and the level of community confidence and support afforded the school; and

(e) it is of the utmost importance that those involved in student government, whether as officers or advisors, and those involved in competitive athletics and related activities, whether students or staff, comply with all applicable laws and rules of behavior and conduct themselves at all times in a manner befitting their positions and responsibilities.

(2) (a) The State Board of Education may, and local boards of education and governing boards of charter schools shall, adopt rules implementing this section that apply to both students and staff.

(b) Those rules shall include prohibitions against the following types of conduct, while in the classroom, on school property, during school sponsored activities, or regardless of the location or circumstance, affecting a person or property described in Subsections 53A-11-902(5)(a) through (d):

(i) use of foul, abusive, or profane language while engaged in school related activities;

(ii) illicit use, possession, or distribution of controlled substances or drug paraphernalia, and the use, possession, or distribution of an electronic cigarette as defined in Section 76-10-101, tobacco, or alcoholic beverages contrary to law; and

(iii) hazing, demeaning, or assaultive behavior, whether consensual or not, including behavior involving physical violence, restraint, improper touching, or inappropriate exposure of body parts not normally exposed in public settings, forced ingestion of any substance, or any act which would constitute a crime against a person or public order under Utah law.

(3) (a) School employees who reasonably believe that a violation of this section may have occurred shall immediately report that belief to the school principal, district superintendent, or chief administrative officer of a charter school.

(b) Principals who receive a report under Subsection (3)(a) shall submit a report of the alleged incident, and actions taken in response, to the district superintendent or the superintendent's designee within 10 working days after receipt of the report.

(c) Failure of a person holding a professional certificate to report as required under this Subsection (3) constitutes an unprofessional practice.

(4) Limitations of liability set forth under Section 53A-11-1004 apply to this section.

ADMINISTRATIVE CODE

R277-495. Required Policies for Electronic Devices in Public Schools

R277-495-1. Definitions

A. "Board" means the Utah State Board of Education.

B. "Electronic device" means a privately owned device that is used for audio, video, or text communication or any other type of computer or computer-like instrument.

C. "Public school" means all schools and public school programs, grades kindergarten through 12, that are part of the Utah Public School system, including charter schools, distance learning programs, and alternative programs.

D. "USOE" means the Utah State Office of Education.

R277-495-2. Authority and Purpose

A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of public education in the Board, by 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities, and Section 53A-11-901(2)(c)(i)directs the State Superintendent of Public Instruction to develop a conduct and discipline policy model for elementary and secondary public schools.

B. The purpose of this rule is to direct all public school districts or public schools, including charter schools, to adopt policies, individually or collectively as school districts or consortia of charter schools, governing the possession and use of electronic devices while on public school premises.

R277-495-3. Local Board and Charter School Responsibilities

A. Local boards of education and local charter governing boards shall establish a timeline that requires all schools under their supervision have a policy governing the use of electronic devices in schools approved by local boards, effective and posted for students, employees, parents and community member access no later than April 1, 2009.

B. Local boards and charter governing boards shall encourage schools to involve teachers, parents, students, school employees and community members in developing local policies; school community councils could provide helpful information and guidance within various school communities and neighborhoods.

C. Local boards and charter governing boards shall provide copies of their policies or clear electronic links to policies.

D. School districts and schools within school districts shall work together to ensure that all policies within a school or school district are consistent and understandable for parents.

R277-495-4. Policy Requirements

A. Local policies shall include the following;

(1) scope of coverage of the policy, including clear rules for school premises, school hours, school activities, after school activities, school sponsored activities at remote sites, vehicles transporting students to and from school activities.

(2) definitions of devices covered by policy;

(3) prohibitions against use of electronic devices during Utah Performance Assessment System for Students (U-PASS) assessments unless specifically allowed by statute, regulation, student IEP, or assessment directions;

(4) clear information about restrictions, if any, on when or where possession of electronic devices, active or deactivated, are strictly prohibited or allowed, such as the use of an electronic calculator by a student consistent with a current and valid IEP, as determined by the school district/school;

(5) prohibitions on the use of electronic devices in a way that bullies, humiliates, harasses, or intimidates school-related individuals, including students, employees, and invitees, consistent with R277-609 and R277-613, or violates local, state, or federal laws; and

(6) procedures, if any, and due process, for the confiscation and recovery of electronic devices used in violation of local policies.

B. Local policies may also include the following:

(1) prohibitions or restrictions on unauthorized audio recordings, capture of images, transmissions of recordings or images, or invasions of reasonable expectations of student and employee privacy;

(2) procedures to report the misuse of electronic devices;

(3) potential disciplinary actions toward students or employees or both for violation of local policies regarding the use of electronic devices;

(4) exceptions to the policy for special circumstances, health-related reasons and emergencies, if any;

(5) strategies for use of technology that enhance instruction; and

(6) directives, protections, and requirements, if any, for school employees or invitees, or both.

C. The USOE shall receive an annual assurance from the school district or charter school governing board as required under R277-108 that the local board has presented and implemented an electronic device policy consistent with the timelines and provisions of this rule.

D. School districts or traditional school and charter schools shall post their duly enacted electronic device policies on their district or school websites.

R277-495-5. USOE Responsibilities

A. The USOE shall provide resources, upon request, for school districts and schools as they develop electronic device policies, including sources for successful policies, assistance with reviewing draft policies, and information about bullying, harassing, and discrimination via electronic devices consistent with R277-609 and R277-613.

B. The USOE shall develop a model policy or a policy framework to assist school districts and individual schools in developing and implementing their policies.

C. The USOE shall promote the use of effective strategies to enhance instruction and professional development through technology.

D. The USOE shall ensure that parents and school employees are involved in the development and implementation of policies.

E. The USOE shall work and cooperate with other education entities, such as the PTA, the Utah School Boards Association, the Utah Education Association, the State Charter School Board and the Utah High School Activities Association to provide consistent information to parents and community members about electronic device policies and to provide for appropriate and consistent penalties for violation of policies, including violations that take place at public school extracurricular and athletic events.

Prevention and Behavioral Interventions (Non-Punitive)

Prevention

STATUTES

§ 53A-11a-401. Training, education, and prevention

(1) A school board shall include in the training of a school employee, training regarding bullying, cyber-bullying, harassment, hazing, and retaliation.

(2) To the extent that state or federal funding is available for this purpose, school boards are encouraged to implement programs or initiatives, in addition to the training described in Subsection (1), to provide for training and education regarding, and the prevention of, bullying, hazing, and retaliation.

(3) The programs or initiatives described in Subsection (2) may involve:

(a) the establishment of a bullying task force; or

(b) the involvement of school employees, students, or law enforcement.

§53A-15-1302. Parent education—Mental health—Bullying—Safety

(1) (a) Except as provided in Subsection (5), a school district shall offer a seminar for parents of students in the school district that:

(i) is offered at no cost to parents;

(ii) begins at or after 6 p.m.;

(iii) is held in at least one school located in the school district;

(iv) is offered once a year; and

(v) covers the topics described in Subsection (2).

(b) A school district may:

(i) develop its own curriculum for the seminar described in Subsection (1)(a); or

(ii) use the curriculum developed by the State Board of Education under Subsection (2).

(c) A school district shall notify each charter school located in the attendance boundaries of the school district of the date and time of the parent seminar, so the charter school may inform parents of the seminar.

(2) The State Board of Education shall:

(a) develop a curriculum for the parent seminar described in Subsection (1) that includes information on:

(i) substance abuse, including illegal drugs and prescription drugs and prevention;

(ii) bullying;

(iii) mental health, depression, and suicide awareness; and

(iv) Internet safety, including pornography addiction; and

(b) provide the curriculum, including resources and training, to school districts upon request.

(3) The State Board of Education shall report to the Legislature's Education Interim Committee, by the November 2013 meeting, on the progress of implementation of the parent seminar, including if a local school board has opted out of providing the parent seminar, as described in Subsection (5), and the reasons why a local school board opted out.

(4) The State Board of Education shall report to the Legislature's Education Interim Committee by the November 2014 meeting on:

(a) the progress of implementation of the parent seminar;

(b) the estimated attendance reported by each school district;

(c) a recommendation of whether to continue the parent seminar program; and

(d) if a local school board has opted out of providing the parent seminar, as described in Subsection (5), and the reasons why a local school board opted out.

(5) (a) A school district is not required to offer the parent seminar if the local school board determines that the topics described in Subsection (2) are not of significant interest or value to families in the school district.

(b) If a local school board chooses not to offer the parent seminar, the local school board shall notify the State Board of Education and provide the reasons why the local school board chose not to offer the parent seminar.

ADMINISTRATIVE CODE

R277-436 Gang Prevention and Intervention Programs in the Schools

R277-436-1. Definitions

A. "Student at risk" means any student who because of his individual needs requires some kind of uniquely designed intervention in order to achieve literacy, graduate and be prepared for transition from school to post-school options.

B. "Board" means the Utah State Board of Education.

C. "Gang" (as defined in this rule) means a group of three or more people who form an allegiance and engage in a range of anti-social behaviors that may include violent or unlawful activity or both. These groups may have a name, turf, colors, symbols, or distinct dress, or any combination of the preceding characteristics.

D. "Gang prevention" means instructional and support strategies, activities, programs, or curricula designed and implemented to provide successful experiences for youth and families. These components shall promote cultural and social competence, self-management skills, citizenship, preparation for life skills, academic achievement, literacy, and interpersonal relationship skills required for school completion and full participation in society.

E. "Gang intervention" means specially designed services required by an individual student experiencing difficulty in cultural and social competence, self-management skills, citizenship, preparation for life skills, academic achievement, literacy, and interpersonal relationships within or outside of the school which may impact the individual's susceptibility to gang membership or gang-like activities or both.

F. "Gang Prevention and Intervention Program" means specifically designed projects and activities to help at-risk students stay in school and enhance their cultural and social competence, self-management skills, citizenship, preparation for life skills, academic achievement, literacy, and interpersonal relationship skills required for school completion and full participation in society[...]

R277-436-2. Authority and Purpose

A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and authority over public education in the Board, by Section 53A-17a-166(1)(b) which appropriates funds to be used for Gang Prevention and Intervention Programs in the schools, and Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.

B. The purpose of this rule is to establish standards and procedures for distributing funding for gang prevention and intervention programs in public schools.

R277-436-3. Application, Distribution of Funds, and Administrative Support

A. Awards shall be made to individual schools and funds allocated to charter schools or to school districts to distribute to designated schools.

B. School districts may submit a single district-wide proposal for one or more schools within the district. The proposal shall:

(1) provide for distribution of funds to individual schools; and

(2) provide explanations of prevention and intervention activities and strategies planned for individual schools.

C. Charter schools may submit independent or joint proposals.

D. School districts or charter schools or charter consortia may utilize up to ten percent of their funding under the rule for the following specific purposes:

(1) administrative oversight;

(2) professional development for licensed and non-licensed employees who work directly in gang prevention/intervention activities; and

(3) professional and technical services.

E. Proposals/applications shall be provided by the USOE.

F. Awards per school shall be based on funds available.

G. Priority shall be given to applications reflecting interagency and intra-agency collaboration.

H. Proposals receiving funding shall be notified by July 1.

I. Schools or joint school applications that were funded and complied with all requirements of law and rule may reapply in subsequent years using an abbreviated proposal form provided by the USOE.

J. The USOE may retain up to five percent of the annual legislative appropriation for the following specific purposes:

(1) an amount not to exceed 2.5 percent for:

(a) site visits; and

(b) professional development, as determined and guided by the USOE.

(2) an amount not to exceed 2.5 percent for:

(a) administrative oversight; and

(b) statewide coordination training.

R277-436-4. Evaluation and Reports

A. School districts and charter schools or consortia shall provide the USOE with a year-end evaluation report by June 30 for the previous fiscal year.

B. The year-end report shall include:

(1) an expenditure report;

(2) a narrative description of all activities funded;

(3) copies of any and all products developed;

(4) effectiveness report detailing evidence of individual and overall program impact on gang and gang-related activities and involvement; and

(5) other information or data as required by the USOE.

C. The USOE may require additional evaluation or audit procedures from the grant recipient to demonstrate use of funds consistent with the law and Board rules.

R277-436-5. Waivers

The superintendent may grant a written request for a waiver of a requirement or deadline which a district or school finds unduly restrictive.

R277-460. Distribution of Substance Abuse Prevention Account.

R277-460-1. Definitions

A. "Board" means the Utah State Board of Education.

B. "Educational materials" means visual and auditory media, curricula, textbooks, and other disposable or non-disposable items that enhance student understanding of the subject matter.

C. "Evaluation" means a review by a person or group which assesses procedures, results and products specific to a program.

D. "Local Substance Abuse Authority" means the person or group designated by the Legislature as the county authority to receive public funds for substance abuse prevention and treatment.

E. "Prevention education" means proactive educational activities designed to eliminate any illegal use of controlled substances.

F. "Superintendent" means the State Superintendent of Public Instruction.

G. "USOE" means the Utah State Office of Education.

H. "Utah Substance Abuse Prevention Guiding Principles" means criteria established by the Utah Division of Substance Abuse and Mental Health to be used in selecting or developing substance abuse prevention materials.

R277-460-2. Authority and Purpose

A. This rule is authorized by Utah Constitution, Article X, Section 3 which vests general control and authority over public education in the Board, by Section 53A-13-102 which directs the Board to adopt rules providing for instruction on the harmful effects of controlled substances and by Section 51-9-405 which provides for funds from the Substance Abuse Prevention Account to be allocated to the USOE for:

(1) substance abuse prevention and education;

(2) substance abuse prevention training for teachers and administrators; and

(3) school district, charter school or consortia programs to supplement, not supplant, existing local prevention efforts in cooperation with local substance abuse authorities.

B. The purpose of this rule is to provide for the distribution of the USOE's share of the Substance Abuse Prevention Account.

[…]

Behavioral interventions and student support services

STATUTES

§ 53A-11-106. Truancy support centers

(1) A school district may establish one or more truancy support centers for:

(a) truant minors taken into custody under Section 53A-11-105; or

(b) students suspended or expelled from school.

(2) A truancy support center shall provide services to the truant minor and the truant minor's family, including:

(a) assessments of the truant minor's needs and abilities;

(b) support for the parents and truant minor through counseling and community programs; and

(c) tutoring for the truant minor during the time spent at the center.

(3) For the suspended or expelled student, the truancy support center shall provide an educational setting, staffed with certified teachers and aides, to provide the student with ongoing educational programming appropriate to the student's grade level.

(4) In a district with a truancy support center, all students suspended or expelled from school shall be referred to the center. A parent or guardian shall appear with the student at the center within 48 hours of the suspension or expulsion, not including weekends or holidays. The student shall register and attend classes at the truancy support center for the duration of the suspension or expulsion unless the parent or guardian demonstrates that alternative arrangements have been made for the education or supervision of the student during the time of suspension or expulsion.

(5) The truancy support center may provide counseling and other support programming for students suspended or expelled from school and their parents or guardian.

Professional development

STATUTES

§53A-1-603 Duties of State Board of Education

(9)(a) School districts and charter schools shall require each licensed employee to complete two hours of professional development on youth suicide prevention within their license cycle in accordance with Section 53A-6-104.

(b) The State Board of Education shall develop or adopt sample materials to be used by a school district or charter school for professional development training on youth suicide prevention.

(c) The training required by this Section 9 shall be incorporated into professional development training required by rule in accordance with Section 53A-6-104.

§ 53A-11a-401. Training, education, and prevention

(1) A school board shall include in the training of a school employee, training regarding bullying, cyber-bullying, harassment, hazing, and retaliation.

(2) To the extent that state or federal funding is available for this purpose, school boards are encouraged to implement programs or initiatives, in addition to the training described in Subsection (1), to provide for training and education regarding, and the prevention of, bullying, hazing, and retaliation.

(3) The programs or initiatives described in Subsection (2) may involve:

(a) the establishment of a bullying task force; or

(b) the involvement of school employees, students, or law enforcement.

ADMINISTRATIVE CODE

R277-613-5. Training by School Districts and Charter Schools Specific to Participants in Public School Athletic Programs and School Clubs

A. Prior to any student or employee or volunteer coach participating in a public school sponsored athletic program, both curricular and extracurricular, or extracurricular club or activity, a student or coach shall participate in bullying and hazing prevention training.

B. School districts and charter schools may collaborate with the Utah High School Activities Association to develop and provide training.

C. Student athletes and extracurricular club members shall be informed of prohibited activities under this rule and notified of potential consequences for violation of the law or the rule or both.

D. School districts and charter schools that offer athletics shall provide annual training to all new students and new employees and require refresher training for all students and employees at least once every three years.

E. Training curriculum outlines, training schedules, and participant lists or signatures shall be maintained by each school or school district and provided to the Utah State Office of Education upon request.

Monitoring and Accountability

Formal incident reporting of conduct violations

STATUTES

§ 53A-11-908. Extracurricular activities -- Prohibited conduct -- Reporting of violations -- Limitation of liability

(1) The Legislature recognizes that:

(a) participation in student government and extracurricular activities may confer important educational and lifetime benefits upon students, and encourages school districts and charter schools to provide a variety of opportunities for all students to participate in such activities in meaningful ways; […]

(2) (a) The State Board of Education may, and local boards of education and governing boards of charter schools shall, adopt rules implementing this section that apply to both students and staff. […]

(3) (a) School employees who reasonably believe that a violation of this section may have occurred shall immediately report that belief to the school principal, district superintendent, or chief administrative officer of a charter school.

(b) Principals who receive a report under Subsection (3)(a) shall submit a report of the alleged incident, and actions taken in response, to the district superintendent or the superintendent's designee within 10 working days after receipt of the report.

(c) Failure of a person holding a professional certificate to report as required under this Subsection (3) constitutes an unprofessional practice.

§ 53A-11-1302. Reporting of prohibited acts affecting a school -- Confidentiality

(1) A person who has reasonable cause to believe that an individual has committed a prohibited act shall immediately notify:

(a) the nearest law enforcement agency;

(b) the principal;

(c) an administrator of the affected school;

(d) the superintendent of the affected school district; or

(e) an administrator of the affected school district.

(2) If notice is given to a school official, the official may authorize an investigation into allegations involving school property, students, or school district employees.

(3) School officials may refer a complaint of an alleged prohibited act reported as occurring on school grounds or in connection with school-sponsored activities to an appropriate law enforcement agency. Referrals shall be made by school officials if the complaint alleges the prohibited act occurred elsewhere.

(4) The identity of persons making reports pursuant to this section shall be kept confidential.

ADMINISTRATIVE CODE

R277-608-3. Reporting Requirements

A. Each LEA shall incorporate in the LEA plan submitted to the USOE annually, the prohibition of corporal punishment consistent with the law.

B. An LEA policy shall incorporate a prohibition of corporal punishment consistent with the law, appropriate sanctions and appeal procedures for LEA employees disciplined under this rule and the corresponding state statute.

Parental notification

STATUTES

§ 53A-11-101.7. Truancy -- Notice of truancy -- Failure to cooperate with school authorities -- Habitual truant citation

(3) A local school board or local charter board:

(a) may authorize a school administrator, a designee of a school administrator, a law enforcement officer acting as a school resource officer, or a truancy specialist to issue notices of truancy to school-age minors who are at least 12 years old; and

(b) shall establish a procedure for a school-age minor, or the school-age minor's parents, to contest a notice of truancy.

(4) The notice of truancy described in Subsection (3):

(a) may not be issued until the school-age minor has been truant at least five times during the school year;

(b) may not be issued to a school-age minor who is less than 12 years old;

(c) may not be issued to a minor exempt from school attendance as provided in Section 53A-11-102 or 53A-11-102.5;

(d) shall direct the school-age minor and the parent of the school-age minor to:

(i) meet with school authorities to discuss the school-age minor's truancies; and

(ii) cooperate with the school board, local charter board, or school district in securing regular attendance by the school-age minor; and

(e) shall be mailed to, or served on, the school-age minor's parent[…]

§ 53A-11-105. Taking custody of a person believed to be a truant minor -- Disposition -- Receiving centers -- Reports -- Immunity from liability

(1) A peace officer or public school administrator may take a minor into temporary custody if there is reason to believe the minor is a truant minor.

(2) An individual taking a school-age minor into custody under Subsection (1) shall, without unnecessary delay, release the minor to:

(a) the principal of the minor's school;

(b) a person who has been designated by the local school board or local charter board to receive and return the minor to school; or

(c) a receiving center established under Subsection (5).

(3) If the minor refuses to return to school or go to the receiving center, the officer or administrator shall, without unnecessary delay, notify the minor's parents and release the minor to their custody.

(4) If the parents cannot be reached or are unable or unwilling to accept custody, the minor shall be referred to the Division of Child and Family Services.

(5) (a) A local school board or local charter board, singly or jointly with another school board, may establish or designate receiving centers within existing school buildings and staff the centers with existing teachers or staff to provide educational guidance and counseling for truant minors. Upon

receipt of a truant minor, the center shall, without unnecessary delay, notify and direct the minor's parents to come to the center, pick up the minor, and return the minor to the school in which the minor is enrolled.

(b) If the parents cannot be reached or are unable or unwilling to comply with the request within a reasonable time, the center shall take such steps as are reasonably necessary to insure the safety and well being of the minor, including, when appropriate, returning the minor to school or referring the minor to the Division of Child and Family Services. A minor taken into custody under this section may not be placed in a detention center or other secure confinement facility.

(6) Action taken under this section shall be reported to the appropriate school district. The district shall promptly notify the minor's parents of the action taken […]

§ 53A-11-903. Suspension and expulsion procedures -- Notice to parents -- Distribution of policies

(1) (a) Policies required under this part shall include written procedures for the suspension and expulsion of, or denial of admission to, a student, consistent with due process and other provisions of law.

(b) (i) The policies required in Subsection (1)(a) shall include a procedure directing public schools to notify the custodial parent and, if requested in writing by a noncustodial parent, the noncustodial parent of the suspension and expulsion of, or denial of admission to, a student.

(ii) Subsection (1)(b)(i) does not apply to that portion of school records which would disclose any information protected under a court order.

(iii) The custodial parent is responsible for providing to the school a certified copy of the court order under Subsection (1)(b)(ii) through a procedure adopted by the local school board or the governing board of a charter school.

(2) (a) Each local school board or governing board of a charter school shall provide for the distribution of a copy of a school's discipline and conduct policy to each student upon enrollment in the school.

(b) A copy of the policy shall be posted in a prominent location in each school.

(c) Any significant change in a school's conduct and discipline policy shall be distributed to students in the school and posted in the school in a prominent location.

§ 53A-11-910. Disruptive student behavior

(1) As used in this section:

(a) "Disruptive student behavior" includes:

(i) the grounds for suspension or expulsion described in Section 53A-11-904; and

(ii) the conduct described in Subsection 53A-11-908(2)(b)[...]

(4) (a) A local school board or governing board of a charter school shall:

(i) authorize a school administrator or a designee of a school administrator to issue notices of disruptive student behavior to qualifying minors; and

(ii) establish a procedure for a qualifying minor, or a qualifying minor's parent, to contest a notice of disruptive student behavior.

(b) A school representative shall provide to a parent of a school-age minor, a list of resources available to assist the parent in resolving the school-age minor's disruptive student behavior problem.

(c) A local school board or governing board of a charter school shall establish procedures for a school counselor or other designated school representative to work with a qualifying minor who engages in disruptive student behavior in order to attempt to resolve the minor's disruptive student behavior problems before the qualifying minor becomes subject to the jurisdiction of the juvenile court as provided for under this section.

(5) The notice of disruptive student behavior described in Subsection (4)(a):

(a) shall be issued to a qualifying minor who:

(i) engages in disruptive student behavior, that does not result in suspension or expulsion, three times during the school year; or

(ii) engages in disruptive student behavior, that results in suspension or expulsion, once during the school year;

(b) shall require that the qualifying minor and a parent of the qualifying minor:

(i) meet with school authorities to discuss the qualifying minor's disruptive student behavior; and

(ii) cooperate with the local school board or governing board of a charter school in correcting the school-age minor's disruptive student behavior;

(c) shall contain a statement indicating:

(i) the number of additional times that, if the qualifying minor engages in disruptive student behavior that does not result in suspension or expulsion, will result in the qualifying minor receiving a habitual disruptive student behavior citation; and

(ii) that the qualifying minor will receive a habitual disruptive student behavior citation if the qualifying minor engages in disruptive student behavior that results in suspension or expulsion; and

(d) shall be mailed by certified mail to, or served on, a parent of the qualifying minor[…]

(7) (a) A qualifying minor to whom a habitual disruptive student behavior citation is issued under Subsection (6) shall be referred to the juvenile court for violation of Subsection (3).

(b) Within five days after the day on which a habitual disruptive student behavior citation is issued, a representative of the school district or charter school shall provide documentation, to a parent of the qualifying minor who receives the citation, of the efforts made by a school counselor or representative under Subsection (4)(c) […]

§ 53A-11a-203. Parental notification of certain incidents and threats required

(1) For purposes of this section, "parent" includes a student's guardian.

(2) A school shall:

(a) notify a parent if the parent's student threatens to commit suicide; or

(b) notify the parents of each student involved in an incident of bullying, cyber-bullying, harassment, hazing, or retaliation, of the incident involving each parent's student.

(3) (a) If a school notifies a parent of an incident or threat required to be reported under Subsection (2), the school shall produce and maintain a record that verifies that the parent was notified of the incident or threat.

(b) A school may not:

(i) disclose a record described in Subsection (3)(a), including any information obtained to prepare the record, to a person other than a person authorized to receive the record described in Subsection (3)(c); or

(ii) use a record described in Subsection (3)(a), including any information obtained to prepare the record, for the school's own purposes, including the following purposes:

(A) for a report or study;

(B) for a statistical analysis; or

(C) to conduct research.

(c) A school may disclose a record described in Subsection (3)(a), including any information obtained to prepare the record:

(i) to the parent or the parent's student; or

(ii) to a person if required to disclose the record or information to a person pursuant to the terms of a court order as described in Subsection 63G-2-202(7).

(4) A school board shall adopt a policy regarding the process for:

(a) notifying a parent as required in Subsection (2); and

(b) producing and retaining a record that verifies that a parent was notified of an incident or threat as required in Subsection (3).

(5) At the request of a parent, a school may provide information and make recommendations related to an incident or threat described in Subsection (2).

ADMINISTRATIVE CODE

R277-607-4. School/School District and Charter School Responsibilities

A. School districts and charter schools shall:

(1) establish definitions not provided in law or this rule necessary to implement a compulsory attendance policy;

(2) include definitions of approved school activity under Section 53A-11-101(9)(c) and excused absence to be provided locally under Section 53A-11-101(9)(e);

(3) include criteria and procedures for preapproval of extended absences consistent with Section 53A-11-101.3; and

(4) establish programs and meaningful incentives which promote regular, punctual student attendance.

B. School districts and charter schools shall include in their policies provisions for:

(1) notice to parents of the policy;

(2) notice to parents as discipline or consequences progress; and

(3) opportunity to appeal disciplinary measures.

C. School districts and charter schools shall establish and publish procedures by which school-age minors or their parents may contest notices of truancy.

R277-609-5. Parent/Guardian Notification and Court Referral

A. Through school administrative and juvenile court referral consequences, school district, and school and charter school policies shall provide procedures for qualifying minors and their parents to participate in decisions regarding consequences for disruptive student behavior.

B. Policies shall provide for notice to parents and information about resources available to assist parents in resolving school-age minors' disruptive behavior.

C. Policies shall provide for notices of disruptive behavior to be issued by schools to qualifying minor(s) and parent(s) consistent with:

(1) numbers of disruptions and timelines in accordance with Section 53A-11-910;

(2) school resources available; and

(3) cooperation from the appropriate juvenile court in accessing student school records, including attendance, grades, behavioral reports and other available student school data.

D. Policies shall provide due process procedures for minors and parents to contest allegations and citations of disruptive student behavior.

Reporting and referrals between schools and law enforcement

STATUTES

§ 53A-11-910. Disruptive student behavior

(3) (a) It is unlawful for a school-age minor to engage in disruptive student behavior.

(b) A qualifying minor is subject to the jurisdiction of the juvenile court if the qualifying minor:

(i) engages in disruptive student behavior, that does not result in suspension or expulsion, at least six times during the school year;

(ii) (A) engages in disruptive student behavior, that does not result in suspension or expulsion, at least three times during the school year; and

B) engages in disruptive student behavior, that results in suspension or expulsion, at least once during the school year; or

(iii) engages in disruptive student behavior, that results in suspension or expulsion, at least twice during the school year.

(4) […] (c) A local school board or governing board of a charter school shall establish procedures for a school counselor or other designated school representative to work with a qualifying minor who engages in disruptive student behavior in order to attempt to resolve the minor's disruptive student behavior problems before the qualifying minor becomes subject to the jurisdiction of the juvenile court as provided for under this section.

(7) (a) A qualifying minor to whom a habitual disruptive student behavior citation is issued under Subsection (6) shall be referred to the juvenile court for violation of Subsection (3).

(b) Within five days after the day on which a habitual disruptive student behavior citation is issued, a representative of the school district or charter school shall provide documentation, to a parent of the qualifying minor who receives the citation, of the efforts made by a school counselor or representative under Subsection (4)(c).

(8) Nothing in this part prohibits a local school board, school district, governing board of a charter school, or charter school from taking any lawful action not in conflict with the provisions of this section, including action described in this part and action relating to a habitually truant or ungovernable child, to address a disruptive student behavior problem of:

(a) a school-age minor who is not a qualifying minor; or

(b) a qualifying minor, regardless of the number of times that the qualifying minor has engaged in disruptive student behavior during the school year.

§ 53A-11-1001. Notification by juvenile court and law enforcement agencies

(1) Notifications received from the juvenile court or law enforcement agencies by the school district pursuant to Subsections 78A-6-112(3)(b) and 78A-6-117(1)(b) are governed by this part.

(2) School districts may enter into agreements with law enforcement agencies for notification under Subsection (1).

§ 53A-11-1002. Superintendent required to notify school

(1) Within three days of receiving the information from the juvenile court or a law enforcement agency, the district superintendent shall notify the principal of the school the juvenile attends or last attended.

(2) Upon receipt of the information, the principal shall:

(a) make a notation in a secure file other than the student's permanent file; and

(b) if the student is still enrolled in the school, notify staff members who, in his opinion, should know of the adjudication.

(3) A person receiving information pursuant to this part may only disclose the information to other persons having both a right and a current need to know.

(4) Access to secure files shall be limited to persons authorized to receive information under this part.

§ 53A-11-1302. Reporting of prohibited acts affecting a school -- Confidentiality

(1) A person who has reasonable cause to believe that an individual has committed a prohibited act (for definitions see § 53A-11-1301) shall immediately notify:

(a) the nearest law enforcement agency;

(b) the principal;

(c) an administrator of the affected school;

(d) the superintendent of the affected school district; or

(e) an administrator of the affected school district.

(2) If notice is given to a school official, the official may authorize an investigation into allegations involving school property, students, or school district employees.

(3) School officials may refer a complaint of an alleged prohibited act reported as occurring on school grounds or in connection with school-sponsored activities to an appropriate law enforcement agency. Referrals shall be made by school officials if the complaint alleges the prohibited act occurred elsewhere.

(4) The identity of persons making reports pursuant to this section shall be kept confidential.

ADMINISTRATIVE CODE

R277-714-2. Authority and Purpose

A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision over public schools in the Board, Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities, and Section 53A-11-1003which directs the Board to adopt rules governing the dissemination of information about juvenile offenders in the public schools.

B. The purpose of this rule is to provide procedures for LEAs to follow in notifying school personnel of offenders in their schools and for protecting the confidentiality of the information.

R277-714-3. Dissemination of Information

A. The dissemination of any information about students among agencies and LEAs shall be consistent with FERPA and GRAMA, including applicable time periods and protection of confidential information.

B. Each LEA shall establish by written policy which staff members have authority to receive confidential information about students, depending upon the offense and the circumstances. This policy shall be approved by the LEA and available to parents and students upon request.

C. A dispute regarding the dissemination of information shall be decided in favor of a student's rights to privacy, except in the event of apparent imminent danger to persons or property.

Disclosure of school records

STATUTES

§ 53A-11-1003. Board to set procedures

The State Board of Education shall make rules governing the dissemination of the information.

§ 53A-11-1004. Liability for release of information

(1) The district superintendent, principal, and any staff member notified by the principal may not be held liable for information which may become public knowledge unless it can be shown by clear and convincing evidence that the information became public knowledge through an intentional act of the superintendent, principal, or a staff member.

(2) A person receiving information under Subsection 78A-6-112(3)(b), 78A-6-117(1)(b), or Section 53A-11-1002 is immune from any liability, civil or criminal, for acting or failing to act in response to the information unless the person acts or fails to act due to malice, gross negligence, or deliberate indifference to the consequences.

ADMINISTRATIVE CODE

R277-714-3. Dissemination of Information

A. The dissemination of any information about students among agencies and LEAs shall be consistent with FERPA and GRAMA, including applicable time periods and protection of confidential information.

B. Each LEA shall establish by written policy which staff members have authority to receive confidential information about students, depending upon the offense and the circumstances. This policy shall be approved by the LEA and available to parents and students upon request.

C. A dispute regarding the dissemination of information shall be decided in favor of a student's rights to privacy, except in the event of apparent imminent danger to persons or property.

Data collection, review, and reporting of disciplinary policies and actions

STATUTES

§ 53A-11-904. Grounds for suspension or expulsion from a public school

(5) Each local school board and governing board of a charter school shall prepare an annual report for the State Board of Education on:

(a) each violation committed under this section; and

(b) each action taken by the school district against a student who committed the violation.

ADMINISTRATIVE CODE

R277-607-3. General Provisions

A. Each local school board and charter school board shall develop a truancy policy that encourages regular, punctual attendance of students, consistent with this rule and 53A-11-101 through 53A-11-105 and shall review the policy annually.

B. Local school boards and charter school boards shall annually review attendance data and consider revisions to policies to encourage student attendance.

C. The local school board and charter school board truancy policy shall be available for review by parents or interested parties.

D. Habitual truant citations may be issued to students consistent with Section 53A-11-101.7.

School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers

Authority and power to implement school arrest

STATUTES

§ 53A-11-101.5. Compulsory education

(3) A school administrator, a designee of a school administrator, a law enforcement officer acting as a school resource officer, or a truancy specialist may issue a notice of compulsory education violation to a parent of a school-age child if the school-age child is absent without a valid excuse at least five times during the school year […]

§ 53A-11-101.7. Truancy -- Notice of truancy -- Failure to cooperate with school authorities -- Habitual truant citation

(3) A local school board or local charter board:

(a) may authorize a school administrator, a designee of a school administrator, a law enforcement officer acting as a school resource officer, or a truancy specialist to issue notices of truancy to school-age minors who are at least 12 years old; and

(b) shall establish a procedure for a school-age minor, or the school-age minor's parents, to contest a notice of truancy.

(7) A notice of truancy or a habitual truant citation may only be issued by:

(a) a school administrator, or a truancy specialist, who is authorized by a local school board or local charter board;

(b) a designee of a school administrator described in Subsection (7)(a); or

(c) a law enforcement officer acting as a school resource officer.[…]

§ 53A-11-105. Taking custody of a person believed to be a truant minor -- Disposition -- Receiving centers -- Reports -- Immunity from liability

(1) A peace officer or public school administrator may take a minor into temporary custody if there is reason to believe the minor is a truant minor.

(2) An individual taking a school-age minor into custody under Subsection (1) shall, without unnecessary delay, release the minor to:

(a) the principal of the minor's school;

(b) a person who has been designated by the local school board or local charter board to receive and return the minor to school; or

(c) a receiving center established under Subsection (5). […]

Certification or training

No relevant statutes found.

MOUs, authorization, and/or funding

STATUTES

§ 53A-11-104. Truancy specialists

A local school board or local charter board may appoint and fix the compensation of a truancy specialist to assist in enforcing laws related to school attendance and to perform other duties prescribed by law or the board.

State Education Agency Support

State model policies and implementation support

STATUTES

§ 53A-11a-301. Bullying, cyber-bullying, harassment, hazing, and retaliation policy

(1) On or before September 1, 2012, each school board shall adopt a bullying, cyber-bullying, harassment, and hazing policy consistent with this chapter.

(2) The policy shall:

(a) be developed only with input from:

(i) students;

(ii) parents;

(iii) teachers;

(iv) school administrators;

(v) school staff; or

(vi) local law enforcement agencies; and

(b) provide protection to a student, regardless of the student's legal status.

(3) The policy shall include the following components:

(a) definitions of bullying, cyber-bullying, harassment, and hazing that are consistent with this chapter;

(b) language prohibiting bullying, cyber-bullying, harassment, and hazing;

(c) language prohibiting retaliation against an individual who reports conduct that is prohibited under this chapter; and

(d) language prohibiting making a false report of bullying, cyber-bullying, harassment, hazing, or retaliation.

(4) A copy of the policy shall be included in student conduct handbooks and employee handbooks.

(5) A policy may not permit formal disciplinary action that is based solely on an anonymous report of bullying, cyber-bullying, harassment, hazing, or retaliation.

(6) Nothing in this chapter is intended to infringe upon the right of a school employee or student to exercise their right of free speech.

§ 53A-11a-302. Model policy and State Board of Education duties

On or before September 1, 2011, the State Board of Education shall:

(1) develop a model policy on bullying, cyber-bullying, harassment, hazing, and retaliation; and

(2) post the model policy described in Subsection (1) on the State Board of Education's website.

§ 53A-15-603. Gang prevention and intervention policies

(1) (a) The State Board of Education shall adopt rules that require a local school board or governing board of a charter school to enact gang prevention and intervention policies for all schools within the board's jurisdiction.

(b) The rules described in Subsection (1)(a) shall provide that the gang prevention and intervention policies of a local school board or charter school governing board may include provisions that reflect the individual school district's or charter school's unique needs or circumstances.

(2) The rules described in Subsection (1) may include the following provisions:

(a) school faculty and personnel shall report suspected gang activities relating to the school and its students to a school administrator and law enforcement;

(b) a student who participates in gang activities may be excluded from participation in extracurricular activities, including interscholastic athletics, as determined by the school administration after consultation with law enforcement;

(c) gang-related graffiti or damage to school property shall result in parent or guardian notification and appropriate administrative and law enforcement actions, which may include obtaining restitution from those responsible for the damage;

(d) if a serious gang-related incident, as determined by the school administrator in consultation with local law enforcement, occurs on school property, at school related activities, or on a site that is normally considered to be under school control, notification shall be provided to parents and guardians of students in the school:

(i) informing them, in general terms, about the incident, but removing all personally identifiable information about students from the notice;

(ii) emphasizing the school's concern for safety; and

(iii) outlining the action taken at the school regarding the incident;

(e) school faculty and personnel shall be trained by experienced evidence based trainers that may include community gang specialists and law enforcement as part of comprehensive strategies to recognize early warning signs for youth in trouble and help students resist serious involvement in undesirable activity, including joining gangs or mimicking gang behavior;

(f) prohibitions on the following behavior:

(i) advocating or promoting a gang or any gang-related activities;

(ii) marking school property, books, or school work with gang names, slogans, or signs;

(iii) conducting gang initiations;

(iv) threatening another person with bodily injury or inflicting bodily injury on another in connection with a gang or gang-related activity;

(v) aiding or abetting an activity described under Subsections (1)(f)(i) through (iv) by a person's presence or support;

(vi) displaying or wearing common gang apparel, common dress, or identifying signs or symbols on one's clothing, person, or personal property that is disruptive to the school environment; and

(vii) communicating in any method, including verbal, non-verbal, and electronic means, designed to convey gang membership or affiliation.

(3) The rules described in Subsection (1) may require a local school board or governing board of a charter school to publicize the policies enacted by the local school board or governing board of a charter school in accordance with the rules described in Subsection (1) to all students, parents, guardians, and faculty through school websites, handbooks, letters to parents and guardians, or other reasonable means of communication.

(4) The State Board of Education may consult with appropriate committees, including committees that provide opportunities for the input of parents, law enforcement, and community agencies, as it develops, enacts, and administers the rules described in Subsection (1).

ADMINISTRATIVE CODE

R277-609-6. USOE Model Policies

The USOE shall develop, review regularly, and provide to local school boards and charter school governing boards model policies to address disruptive student behavior and appropriate consequences.

Funding appropriations

ADMINISTRATIVE CODE

R277-436 Gang Prevention and Intervention Programs in the Schools

R277-436-3. Application, Distribution of Funds, and Administrative Support

A. Awards shall be made to individual schools and funds allocated to charter schools or to school districts to distribute to designated schools.

B. School districts may submit a single district-wide proposal for one or more schools within the district. The proposal shall:

(1) provide for distribution of funds to individual schools; and

(2) provide explanations of prevention and intervention activities and strategies planned for individual schools.

C. Charter schools may submit independent or joint proposals.

D. School districts or charter schools or charter consortia may utilize up to ten percent of their funding under the rule for the following specific purposes:

(1) administrative oversight;

(2) professional development for licensed and non-licensed employees who work directly in gang prevention/intervention activities; and

(3) professional and technical services.

E. Proposals/applications shall be provided by the USOE.

F. Awards per school shall be based on funds available.

G. Priority shall be given to applications reflecting interagency and intra-agency collaboration.

H. Proposals receiving funding shall be notified by July 1.

I. Schools or joint school applications that were funded and complied with all requirements of law and rule may reapply in subsequent years using an abbreviated proposal form provided by the USOE.

J. The USOE may retain up to five percent of the annual legislative appropriation for the following specific purposes:

(1) an amount not to exceed 2.5 percent for:

(a) site visits; and

(b) professional development, as determined and guided by the USOE.

(2) an amount not to exceed 2.5 percent for:

(a) administrative oversight; and

(b) statewide coordination training.

R277-460. Distribution of Substance Abuse Prevention Account.

R277-460-2. Authority and Purpose

A. This rule is authorized by Utah Constitution, Article X, Section 3 which vests general control and authority over public education in the Board, by Section 53A-13-102 which directs the Board to adopt rules providing for instruction on the harmful effects of controlled substances and by Section 51-9-405 which provides for funds from the Substance Abuse Prevention Account to be allocated to the USOE for:

(1) substance abuse prevention and education;

(2) substance abuse prevention training for teachers and administrators; and

(3) school district, charter school or consortia programs to supplement, not supplant, existing local prevention efforts in cooperation with local substance abuse authorities.

B. The purpose of this rule is to provide for the distribution of the USOE's share of the Substance Abuse Prevention Account.

R277-460-3. Fund Allocations

A. The USOE shall retain sufficient funds to pay for the salary, benefits and indirect costs of a .5 FTE Program Administrator at a salary level to be determined by the Board.

B. The remaining funds shall be allocated as follows:

(1) An amount not to exceed fifteen percent shall remain at the USOE to purchase educational materials to support and supplement existing Utah's Substance Abuse Prevention Program, Prevention Dimensions.

(2) An amount not to exceed fifteen percent shall remain at the USOE to encourage and support statewide substance abuse prevention training for school district/charter school teachers and administrators.

(3) An amount not to exceed fifteen percent shall remain at the USOE to promote Utah's Substance Abuse Prevention Program and encourage its classroom use by Utah educators.

(4) A minimum of fifty-five percent shall be distributed to school districts, charter schools or consortia for use by the school district, individual schools, charter schools or consortia in a cooperative substance abuse prevention effort based on application.

R277-460-4. Applications

A. Applications shall be provided by the USOE.

B. School districts, charter schools or consortia shall submit applications to the specialist designated by the USOE.

C. The USOE specialist shall make funding recommendations to the USOE Finance Committee as soon as reasonably possible after the application deadline.

D. Awards per school districts, charter schools or consortia shall be based on funds available and specific funding amounts shall be provided in the USOE application.

E. Only applications for funding that propose projects or programs consistent with the Utah Substance Abuse Prevention Guiding Principles shall be considered for funding.

(1) Applications shall address the following:

(a) the applicant's intention to collaborate with the local substance abuse authority and community groups within the school district, including shared plans and strategies for activities and intervention;

(b) the applicant's plan for professional development and teachers' use of Prevention Dimensions materials within their classrooms;

(c) the use of funds to implement applicant's plan;

(d) teacher reports of classroom implementation and plans for classroom monitoring visits;

(e) applicant's enhancement of Prevention Dimensions with additional substance abuse activities and strategies; and

(f) applicant's implementation of Prevention Dimensions with school-based behavioral/health or coordinated school health initiatives.

F. Projects receiving funding shall be notified of funding approval by the USOE Finance Committee.

R277-460-5. Limitations on Funds

A. Funds shall be used by the USOE, school districts, charter schools and consortia exclusively for purposes set forth in Section 51-9-405.

B. Transfer of funds between line items or the extension of project completion dates may be made only with prior written approval of the USOE.

C. Funds received by school districts, charter schools or consortia shall not be used to supplant either currently available school district or charter school funds or funds available from other state or local sources.

R277-460-6. Evaluation and Reports

A. An applicant that accepts a USOE Substance Abuse Prevention award shall provide the USOE with a year-end evaluation report before July 1 of the fiscal year in which the award was made.

B. The year-end report shall include:

(1) an expenditure report;

(2) a narrative description of activities funded; and

(3) copies of all products and materials developed with USOE Substance Abuse Prevention funds.

C. The USOE may require additional evaluation or audit procedures from an award recipient to demonstrate the use of funds consistent with the law and Board rules.

R277-460-7. Waivers

The Superintendent may grant a written request for a waiver of a requirement or deadline which a school district, charter school or consortia finds unduly restrictive.

R277-613-3. Utah State Board of Education Responsibilities

A. To the extent of resources available, the Board shall provide training opportunities or materials or both for employees of school districts and charter schools on bullying, including cyber-bullying, and hazing.

B. The Board may interrupt disbursements of funds consistent with Section 53A-1-401(3) for failure of a school district or charter school to comply with this rule.

Other/Uncategorized

Professional immunity or liability

STATUTES

§ 53A-11-103. Duties of a school board, local charter board, or school district in resolving attendance problems -- Parental involvement -- Liability not imposed

(1) (a) Except as provided in Subsection (1)(b), a local school board, local charter board, or school district shall make efforts to resolve the school attendance problems of each school-age minor who is, or should be, enrolled in the school district.

(b) A minor exempt from school attendance under Section 53A-11-102 or 53A-11-102.5 is not considered to be a minor who is or should be enrolled in a school district or charter school under Subsection (1)(a).

[…](4) This section shall not impose any civil liability on boards of education, local school boards, local charter boards, school districts, or their employees […]

§ 53A-11-105. Taking custody of a person believed to be a truant minor -- Disposition -- Receiving centers -- Reports -- Immunity from liability

§ 53A-11-404. Immunity from civil or criminal liability

An educator who in good faith makes a report under Sections 53A-11-402 and 53A-11-403is immune from any liability, civil or criminal, that might otherwise result from that action.

§ 53A-11-803. Investigation of complaint -- Confidentiality -- Immunity

(1) (a) The reporting and investigation requirements of Title 62A, Chapter 4a, Part 4, Child Abuse or Neglect Reporting Requirements, apply to complaints on corporal punishment.

(b) If a violation is confirmed, school authorities shall take prompt and appropriate action, including in-service training and other administrative action, to ensure against a repetition of the violation.

(2) Reports made on violations of this part are subject to the same requirements of confidentiality as provided under Section 62A-4a-412.

(3) Any school or individual who in good faith makes a report or cooperates in an investigation by a school or authorized public agency concerning a violation of this part is immune from any civil or criminal liability that might otherwise result by reason of those actions.

§ 53A-11-804. Liability

(1) (a) Corporal punishment which would, but for this part, be considered to be reasonable discipline of a minor under Section 76-2-401 may not be used as a basis for any civil or criminal action.

(b) A court of competent jurisdiction may take appropriate action against any employing entity if the court finds that the employing entity has not taken reasonable steps to enforce the provisions of this part.

(2) Civil or criminal action may proceed without hindrance in the case of corporal punishment which would not be reasonable discipline under Sections 76-2-401 and 53A-11-805.

§ 53A-11-1004. Liability for release of information

(1) The district superintendent, principal, and any staff member notified by the principal may not be held liable for information which may become public knowledge unless it can be shown by clear and convincing evidence that the information became public knowledge through an intentional act of the superintendent, principal, or a staff member.

(2) A person receiving information under Subsection 78A-6-112(3)(b), 78A-6-117(1)(b), or Section 53A-11-1002 is immune from any liability, civil or criminal, for acting or failing to act in response to the information unless the person acts or fails to act due to malice, gross negligence, or deliberate indifference to the consequences.

§ 53A-11-1101. Notification of teachers of weapons on school property -- Immunity from civil and criminal liability

(1) Whenever a student is found on school property during school hours or at a school-sponsored activity in possession of a dangerous weapon and that information is reported to or known by the principal, the principal shall notify law enforcement personnel and school or district personnel who, in the opinion of the principal, should be informed.

(2) A person who in good faith reports information under Subsection (1) and any person who receives the information is immune from any liability, civil or criminal, that might otherwise result from the reporting or receipt of the information.

§ 53A-11-1303. Immunity from civil or criminal liability

Any person, official, or institution, other than a law enforcement officer or law enforcement agency, participating in good faith in making a report or conducting an investigation under the direction of school or law enforcement authorities under this part, is immune from any liability, civil or criminal, that otherwise might result by reason of that action.

Community input or involvement

§ 53A-15-603. Gang prevention and intervention policies

(2) The rules described in Subsection (1) may include the following provisions:

(e) school faculty and personnel shall be trained by experienced evidence based trainers that may include community gang specialists and law enforcement as part of comprehensive strategies to recognize early warning signs for youth in trouble and help students resist serious involvement in undesirable activity, including joining gangs or mimicking gang behavior;

(4) The State Board of Education may consult with appropriate committees, including committees that provide opportunities for the input of parents, law enforcement, and community agencies, as it develops, enacts, and administers the rules described in Subsection (1).

Other/Uncategorized

No relevant statutes found.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by Utah provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
Website		
USOE Model Policy: Bullying, Cyberbullying, Harassment, and Hazing	Model policy for bullying, cyberbullying, harassment, and hazing	http://www.schools.utah.gov/law/Model-Policies-and-Procedures/USOE-MODEL-POLICY-ON-BULLYING,-CYBERBULLYING,-HARA.aspx
Documents		
Model School District or Charter School Search and Seizure Policy	Model policy for search and seizure	http://www.schools.utah.gov/law/Model-Policies-and-Procedures/Model_Search_and_Seizure_Policy.aspx
XYZ School District Student Discipline Model Policy	Model policy for student discipline	http://www.schools.utah.gov/law/Model-Policies-and-Procedures/Student_Discipline_Plans_Model_Policy_11-08.aspx
Student Discipline Plans Model Template	Template for model policy for student discipline	http://www.schools.utah.gov/law/Model-Policies-and-Procedures/Student_Discipline_Plans_Model_Template_11-08.aspx
Model Student Suspension/Expulsion Policy	Model policy for suspension and expulsion	http://www.schools.utah.gov/law/Model-Policies-and-Procedures/Model_Suspension-Expulsion_Policy.aspx
Other Resources		
No relevant resources found		

Vermont
Compilation of School Discipline Laws and Regulations

Prepared: August 12, 2013

Introduction

This compilation presents school discipline-related state statutes, school discipline-related regulations, and, where available, links to state-sponsored websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSLE). For example, one major category encompasses all state laws or regulations mandating specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of state legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in each state.

Discipline categories were not mutually exclusive. Statutes and regulations often appeared across multiple categories. For states with more extensive statutes covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. State laws, ordered by chapter and section number, appear first within each category followed by state regulations. All statutes and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists statutes by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to state-sponsored websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of May 2013, with the exception of the state laws related to seclusion and restraint, which are complete and current as of December 2012. Readers should also note that the information in this document was compiled from individual state sources that are created by each state and which are maintained and updated with varying frequencies. Readers should consult the source information provided for each state directly in order to check for updates to this state's laws and regulations or conduct further research.

For further information, including definitions of the different policy categories, please refer to the Discipline Laws and Regulations Compendium posted on the Center's website.

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Safe Supportive Learning
Engagement | Safety | Environment

Table of Contents

Vermont State Codes Cited **1**

General Provisions **3**

Authority to develop and establish rules of conduct 3
Scope 4
Communication of policy 5

In-School Discipline **7**

Use of multi-tiered discipline approaches 7
Teacher authority to remove students from classrooms 7
Alternatives to suspension 7
Use of corporal punishment 7
Use of student and locker searches 7
Other in-school disciplinary approaches 7

Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements **8**

Grounds for possible suspension or expulsion 8
Grounds for mandatory suspension or expulsion 9
Limitations, conditions or exclusions for use of suspension and expulsion 9
Administrative procedures related to suspension and expulsion 9
In-school suspension 16
Return to school following removal 16
Use of restraint and seclusion 16
Alternative placements 23

Disciplinary Approaches Addressing Specific Infractions and Conditions **27**

Firearms (as required by the Guns-Free Schools Act) 27
Other weapons 27
Students with chronic disciplinary issues 27
Attendance and truancy 27
Substance use 28
Bullying, harassment, or hazing 29
Other special infractions or conditions 35

Prevention and Behavioral Interventions (Non-Punitive) **36**

Prevention 36
Behavioral interventions and student support services 37
Professional development 38

Monitoring and Accountability **40**

Formal incident reporting of conduct violations 40
Parental notification 42
Reporting and referrals between schools and law enforcement 43
Disclosure of school records 44
Data collection, review, and reporting of disciplinary policies and actions 45

School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers 47
Authority and power to implement school arrest 47
Certification or training 48
MOUs, authorization, and/or funding 48
State Education Agency Support 49
State model policies and implementation support 49
Funding appropriations 49
Other/Uncategorized 50
Professional immunity or liability 50
Community input or involvement 50
Other/Uncategorized 51
State-Sponsored, Publicly Available Websites or Other Resources on School Discipline 52

Vermont State Codes Cited

Vermont Revised Statutes

Title 16. Education

Chapter 1. Administration Generally

§ 11.	Classifications and definitions
§ 14.	Harassment; notice and response
§ 140b.	Unlawful conduct
§ 140c.	Civil penalty; judicial bureau; waiver penalty
§ 140d.	Criminal prosecution and civil action

Chapter 3. State Board of Education

§ 165.	Standards of quality for public schools; equal educational opportunities

Chapter 9. School Districts

§ 570.	Harassment, hazing, and bullying prevention policies
§ 570a.	Harassment
§ 570b.	Hazing
§ 570c.	Bullying

Chapter 23. Courses of Study

§909.	Tobacco use, alcohol and drug abuse prevention education curriculum

Chapter 25. Attendance and Discipline

§ 1125.	Truant officers
§ 1126.	Failure to attend; notice by teacher
§ 1127.	Notice and complaint by truant officer; penalty
§ 1128.	Legal pupil taken to school; nonresident child living in district
§ 1129.	Jurisdiction of nonresidents
§ 1161a.	Discipline
§ 1162.	Suspension or expulsion of pupils
§ 1163.	Transfer of suspension or expulsion to other schools
§ 1165.	Alcohol and drug abuse
§ 1166.	Possession of a firearm at school
§ 1167.	School resource officer; memorandum of understanding

Vermont Administrative Code

Agency 22. Department of Education

22 000 003.2120.8.12.	School facilities and the learning environment
22 000 036.4508.	Monitoring and corrective action
22 000 036.4506.	Annual notification
22 000 006.2365.1.6.17.	Expedited due process hearings
22 000 006.2365.1.8.	Finality of a due process hearing decision; appeal

22 000 036.4501.	Prohibitions
22 000 036.4502.	Permissible use of restraint and seclusion
22 000 036.4503.	Reporting the use of restraint and seclusion
22 000 036.4504.	Documentation
22 000 036.4505.	Debriefing following use of restraint or seclusion
22 000 036.4507.	Complaints and investigations
22 000 036.4508.	Monitoring and corrective action
22 000 036.4509.	State recommended training
22 000 036.4500.3.	Definitions
22 000 036.4500.2.	Applicability

Disciplinary Action

Section 4311	Procedures
Section 4312	Discipline procedures for children who are not eligible for special education services, but who are or may be qualified individuals with disabilities under Section 504 of The Rehabilitation Act of 1973 (29 U.S.C. § 794; 34 C.F.R. § 104 et seq.).
Section 4313	Discipline procedures for children eligible for special education services.

General Provisions

Authority to develop and establish rules of conduct

STATUTES

16 V.S.A.§570. Harassment, hazing, and bullying prevention policies.

(b) Prevention policies. -- Each school board shall develop, adopt, ensure the enforcement of and make available in the manner described under subdivision 563(1) of this title harassment, hazing, and bullying prevention policies that shall be at least as stringent as model policies developed by the commissioner. Any school board that fails to adopt one or more of these policies shall be presumed to have adopted the most current model policy or policies published by the commissioner.

(d) Duties of the commissioner. -- The commissioner shall:

(1) develop and, from time to time, update model harassment, hazing, and bullying prevention policies; and

(2) establish an advisory council to review and coordinate school and statewide activities relating to the prevention of and response to harassment, hazing, and bullying. The council shall report annually in January to the state board and the house and senate committees on education. […]

16 V.S.A.§1161a. Discipline.

(a) Each public and each approved independent school shall adopt and implement a comprehensive plan for responding to student misbehavior. To the extent appropriate, the plan shall promote the positive development of youth. The plan shall include:

(1) the school's approach to classroom management and response to disruptive behavior, including the use of alternative educational settings;

(2) the manner in which the school will provide information and training to students in methods of conflict resolution, peer mediation and anger management;

(3) procedures for informing parents of the school's discipline policies, for notifying parents of student misconduct, and for working with parents to improve student behavior;

(4) the school's response to significant disruptions, such as threats or use of bombs or weapons;

(5) a description of how the school will ensure that all staff and contractors who routinely have unsupervised contact with students periodically receive training on the maintenance of a safe, orderly, civil and positive learning environment. The training shall be appropriate to the role of the staff member being trained and shall teach classroom and behavior management, enforcement of the school's discipline policies and positive youth development models;

(6) a description of behaviors on and off school grounds which constitute misconduct, including harassment, bullying, and hazing, particularly those behaviors which may be grounds for expulsion. The plan shall include a description of misconduct as listed in subdivisions 11(a)(26)(A)-(C) and (32) of this title which, although serious, does not rise to the level of harassment or bullying as those terms are defined therein; and

(7) standard due process procedures for suspension and expulsion of a student.

16 V.S.A. § 1165. Alcohol and drug abuse

(c) Each school district shall adopt its own policy consistent with the state board's guidelines setting forth: recommended procedures for education; referral for treatment, counseling and rehabilitation; and standards consistent with due process of law for discipline, suspension or dismissal of students in accordance with section 1162 of this title. Nothing contained herein is intended to mandate local school districts to employ counselors for treatment or rehabilitation.

16.V.S.A.§ 1166. Possession of a firearm at school

(b) Each school board shall adopt and implement policies regarding a student who brings a firearm to or possesses a firearm at school which at a minimum shall include:

(1) A provision that any student who brings a firearm to or possesses a firearm at school shall be referred to a law enforcement agency. In addition to any other action the law enforcement agency may take, it may report the incident to the department for children and families.

(2) A provision that the superintendent or principal, with the approval of the school board following opportunity for a hearing, shall expel from the school for not less than one calendar year any student who brings a firearm to or possesses a firearm at school. However, the school board may modify the expulsion on a case by case basis. Modifications may be granted in circumstances such as but not limited to:

(A) The pupil is unaware that he or she has brought a firearm to or possessed a firearm at school.

(B) The pupil did not intend to use the firearm to threaten or endanger others.

(C) The pupil is disabled and the misconduct is related to the disability.

(D) The pupil does not present an ongoing threat to others and a lengthy expulsion would not serve the best interests of the pupil.

ADMINISTRATIVE CODE

22 000 003.2120.8.12. School Facilities and the Learning Environment.

(a) Each school shall maintain a safe, orderly, civil and positive learning environment, which is free from hazing, harassment and bullying and based on sound instructional and classroom management practices and clear discipline and attendance policies that are consistently and effectively enforced.

Scope

STATUTES

16 V.S.A.§1162. Suspension or expulsion of pupils.

(a) A superintendent or principal may, pursuant to policies adopted by the school board that are consistent with state board rules, suspend a pupil for up to 10 school days or, with the approval of the board of the school district, expel a pupil for up to the remainder of the school year or up to 90 school days, whichever is longer, for misconduct:

(1) on school property, on a school bus, or at a school-sponsored activity when the misconduct makes the continued presence of the pupil harmful to the welfare of the school;

(2) not on school property, on a school bus, or at a school-sponsored activity where direct harm to the welfare of the school can be demonstrated; or

(3) not on school property, on a school bus, or at a school-sponsored activity where the misconduct can be shown to pose a clear and substantial interference with another student's equal access to educational programs.

(b) Nothing contained in this section shall prevent a superintendent or principal, subject to subsequent due process procedures, from removing immediately from a school a pupil who poses a continuing danger to persons or property or an ongoing threat of disrupting the academic process of the school, or from expelling a pupil who brings a weapon to school pursuant to section 1166 of this title.

(c) Principals, superintendents, and school boards are authorized and encouraged to provide alternative education services or programs to students during any period of suspension or expulsion authorized under this section.

ADMINISTRATIVE CODE

22 000 036.4500.2. Applicability.

These rules are applicable to all learning environments that receive public funding, or over which the Vermont Department of Education has regulatory authority.

Communication of policy

STATUTES

16 V.S.A. § 14.Harassment; notice and response

(a) (1) An educational institution that receives actual notice of alleged conduct that may constitute harassment shall promptly investigate to determine whether harassment occurred. After receiving notice of the alleged conduct, the school shall provide a copy of its harassment policy, including its harassment investigation procedure, to the alleged victim and the alleged perpetrator. If either the alleged victim or the alleged perpetrator is a minor, the copy of the policy shall be provided to the person's parent or guardian […]

16 V.S.A.§570. Harassment, hazing, and bullying prevention policies.

(c) Notice. -- Annually, prior to the commencement of curricular and cocurricular activities, the school board shall provide notice of the policy and procedures developed under this subchapter to students, custodial parents or guardians of students, and staff members, including reference to the consequences of misbehavior contained in the plan required by section 1161a of this title. Notice to students shall be in age-appropriate language and should include examples of harassment, hazing, and bullying. At a

16 V.S.A.§1161a. Discipline.

(a) Each public and each approved independent school shall adopt and implement a comprehensive plan for responding to student misbehavior. To the extent appropriate, the plan shall promote the positive development of youth. The plan shall include:

(3) procedures for informing parents of the school's discipline policies, for notifying parents of student misconduct, and for working with parents to improve student behavior; minimum, this notice shall appear in any publication that sets forth the comprehensive rules, procedures, and standards of conduct for the school. The school board shall use its discretion in developing and initiating age-appropriate programs to inform students about the substance of the policy and procedures in order to help prevent harassment, hazing, and bullying. School boards are encouraged to foster opportunities for conversations between and among students regarding tolerance and respect.

ADMINISTRATIVE CODE

22 000 036.4506. Annual Notification.

Annually, at or before the beginning of the academic year, each school (defined in 4500.3(10)) shall inform all school personnel, and parents of students enrolled in the school of the policies pertaining to the use of physical restraint and seclusion and the intent to emphasize the use of positive behavioral interventions and supports and its intention to avoid the use of physical restraint or seclusion to address targeted student behavior.

In-School Discipline

Use of multi-tiered discipline approaches

No relevant statutes found.

Teacher authority to remove students from classrooms

No relevant statutes found.

Alternatives to suspension

No relevant statutes found.

Use of corporal punishment

STATUTES

16 V.S.A.§1161a. Discipline.

(b) For the purpose of this chapter, corporal punishment means the intentional infliction of physical pain upon the body of a pupil as a disciplinary measure.

(c) No person employed by or agent of a public or approved school shall inflict or cause to be inflicted corporal punishment upon a pupil attending the school or the institution. However, this section does not prohibit a person from using reasonable and necessary force:

(1) to quell a disturbance;

(2) to obtain possession of weapons or other dangerous objects upon the person of or within the control of a pupil;

(3) for the purpose of self defense; or

(4) for the protection of persons or property.

Use of student and locker searches

No relevant statutes found.

Other in-school disciplinary approaches

No relevant statutes found.

Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements

Grounds for possible suspension or expulsion

STATUTES

16 V.S.A.§1161a. Discipline.

(a) Each public and each approved independent school shall adopt and implement a comprehensive plan for responding to student misbehavior. To the extent appropriate, the plan shall promote the positive development of youth. The plan shall include:

(6) a description of behaviors on and off school grounds which constitute misconduct, including harassment, bullying, and hazing, particularly those behaviors which may be grounds for expulsion. The plan shall include a description of misconduct as listed in subdivisions 11(a)(26)(A)-(C) and (32) of this title which, although serious, does not rise to the level of harassment or bullying as those terms are defined therein; and

(7) standard due process procedures for suspension and expulsion of a student.

16 V.S.A.§1162. Suspension or expulsion of pupils.

(a) A superintendent or principal may, pursuant to policies adopted by the school board that are consistent with state board rules, suspend a pupil for up to 10 school days or, with the approval of the board of the school district, expel a pupil for up to the remainder of the school year or up to 90 school days, whichever is longer, for misconduct:

(1) on school property, on a school bus, or at a school-sponsored activity when the misconduct makes the continued presence of the pupil harmful to the welfare of the school;

(2) not on school property, on a school bus, or at a school-sponsored activity where direct harm to the welfare of the school can be demonstrated; or

(3) not on school property, on a school bus, or at a school-sponsored activity where the misconduct can be shown to pose a clear and substantial interference with another student's equal access to educational programs.

(b) Nothing contained in this section shall prevent a superintendent or principal, subject to subsequent due process procedures, from removing immediately from a school a pupil who poses a continuing danger to persons or property or an ongoing threat of disrupting the academic process of the school, or from expelling a pupil who brings a weapon to school pursuant to section 1166 of this title.

(c) Principals, superintendents, and school boards are authorized and encouraged to provide alternative education services or programs to students during any period of suspension or expulsion authorized under this section.

Grounds for mandatory suspension or expulsion

STATUTES

16.V.S.A.§ 1166. Possession of a firearm at school.

(a) In this section, the terms "to school" and "firearm" shall have the same meaning that the terms have in the 18 U.S.C. § 921. However, the school board may expand the definitions provided they remain consistent with federal law.

(b) Each school board shall adopt and implement policies regarding a student who brings a firearm to or possesses a firearm at school which at a minimum shall include:

(1) A provision that any student who brings a firearm to or possesses a firearm at school shall be referred to a law enforcement agency. In addition to any other action the law enforcement agency may take, it may report the incident to the department for children and families.

(2) A provision that the superintendent or principal, with the approval of the school board following opportunity for a hearing, shall expel from the school for not less than one calendar year any student who brings a firearm to or possesses a firearm at school. However, the school board may modify the expulsion on a case by case basis. Modifications may be granted in circumstances such as but not limited to:

(A) The pupil is unaware that he or she has brought a firearm to or possessed a firearm at school.

(B) The pupil did not intend to use the firearm to threaten or endanger others.

(C) The pupil is disabled and the misconduct is related to the disability.

(D) The pupil does not present an ongoing threat to others and a lengthy expulsion would not serve the best interests of the pupil.

(c) Annually at a time and on a form determined by the commissioner, each superintendent shall provide the commissioner with a description of the circumstances surrounding expulsions imposed under this section, the number of students expelled and the type of firearm involved.

Limitations, conditions or exclusions for use of suspension and expulsion

No relevant statutes found.

Administrative procedures related to suspension and expulsion

STATUTES

16 V.S.A.§1163. Transfer of suspension or expulsion to other schools.

(a) If a student transfers from one Vermont school to another, a Vermont public or independent school, following application by the student and a review of whether or not the school can provide the student with appropriate services, may choose to continue a suspension or expulsion imposed by the other Vermont public or independent school.

(b) During a period of suspension or expulsion imposed under section 1162 of this title, a student, or parent or guardian, shall not be subject to the provisions of subchapter 3 of this chapter regarding compulsory attendance at school unless the conditions of the suspension or expulsion include participation in a program in the school or an alternative program outside the school. Further, nothing in this section shall prohibit a suspended or expelled student from applying to a different Vermont public or independent school during the period of suspension or expulsion and attending if accepted.

(c) A school district which provides for the education of a suspended or expelled student by paying tuition to an approved public or independent school may, at the discretion of the school board, provide for the education of the student during the period of suspension or expulsion by paying tuition to another approved public or independent school.

ADMINISTRATIVE CODE

22 000 006.2365.1.6.17. Expedited Due Process Hearings.

(a) An expedited due process hearing procedure shall be available for disciplinary issues in accordance with Rule 4313.3.

(b) The expedited procedure shall provide a full due process hearing consistent with the requirements of Rules 2365.1.6.2(c) and (g), 2365.1.6.3, 2365.1.6.4, 2365.1.6.7, 2365.1.6.8, 2365.1.6.10 through 2365.1.6.16, but under a restricted time schedule as set out in subsections (c) - (j) of this section.

(c) Expedited hearings shall:

(1) Not exceed two days; and

(2) Be scheduled to be heard within 20 school days where the issue before the hearing officer will be whether there is a substantial likelihood of injury to self or others if the child is returned to the placement from which the child was removed.

(d) Upon being appointed, the hearing officer shall immediately arrange with the parties two days of hearing to occur within 20 school days of the filing of a complaint under Rule 2365.1.17(c)(2). At the same time, the hearing officer shall schedule an expedited resolution session to be held no later than seven days of the receipt of the written complaint. Unless the matter has been resolved to the satisfaction of both parties within 15 days of the receipt of the complaint, the due process hearing may proceed. The hearing officer shall schedule a prehearing conference prior to the hearing.

(e) At least five business days prior to the hearing, each party shall disclose to all other parties all evaluations completed by that date and evidence to be offered at the hearing, and recommendations based on the offering party's evaluations that the party intends to use at the hearing. Any party to the hearing has the right to request that the hearing officer prohibit the introduction of evidence at the hearing that has not been disclosed to that party at least five business days before the hearing.

(f) Except for the timelines in subsections (c)(2), (d), (e), and (i), the hearing officer may waive any of the procedures in this section in a case, but only to the extent necessary to preserve the full and fair nature of the due process hearing. At the agreement of both parties, the hearing officer may reduce the timelines in subsections (c)(2), (d), (e), and (h).

(g) The hearing officer shall render a decision, including findings of fact and conclusions of law.

(h) The hearing officer shall mail a written decision to the parties by first class mail within 10 school days following the hearing.

(i) Any party aggrieved by a decision of the hearing officer may appeal the decision as provided in Rule 2365.1.8.

22 000 006.2365.1.8. Finality of a Due Process Hearing Decision; Appeal.

(a) The decision of a hearing officer is final unless appealed to a state or federal court of competent jurisdiction within 90 days of the decision.

(b) Parties have right to appeal the hearing decision by filing a civil action in a federal district court or a state court of competent jurisdiction. An appeal from a due process hearing decision to a court of competent jurisdiction in accordance with Rule 2365.1.9 shall be commenced within 90 days from the notice of the final decision and not after.

PART 4300 DISCIPLINARY ACTION

Section 4311 Procedures.

When a student is subject to disciplinary action, the school district shall afford the student due process procedures as follows:

4311.1 In all cases of short-term suspension from school, which is generally regarded as 10 days or less, the student and his or her parent/guardian shall be given an opportunity for an informal hearing before an appropriately designated school official. Except for cases set forth in the last paragraph 4311.3, the hearing must precede the suspension and the district shall provide:

(1) notice of the charges;

(2) explanation of the evidence against the student;

(3) opportunity for the student to tell his or her side of the story;

(4) decision in writing to the parent/guardian.

4311.2 In cases of a long term suspension which is generally more than 10 days unless a school district establishes a shorter period, the student and his or her parent/guardian shall be given an opportunity for a formal hearing before the school board and the district shall provide:

(1) written notice of the following:

(a) nature of charges against the student;

(b) date, time and place of hearing;

(c) right to legal representation;

(d) possible penalties involved;

(2) opportunity to present evidence;

(3) opportunity to cross-examine witnesses;

(4) decision in writing to parent/guardian.

4311.3

(1) When a student, because of his or her conduct or condition, is an immediate threat to himself or herself, others, property or educational environment, the school district may take whatever action is appropriate under the circumstances, including, but not limited to, immediate suspension pending a hearing as soon as possible thereafter. In addition, in cases where a student brings a weapon (as defined in the federal Gun-Free School Act) to school, the school district must refer the student to a law enforcement agency and expel the student for a period of not less than one calendar year unless such expulsion is modified in accordance with the provisions of 16 V.S.A. § 1166(b)(2) in circumstances such as but not limited to:

(a) the student is unaware that he or she has brought a weapon to school,

(b) the student did not intend to use the weapon to threaten or endanger others,

(c) the student is disabled and the misconduct is related to the disability,

(d) the student does not present an ongoing threat to others and a lengthy expulsion would not serve the best interest of the student.

(2) In situations where a student with a disability brings a weapon to school, the provisions of regulation 4312(2) shall apply. In any such situation, an opportunity for a hearing prior to an expulsion must be provided prior to the expulsion, pursuant to 16 V.S.A. § 1166(b)(2).

Section 4312 Discipline Procedures for Children Who are Not Eligible for Special Education Services, but Who Are or May Be Qualified Individuals with Disabilities under Section 504 of The Rehabilitation Act of 1973 (29 U.S.C. § 794; 34 C.F.R. § 104 et seq.).

In addition to the general disciplinary procedures found within Rule 4311, and in accordance with 34 C.F.R. §104.36, the following procedures apply to children who are qualified individuals with disabilities as defined by Section 504 of the Rehabilitation Act of 1973 (hereinafter Section 504).

(1) A Section 504 child shall not be removed from his or her current educational placement for disciplinary reasons for more than 10 consecutive school days in a school year unless the following procedures have been completed:

(a) Are-evaluation, as defined by 34 C.F.R. §104.35; and

(b) A determination by the child's Section 504 team that the conduct is not a manifestation of his or her disability.

(2) A Section 504 child shall not be removed from his or her current educational placement for disciplinary reasons for more than 10 cumulative days in a school year when the removals constitute a change in placement as defined in Rule 2360.2(d)(1) unless the following procedures have been completed:

(a) Are-evaluation, as defined by 34 C.F.R. §104.35; and

(b) A determination by the child's Section 504 team that the conduct is not a manifestation of his or her disability.

(3) When it is determined by a child's 504 team that the conduct is not a manifestation of the child's qualifying disability, the child may be disciplined in the same manner, and subject to the same disciplinary consequences, as a non-disabled child, including suspension or expulsion without the provision of services.

(4) When it is determined by a child's Section 504 team that the conduct is a manifestation of his or her qualifying disability, a change in program or placement may be implemented by the child's Section 504 team and the child's Section 504 team may respond to the conduct by designing, amending and/or enforcing a plan of behavior management.

(5) If, at the time of the occurrence of conduct that gives rise to consideration of removal of a child from his or her current educational placement for more than 10 consecutive school days in a school year, the child is believed to be a qualified individual with a disability under Section 504, a Section 504 evaluation shall be completed prior to imposition of the removal.

(a) If the evaluation results in a determination that the child is a qualified individual with a disability under Section 504, the discipline procedures in this rule shall be followed.

(b) If the evaluation results in a determination that the child is not a qualified individual with a disability under Section 504, the discipline procedures in Rule 4311 shall be followed.

(6) If, at the time of the occurrence of conduct that gives rise to consideration of removal of a child who is believed to be a qualified individual with a disability under Section 504 for more than 10 cumulative school days in a school year, and the removals constitute a change in placement as defined in Rule 2360.2(d)(1), a Section 504 evaluation shall be completed prior to imposition of the removal.

(a) If the evaluation results in a determination that the child is a qualified individual with a disability under Section 504, the discipline procedures in this rule shall be followed.

(b) If the evaluation results in a determination that the child is not a qualified individual with a disability under Section 504, the discipline procedures in Rule 4311 shall be followed.

(7) If a child who is a qualified individual under Section 504 possesses or carries a weapon, as defined in Rule 4313.9(a), to school or at a school function, he or she may be placed in an interim alternative educational setting (IAES) in accordance with the procedures set forth in Rule 4313.9 and Rule 1253. The

child's 504 team shall determine the IAES, and the services provided in the IAES, in accordance with the procedures set forth in Rule 4313.9. It is the intent of this section to discipline a child who is a qualified individual under Section 504 in the same manner as children who are eligible for special education when they possess weapons at school or at school functions.

(8) When a parent disagrees with disciplinary action taken by a LEA, the parent may request an impartial due process hearing, and the procedures in Rules 2365.1.6(c) through 2365.1.9 shall apply. In addition to or in lieu of a due process hearing a parent may file a complaint with the U.S. Department of Education Office for Civil Rights.

(9) A hearing officer may order a change in the placement of a child who is a qualified individual under Section 504 to an appropriate IAES for not more than 45 calendar days, if the hearing officer, in an expedited due process hearing:

(a) Determines that the LEA has demonstrated by substantial evidence, which for purposes of this section shall mean a preponderance of the evidence, that maintaining the current placement of the child is substantially likely to result in injury to the child or others;

(b) Considers the appropriateness of the child's current placement;

(c) Considers whether the LEA has made reasonable efforts to minimize the risk of harm in the child's current placement, including the use of supplementary aids and services; and

(d) Determines that the IAES that is proposed by school personnel will enable the child to continue to progress in the general curriculum. The services provided to and modifications made for the child in the IAES shall be designed to address and prevent the child's offending behavior.

(10) This Rule (4312) shall not apply when a responsible agency takes disciplinary action against a Section 504 child if:

(a) The misconduct for which the child is being disciplined pertains to the use or possession of illegal drugs or alcohol at school or at a school function; and

(b) The child is currently engaging in the use of alcohol or illegal drugs.

In this instance, the Section 504 child shall be disciplined in accordance with Rule 4311.

Section 4313 Discipline Procedures for Children Eligible for Special Education Services.

In addition to the general disciplinary procedures found within Rule 4300, the following procedures apply to children eligible for special education services:

4313.1 Authority of School Personnel.

(a) Case-by-case determination. School personnel may consider any unique circumstances on a case-by-case basis when determining whether a change in placement, consistent with the requirements of this section, is appropriate for a child with a disability who violates a code of child conduct.

(c) Additional authority. For disciplinary changes in placement that would exceed 10 consecutive school days, if the behavior that gave rise to the violation of the school code is determined not to be a manifestation of the child’s disability pursuant toparagraph (e) of this section, school personnel in consultation with the special education administrator may apply the relevant disciplinary procedures to children with disabilities in the same manner and for the same duration as the procedures would be applied to children without disabilities, except as provided in paragraph (d) of this section.

(e) Manifestation determination

(1) Except for removals that will be for not more than 10 consecutive school days and will not constitute a change of placement under Rule 4313.7, within 10 school days of any decision to change the placement of a child with a disability because of a violation of a code of child conduct, the LEA, the parent, and relevant members of the child's IEP Team (as determined by the parent and the LEA) shall

review all relevant information in the child's file, including the child's IEP, any teacher observations, and any relevant information provided by the parents to determine--

(i) If the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability; or

(ii) If the conduct in question was the direct result of the LEA's failure to implement the IEP.

(2) The conduct shall be determined to be a manifestation of the child's disability if the LEA, the parent, and relevant members of the child's IEP Team determine that a condition in either paragraph (e)(1)(i) or (1)(ii) of this section was met.

(f) Determination that behavior was a manifestation. If the LEA, the parent, and relevant members of the IEP Team make the determination that the conduct was a manifestation of the child's disability, the IEP Team shall--

(1) Either-

(i) Conduct a functional behavioral assessment, unless the LEA had conducted a functional behavioral assessment before the behavior that resulted in the change of placement occurred, and implement a behavioral intervention plan for the child; or

(ii) If a behavioral intervention plan already has been developed, review the behavioral intervention plan, and modify it, as necessary, to address the behavior; and

(2) Except as provided in paragraph (g) of this section, return the child to the placement from which the child was removed, unless the parent and the LEA agree to a change of placement as part of the modification of the behavioral intervention plan.

4313.2 Determination of Setting.

The interim alternative educational setting referred to in Rule 4313.1(c) and (g) is determined by the IEP Team.

4313.3 Appeal.

(a) General. The parent of a child with a disability who disagrees with any decision regarding placement under Rules 4313.1 and 4313.2, or the manifestation determination under Rule 4313.1 (e), or an LEA that believes that maintaining the current placement of the child is substantially likely to result in injury to the child or others, may request a hearing.

(b) Authority of hearing officer.

(1) A hearing officer in an impartial due process hearing hears, and makes a determination regarding, an appeal requested under paragraph (a) of this section.

(2) In making the determination under paragraph (b)(1) of this section, the hearing officer may--

(i) Return the child with a disability to the placement from which the child was removed if the hearing officer determines that the removal was a violation of Rule 4313.1 or that the child's behavior was a manifestation of the child's disability; or

(ii) Order a change of placement of the child with a disability to an appropriate interim alternative educational setting for not more than 45 school days if the hearing officer determines that maintaining the current placement of the child is substantially likely to result in injury to the child or to others.

(3) The procedures under paragraphs (a) and (b)(1) and (2) of this section may be repeated, if the LEA believes the child would be dangerous if returned to the original placement.

(c) Expedited hearing.

(1) Whenever a hearing is requested under paragraph (a) of this section, the procedures of Rule 2365.1.6.17 shall be followed and the parents and LEA involved in the dispute shall have an opportunity for an impartial due process hearing consistent with the requirements of the rules relating to

Resolution Sessions and Impartial Due Process Hearings, except as provided in paragraph (c)(2) through (5) of this section.

(2) The LEA shall arrange for an expedited hearing, which shall occur within 20school days of the date the hearing is requested and shall result in a determination within 10 school days after the hearing.

(3) Except as provided in a written waiver of the resolution session or in an agreement to mediate

(i) A resolution session meeting shall occur within seven days of the date the hearing is requested, and

(ii) The hearing may proceed unless the matter has been resolved to the satisfaction of both parties within 15 days of receipt of the hearing request.

(4) The decisions on expedited due process hearings are appealable consistent with those rules associated with due process hearing appeals.

4313.4 Placement During Appeals.

When an appeal under Rule 4313.3 has been requested by either the parent or the LEA, the child shall remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the time period provided for in Rule 4313.1(c) or (g), whichever occurs first, unless the parent and the SEA or LEA agree otherwise.

4313.5 Protections for Children not yet Eligible for Special Education and Related Services.

(a) General. A child who has not been determined to be eligible for special education and related services under this part and who has engaged in behavior that violated a code of child conduct, may assert any of the protections provided for in this part if the LEA had knowledge (as determined in accordance with paragraph (b) of this section) that the child was a child with a disability before the behavior that precipitated the disciplinary action occurred.

(b) Basis of knowledge. An LEA shall be deemed to have knowledge that a child is a child with a disability if before the behavior that precipitated the disciplinary action occurred--

(1) The parent of the child expressed concern in writing to supervisory or administrative personnel of the appropriate educational agency, or a teacher of the child, that the child is in need of special education and related services;

(2) The parent of the child requested an evaluation of the child pursuant to the rules relating to Procedures for Evaluation and Determination of Eligibility; or

(3) The teacher of the child, or other personnel of the LEA, expressed specific concerns about a pattern of behavior demonstrated by the child directly to the director of special education of the agency or to other supervisory personnel of the agency in accordance with the agency's established child find or special education referral system.

(c) Exception. A LEA would not be deemed to have knowledge under paragraph (b) of this section and the child would not receive special education protections available only to children with a disability or suspected of having a disability, if:

(1) The parent of the child:

(i) Has not allowed an evaluation of the child pursuant to special education evaluation procedures; or

(ii) Has refused services under this part; or

(2) The child has been evaluated and determined not to be a child eligible for special education.

(d) Conditions that apply if no basis of knowledge.

(1) If an LEA does not have knowledge that a child is a child with a disability (in accordance with paragraphs (b) and (c) of this section) prior to taking disciplinary measures against the child, the child

may be subjected to the disciplinary measures applied to children without disabilities who engaged in comparable behaviors consistent with paragraph (d)(2) of this section.

(2) (i) If a request is made for an evaluation of a child during the time period in which the child is subjected to disciplinary measures under Rule 4313.1, the evaluation shall be conducted in an expedited manner.

(ii) Until the evaluation is completed, the child remains in the educational placement determined by school authorities, which can include suspension or expulsion without educational services.

(iii) If the child is determined to be a child with a disability, taking into consideration information from the evaluation conducted by the agency and information provided by the parents, the agency shall provide special education and related services in accordance with this part, including the requirements of Rules 4313.1 through 4313.7 and Section 1412(a)(1)(A) of the Individuals with Disabilities Education Improvement Act, as amended.

In-school suspension

No relevant statutes found.

Return to school following removal

No relevant statutes found.

Use of restraint and seclusion

STATUTES

16.V.S.A.§1167. School resource officer; memorandum of understanding.

(a) Neither the state board nor the department shall regulate the use of restraint and seclusion on school property by a school resource officer certified pursuant to 20 V.S.A. § 2358.

(b) School boards and law enforcement agencies are encouraged to enter into memoranda of understanding relating to:

(1) the possession and use of weapons and devices by a school resource officer on school property; and

(2) the nature and scope of assistance that a school resource officer will provide to the school system.

ADMINISTRATIVE CODE

22 000 036.4500.3. Definitions.

For purposes of these rules, the following definitions apply:

1. Behavioral Intervention Plan means a plan that details strategies to address behaviors that impede learning, or are ongoing, and do not readily respond to general intervention or classroom management techniques, by teaching pro-social skills and other positive replacement behaviors. The plan may include positive strategies, program or curricular modifications, and supplementary aids and supports required to address problem behaviors.

2. Chemical Restraint means a drug, medication or chemical used on a student to control behavior or restrict movement that is not:

a. Prescribed by a student's licensed physician for the standard treatment of a student's medical or psychiatric condition; and

b. Administered as prescribed by the licensed physician.

3. Functional Behavioral Assessment means the analysis of a student's behavior patterns before, during, and after rule-breaking or other inappropriate behavior for the purpose of guiding the development of a behavioral intervention plan.

4. Mechanical Restraint means the use of any device or object that restricts a student's movement or limits a student's sensory or motor functions unless under the direction of a healthcare professional for medical or therapeutic purposes.

The term does not include devices implemented by trained school personnel, or utilized by a student for the specific and approved therapeutic and safety purposes for which such devices were designed including:

a. Restraints for medical immobilization,

b. Adaptive devices or mechanical supports used to achieve proper body position, balance or alignment;

c. Vehicle safety restraints including a seat belt or harness used for balance or safety on a car or bus; or

d. Seat belts in wheelchairs or on toilets.

7. Physical Restraint means the use of physical force to prevent an imminent and substantial risk of bodily harm to the student or others. Physical restraint does not include:

a. Momentary periods of physical restriction by direct person-to-person contact, accomplished with limited force and designed either

i. to prevent a student from completing an act that would result in potential physical harm to himself/herself or another person; or

ii. to remove a disruptive student who is unwilling to leave the area voluntarily;

b. The minimum contact necessary to physically escort a student from one place to another;

c. Hand-over-hand assistance with feeding or task completion; or

d. Techniques prescribed by a qualified medical professional for reason of safety or for therapeutic or medical treatment.

8. Positive Behavioral Interventions and Supports means an approach to preventing and responding to targeted behavior that:

a. Is based on evidence-based practices;

b. Is proactive and instructional, rather than reactive;

c. Can operate on individual, group, classroom, or school wide levels;

d. Includes a system of continual data collection; and

e. Relies on data-driven decisions.

9. Prone Physical Restraint means holding a student face down on his or her stomach using physical force for the purpose of controlling the student's movement.

12. Seclusion means the confinement of a student alone in a room or area from which the student is prevented or reasonably believes he or she will be prevented from leaving. Seclusion does not include time-out where a student is not left alone and is under adult supervision.

22 000 036.4501. Prohibitions.

4501.1 School personnel and contract service providers are prohibited from imposing on a student any of the following as defined in rule 4500.3:

a. Mechanical restraint,

b. Chemical restraint,

c. Any physical restraint, escort or seclusion that restricts or limits breathing or communication, causes pain or is imposed without maintaining direct visual contact.

4501.2 Physical restraint or seclusion shall not be used:

a. For convenience of staff;

b. As a substitute for an educational program;

c. As a form of discipline or punishment;

d. As a substitute for inadequate staffing or training;

e. In response to a student's use of profanity or other verbal or gestural display of disrespect; or

f. In response to a verbal threat unaccompanied by demonstrated means of or intent to carry out the threat.

4501.3 The restraints and seclusion prohibited by these Rules shall not be considered "reasonable and necessary force" as that term is used in 16 VSA §1161a(c).

4501.4 Schools may have policies and procedures for the use of physical restraint and seclusion in school-wide safety plans, provided such plans are consistent with these Rules.

22 000 036.4502. Permissible Use of Restraint and Seclusion.

4502.1 Permissible Use of Physical Restraint

Physical restraint, not otherwise prohibited by these Rules, may be used only:

a. When a student's behavior poses an imminent and substantial risk of physical injury to the student or others;

b. Within the limits set forth in 16 VSA § 1161 a;

c. Less restrictive interventions have failed or would be ineffective in stopping such imminent danger of physical injury or property damage;

d. In accordance with a school-wide safety plan that is consistent with these rules; and

e. In a manner that is safe, proportionate to and sensitive to the student's:

i. Severity of behavior;

ii. Chronological and developmental age;

iii. Physical size;

iv. Gender;

v. Ability to communicate;

vi. Cognitive ability; and

vii. Known physical, medical, psychiatric condition, and personal history, including any history of physical, emotional or sexual abuse or trauma.

4502.1.1 Prone and supine physical restraints are more restrictive than other forms of physical restraint and may be used only when the student's size and severity of behavior require such a restraint because a less restrictive restraint has failed or would be ineffective to prevent harm to the student or others.

4502.2 Permissible Use of Seclusion

Seclusion, not otherwise prohibited by these rules, may be used only:

a. When a student's behavior poses an imminent and substantial risk of physical injury to the student or others;

b. When less restrictive interventions have failed or would be ineffective in stopping such imminent risk of physical injury;

c. As a temporary intervention;

d. When physical restraint is contraindicated;

e. When there is no known developmental, medical, psychological or other contraindication to its use;

f. When the student is visually monitored at all times by an adult; and

g. In a space large enough to permit safe movement that is adequately lit, heated, ventilated, free of sharp or otherwise dangerous objects; and in compliance with all fire and safety codes.

4502.3 In rare circumstances where the use of physical restraint or seclusion may be necessary due to a student's pattern of dangerous behavior that is not responsive to less restrictive interventions, physical restraint and/or seclusion may be included in an individual safety plan only if all of the following conditions apply:

a. School personnel have reviewed and agreed to the safety plan;

b. The use of physical restraint and seclusion complies with these Rules;

c. The student has a documented history showing a series of behaviors in the preceding six (6) months that have created an imminent and substantial risk of physical injury to the student or others in the school;

d. A comprehensive, data-driven, functional behavioral assessment has been conducted;

e. A behavioral intervention plan, emphasizing positive behavioral interventions and supports, has been implemented;

f. The educational planning team, IEP team or Section 504 team has reviewed the student's program and placement to determine whether it is sufficient to meet the student's unique needs;

g. The criteria for use are clearly identified;

h. Any contraindications for use are identified;

i. Staff implementing the individual safety plan have received training from a state- recommended training program;

j. The parents are fully informed of the inherent risks of using restraint and seclusion;

k. The parents provide informed consent to the use of restraint and/or seclusion, which shall be revocable at any time; and

l. The ongoing need for an individual safety plan is reviewed and revised, as appropriate, and in any event at least annually.

4502.3.1 Any restraint or seclusion imposed as a result of an individual safety plan is subject to all the reporting, documentation and debriefing requirements set forth in 4503, 4504 and 4505 below.

4502.4 Physical restraint or seclusion shall only be imposed:

a. By school personnel or contract service providers who have been trained to provide the selected intervention unless, due to the unforeseeable nature of the danger of the circumstance, trained personnel are not immediately available;

a. When a restrained student is monitored face-to-face by school personnel or contract service providers; or

b. If personnel safety is significantly compromised by face-to-face monitoring, or the student is in seclusion, school personnel or a contract service provider are in direct visual contact with the student.

4502.5 Physical restraint or seclusion shall be terminated as soon as:

a. The student demonstrates that he/she is in unnecessary pain or significant physical distress indicating a possible need for emergency medical assistance or that his/her breathing or communication is compromised; or

b. The student's behavior no longer poses an imminent danger of physical injury to the student or others or danger to property; or

c. Less restrictive interventions would be effective in stopping such imminent danger of physical injury or property damage.

4502.6 Following termination of any physical restraint or seclusion, the student shall be evaluated and monitored for the remainder of the school day on which physical restraint or seclusion is imposed. The evaluation shall include a routine physical/medical assessment conducted by someone not involved in the restraint or seclusion, and documentation of any injury received by the student as a result of the restraint or seclusion.

22 000 036.4503. Reporting the Use of Restraint and Seclusion.

4503.1 To the School Administrator.

Any person who imposes a restraint or seclusion shall report its use to the school administrator as soon as possible, but in no event later than the end of the school day of its use.

4503.2 To Parents.

a. The school administrator shall make a documented attempt to provide verbal or electronic notice of any incident of restraint or seclusion to the student's parents (as defined in 4500.3(13)) as soon as practical but in no event later than the end of the school day of its use; and

b. Shall provide written notice to the parents within 24 hours of each use of restraint or seclusion that includes:

i. The date and time of its use;

ii. A description of the restraint and other intervention used;

iii. The date and time when the debriefing session will occur; including notice that the parents have the opportunity to participate in the debriefing; and

iv. The name and telephone number of the contact person who can provide further information.

4503.3 To the Superintendent.

The school administrator shall report the use of restraint or seclusion to the superintendent of the Supervisory Union whenever:

a. There is death, injury or hospitalization to staff or student as a result of a restraint or seclusion; or

b. An individual employee or contracted service provider has engaged in the use of physical restraint or seclusion three (3) separate times on one (1) or more students; or

c. Physical restraint has been used for more than fifteen (15) minutes; or

d. Any student has been restrained or secluded three (3) or more times per school year; or

e. A student has been restrained or secluded more than once in a school day; or

f. A student is restrained or secluded who is not on a behavioral intervention plan; or

g. Restraint or seclusion has been used in violation of these rules, including the use of any prohibited form of restraint.

Reports to the Superintendent shall be made within three school days of the incident that requires reporting and shall include all the information set forth in Rule 4504 required of a written record of each use of restraint or seclusion.

4503.3.1 Learning environments other than public schools shall fulfill this reporting requirement by reporting to the Superintendent of the Supervisory Union that is the LEA or sending district for the student. If there is no sending district or LEA, this requirement shall be fulfilled by reporting to the Commissioner of the Department of Education in accordance with Rule 4503.4.

4503.4 To the Commissioner of the Department of Education.

The Superintendent of the supervisory union shall report the use of restraint or seclusion to the Commissioner of the Department of Education within three (3) school days of receipt of a report indicating any the following:

a. There is death, injury requiring outside medical treatment or hospitalization to staff or student as a result of a restraint or seclusion; or

b. Physical restraint or seclusion has been used for more than thirty (30) minutes or

c. Physical restraint or seclusion has been used in violation of these rules, including the use of any prohibited restraint or seclusion.

The report shall include all the information set forth in Rule 4504 required of a written record of each use of restraint or seclusion.

22 000 036.4504. Documentation.

Each school shall maintain written records of each use of restraint and seclusion. The records shall be maintained by the school administrator and shall include the following:

a. The name, age, gender and grade of the student;

b. The date, time and duration of the restraint or seclusion;

c. Any injuries, death or hospitalization to student or staff resulting from the use of restraint or seclusion;

d. The location where the restraint or seclusion occurred;

e. The precipitating event[s] leading up to the restraint or seclusion;

f. A list of school personnel who participated in the application, monitoring and supervision of the student while restrained or secluded;

g. The type of restraint or seclusion used;

h. The reason for the restraint or seclusion;

i. A description of all the interventions used prior to the application of the restraint or seclusion;

j. Whether the student has a behavioral intervention plan and/or individualized education plan, Section 504 plan or educational support plan; and

k. The date notification was provided to the student's parents.

22 000 036.4505. Debriefing Following Use of Restraint or Seclusion.

Following each incident of restraint or seclusion, the school administrator shall implement follow-up procedures that include:

a. Within two (2) school days, a proper staff person reviewing the incident with the student in a manner appropriate to the student's age and developmental ability, to discuss the behavior[s] that precipitated the use of restraint or seclusion;

b. Within two (2) school days, reviewing the incident with the staff person(s) who administered the restraint or seclusion to discuss whether proper restraint or seclusion procedures were followed, including the use of proper procedures to prevent the need for restraint or seclusion;

c. An opportunity for parents to participate in the review of an incident of restraint or seclusion within four (4) school days:

i. Parents shall receive prior written (including e-mail) notice of the review meeting; and

ii. The meeting shall be convened at a mutually acceptable time and place; and

d. Determining, in consultation with the parents, any specific follow up actions to be taken.

22 000 036.4506. Annual Notification.

Annually, at or before the beginning of the academic year, each school (defined in 4500.3(10)) shall inform all school personnel, and parents of students enrolled in the school of the policies pertaining to the use of physical restraint and seclusion and the intent to emphasize the use of positive behavioral interventions and supports and its intention to avoid the use of physical restraint or seclusion to address targeted student behavior.

22 000 036.4507. Complaints and Investigations.

4507.1 Filing a Complaint

a. A parent (as defined in 4500.3(13)) or school personnel may file a complaint regarding the use of restraint or seclusion at any time in accordance with school district policy.

b. The complaint shall be in writing and shall be directed to the principal, director or administrator of the school in which the student participates.

c. If the person filing the complaint is unable to submit the complaint in writing, the recipient of the complaint shall complete the form based on a verbal complaint. In this case, the complainant shall be provided with a copy of the complaint.

4507.2 Investigation

All complaints shall be investigated by the school or district and written findings issued within thirty (30) days;

4507.3 Unresolved Complaints

Unresolved complaints shall be directed to the superintendent of the Supervisory Union where the student resides in accordance with the school board's established complaint process. A student on an individualized education plan (IEP) or Section 504 Plan may also use the dispute resolution options available under Rules 2365.1.4 - 2365.1.6, if appropriate.

22 000 036.4508. Monitoring and Corrective Action.

The commissioner of the Department of Education shall review reports received pursuant to Rule 4503.4 and identify those schools in need of additional training and, when those reports reflect an over-use of these interventions, shall direct the school to work with the department to develop a corrective action plan.

22 000 036.4509. State Recommended Training.

The Department of Education shall maintain a directory of recommended physical restraint training programs, which must include at least the following elements:

a. Appropriate procedures for preventing the need for physical restraint, including the de-escalation of dangerous behavior, relationship-building, and the use of alternatives to physical restraint;

b. Identification of dangerous behaviors that may indicate the need for physical restraint and methods for evaluating the risk of harm to determine if physical restraint is warranted;

c. Simulated experience in administering and in receiving a variety of physical restraint techniques, across a range of increasingly restrictive interventions;

d. Instruction regarding the effects of physical restraint on the person restrained, including monitoring physical signs of distress and how to obtain medical assistance;

e. Instruction regarding investigation of injuries and complaints.

A school may use a training program that is not on the state recommended list if it submits a plan to the Commissioner of Education demonstrating how that training program meets the purposes of these Rules and contains the elements listed above.

Alternative placements

STATUTES

16 V.S.A.§1162. Suspension or expulsion of pupils.

(c) Principals, superintendents, and school boards are authorized and encouraged to provide alternative education services or programs to students during any period of suspension or expulsion authorized under this section.

ADMINISTRATIVE CODE

Section 4312 Discipline Procedures for Children Who are Not Eligible for Special Education Services, but Who Are or May Be Qualified Individuals with Disabilities under Section 504 of The Rehabilitation Act of 1973 (29 U.S.C. § 794; 34 C.F.R. § 104 et seq.).

(7) If a child who is a qualified individual under Section 504 possesses or carries a weapon, as defined in Rule 4313.9(a), to school or at a school function, he or she may be placed in an interim alternative educational setting (IAES) in accordance with the procedures set forth in Rule 4313.9 and Rule 1253. The child's 504 team shall determine the IAES, and the services provided in the IAES, in accordance with the procedures set forth in Rule 4313.9. It is the intent of this section to discipline a child who is a qualified individual under Section 504 in the same manner as children who are eligible for special education when they possess weapons at school or at school functions.

Section 4313 Discipline Procedures for Children Eligible for Special Education Services.

4313.1 Authority of School Personnel.

(a) Case-by-case determination. School personnel may consider any unique circumstances on a case-by-case basis when determining whether a change in placement, consistent with the requirements of this section, is appropriate for a child with a disability who violates a code of child conduct.

(b) General.

(1) Under this section, the school principal/designee, in consultation with the special education case manager may remove a child with a disability who violates a code of child conduct from their current placement to an appropriate interim alternative educational setting, another setting, or suspension, for not more than 10 consecutive school days (to the extent those alternatives are applied to children without disabilities), and for additional removals of not more than 10 consecutive school days in that same school year for separate incidents of misconduct (as long as those removals do not constitute a change of placement under Rule 4313.7).

(2) After a child with a disability has been removed from his or her current placement for 10 school days in the same school year, during any subsequent days of removal the LEA shall provide services to the extent required under paragraph (d) of this section.

(c) Additional authority. For disciplinary changes in placement that would exceed 10 consecutive school days, if the behavior that gave rise to the violation of the school code is determined not to be a manifestation of the child’s disability pursuant toparagraph (e) of this section, school personnel in consultation with the special education administrator may apply the relevant disciplinary procedures to

children with disabilities in the same manner and for the same duration as the procedures would be applied to children without disabilities, except as provided in paragraph (d) of this section.

(d) Services.

(1) Except as provided in paragraphs (d)(3) and (d)(4) of this section, a child with a disability who is removed from the child's current placement pursuant to paragraphs (b), (c), or (g) of this section shall--

(i) Continue to receive educational services, so as to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP; and

(ii) Receive, as appropriate, a functional behavioral assessment, and behavioral intervention services and modifications, which are designed to address the behavior violation so that it does not recur.

(2) The services required by paragraph (d)(1) of this section may be provided in an interim alternative educational setting.

(3) A LEA need not provide services during periods of removal under paragraph (b) of this section to a child with a disability who has been removed from his or her current placement for 10 school days or less in that school year, if services are not provided to a child without disabilities who has been similarly removed.

(4) After a child with a disability has been removed from his or her current placement for 10 school days in the same school year, if the current removal is for not more than 10 consecutive school days and is not a change of placement under Rule 4313.7, school personnel, in consultation with the child's special education case manager, determine the extent to which services are needed under paragraph (d)(1) of this section, if any, and the location in which services, if any, will be provided.

(5) If the removal is for more than 10 consecutive school days or is a change of placement under Rule 4313.7, the child's IEP Team determines appropriate services under paragraph (d)(1) of this section and the location in which services will be provided.

(e) Manifestation determination

(1) Except for removals that will be for not more than 10 consecutive school days and will not constitute a change of placement under Rule 4313.7, within 10 school days of any decision to change the placement of a child with a disability because of a violation of a code of child conduct, the LEA, the parent, and relevant members of the child's IEP Team (as determined by the parent and the LEA) shall review all relevant information in the child's file, including the child's IEP, any teacher observations, and any relevant information provided by the parents to determine--

(i) If the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability; or

(ii) If the conduct in question was the direct result of the LEA's failure to implement the IEP.

(2) The conduct shall be determined to be a manifestation of the child's disability if the LEA, the parent, and relevant members of the child's IEP Team determine that a condition in either paragraph (e)(1)(i) or (1)(ii) of this section was met.

(f) Determination that behavior was a manifestation. If the LEA, the parent, and relevant members of the IEP Team make the determination that the conduct was a manifestation of the child's disability, the IEP Team shall--

(1) Either-

(i) Conduct a functional behavioral assessment, unless the LEA had conducted a functional behavioral assessment before the behavior that resulted in the change of placement occurred, and implement a behavioral intervention plan for the child; or

(ii) If a behavioral intervention plan already has been developed, review the behavioral intervention plan, and modify it, as necessary, to address the behavior; and

(2) Except as provided in paragraph (g) of this section, return the child to the placement from which the child was removed, unless the parent and the LEA agree to a change of placement as part of the modification of the behavioral intervention plan.

(g) Special circumstances. School personnel may remove a child to an interim alternative educational setting for not more than 45 school days without regard to whether the behavior is determined to be a manifestation of the child's disability, if the child--

(1) Carries a weapon to or possesses a weapon at school, on school premises, or to or at a school function under the jurisdiction of an SEA or an LEA;

(2) Knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance, while at school, on school premises, or at a school function under the jurisdiction of an SEA or an LEA; or

(3) Has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of an SEA or an LEA.

(h) Notification. Not later than the date on which the decision to take disciplinary action is made, the LEA must notify the parents of that decision, and provide the parents a copy of their Parents' Rights in Special Education.

4313.2 Determination of Setting.

The interim alternative educational setting referred to in Rule 4313.1(c) and (g) is determined by the IEP Team.

4313.3 Appeal.

(b) Authority of hearing officer.

(1) A hearing officer in an impartial due process hearing hears, and makes a determination regarding, an appeal requested under paragraph (a) of this section.

(2) In making the determination under paragraph (b)(1) of this section, the hearing officer may--

(i) Return the child with a disability to the placement from which the child was removed if the hearing officer determines that the removal was a violation of Rule 4313.1 or that the child's behavior was a manifestation of the child's disability; or

(ii) Order a change of placement of the child with a disability to an appropriate interim alternative educational setting for not more than 45 school days if the hearing officer determines that maintaining the current placement of the child is substantially likely to result in injury to the child or to others.

(3) The procedures under paragraphs (a) and (b)(1) and (2) of this section may be repeated, if the LEA believes the child would be dangerous if returned to the original placement.

4313.4 Placement During Appeals.

When an appeal under Rule 4313.3 has been requested by either the parent or the LEA, the child shall remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the time period provided for in Rule 4313.1(c) or (g), whichever occurs first, unless the parent and the SEA or LEA agree otherwise.

4313.7 Change of Placement because of Disciplinary Removals.

For purposes of removals of a child with a disability from the child's current educational placement under Rules 4313.1 through 4314.4, a change of placement occurs if:

(a) The removal is for more than 10 consecutive school days; or

(b) The child has been subjected to a series of removals that constitute a pattern--

(1) Because the series of removals total more than 10 school days in a school year;

(2) Because the child's behavior is substantially similar to the child's behavior in the incidents that resulted in the series of removals, taken cumulatively, is determined, under Rule 4313.1(f), to have been a manifestation of the child's disability; and

(3) Because of such additional factors as the length of each removal, the total amount of time the child has been removed, and the proximity of the removals to one another.

Disciplinary Approaches Addressing Specific Infractions and Conditions

Firearms (as required by the Guns-Free Schools Act)

STATUTES

16.V.S.A.§ 1166. Possession of a firearm at school

(a) In this section, the terms "to school" and "firearm" shall have the same meaning that the terms have in the 18 U.S.C. § 921. However, the school board may expand the definitions provided they remain consistent with federal law.

(b) Each school board shall adopt and implement policies regarding a student who brings a firearm to or possesses a firearm at school which at a minimum shall include:

(1) A provision that any student who brings a firearm to or possesses a firearm at school shall be referred to a law enforcement agency. In addition to any other action the law enforcement agency may take, it may report the incident to the department for children and families.

(2) A provision that the superintendent or principal, with the approval of the school board following opportunity for a hearing, shall expel from the school for not less than one calendar year any student who brings a firearm to or possesses a firearm at school. However, the school board may modify the expulsion on a case by case basis. Modifications may be granted in circumstances such as but not limited to:

(A) The pupil is unaware that he or she has brought a firearm to or possessed a firearm at school.

(B) The pupil did not intend to use the firearm to threaten or endanger others.

(C) The pupil is disabled and the misconduct is related to the disability.

(D) The pupil does not present an ongoing threat to others and a lengthy expulsion would not serve the best interests of the pupil.

(c) Annually at a time and on a form determined by the commissioner, each superintendent shall provide the commissioner with a description of the circumstances surrounding expulsions imposed under this section, the number of students expelled and the type of firearm involved.

Other weapons

No relevant statutes found.

Students with chronic disciplinary issues

No relevant statutes found.

Attendance and truancy

STATUTES

16.V.S.A.§ 1126. Failure to attend; notice by teacher

When a pupil between the ages of six and 16 years, who is not excused or exempted from school attendance, fails to enter school at the beginning thereof, or being enrolled, fails to attend the same, and when a pupil who has become 16 years of age becomes enrolled in a public school and fails to attend,

the teacher or principal shall forthwith notify the superintendent or school directors, and the truant officer, unless the teacher or principal is satisfied upon information that the pupil is absent on account of sickness.

16.V.S.A.§ 1127. Notice and complaint by truant officer; penalty

(a) The truant officer, upon receiving the notice provided in section 1126 of this title, shall forthwith inquire into the cause of the nonattendance of the child. If he finds that the child is absent without cause, he shall give written notice to the person having the control of the child that the child is absent from school without cause, and he shall also notify that person to cause the child to attend school regularly thereafter.

(b) When, after receiving such notice, a person fails, without legal excuse, to cause a child to attend school as required by this chapter, he shall be fined not more than $ 1,000.00.

(c) The truant officer shall forthwith enter a complaint to the town grand juror of the town in which such person resides, or to the state's attorney of the county, and shall furnish him with a statement of the evidence upon which the complaint is based, and the grand juror or state's attorney shall prosecute the person. In the prosecution, the complaint, information or indictment shall be deemed sufficient if it states that the respondent, (naming him) having the control of a child of school age, (naming him) neglects to send that child to an approved public school or an approved or reporting independent school or a home study program as required by law.

16.V.S.A.§ 1128. Legal pupil taken to school; nonresident child living in district

(a) A superintendent may and the truant officer shall stop a child between the ages of six and 16 years or a child 16 years of age or over and enrolled in public school, wherever found during school hours, and shall, unless such child is excused or exempted from school attendance, take the child to the school which she or he should attend.

(b) A child of legal school age who is not exempt from school attendance and who has not finished the elementary school course, and is living in a district other than the place of legal residence shall, with the school board's approval, be admitted immediately to a school in the district where he is found. If the child is not admitted to school, then immediate action shall be taken by the truant officer to cause the return of the child to the district of his residence.

Substance use

STATUTES

16 V.S.A. § 1165. Alcohol and drug abuse

(a) The state board, in consultation with local school boards, the alcohol and drug division, the law enforcement authorities and the juvenile court system shall formulate a general policy for the education, discipline and referral for rehabilitation of students who are involved with alcohol or drug abuse on school property or at school functions.

(b) The state board shall adopt guidelines pursuant to 3 V.S.A. chapter 25 for all school districts. The guidelines shall include standards consistent with due process of law for discipline, suspension or dismissal of students and recommended procedures for education, and for referral for treatment and rehabilitation.

(c) Each school district shall adopt its own policy consistent with the state board's guidelines setting forth: recommended procedures for education; referral for treatment, counseling and rehabilitation; and standards consistent with due process of law for discipline, suspension or dismissal of students in accordance with section 1162 of this title. Nothing contained herein is intended to mandate local school districts to employ counselors for treatment or rehabilitation.

(e) No municipality, school district, or the officers and employees of the school district shall be liable for civil damages in connection with the implementation of and carrying out the purposes of this section so long as they have acted in good faith and not knowingly in violation of the constitutional or civil rights of any person.

Bullying, harassment, or hazing

STATUTES

16 V.S.A.§11. Classifications and definitions

(26) (A) "Harassment" means an incident or incidents of verbal, written, visual, or physical conduct, including any incident conducted by electronic means, based on or motivated by a student's or a student's family member's actual or perceived race, creed, color, national origin, marital status, sex, sexual orientation, gender identity, or disability that has the purpose or effect of objectively and substantially undermining and detracting from or interfering with a student's educational performance or access to school resources or creating an objectively intimidating, hostile, or offensive environment.

(B) "Harassment" includes conduct which violates subdivision (A) of this subdivision (26) and constitutes one or more of the following:

(i) Sexual harassment, which means conduct that includes unwelcome sexual advances, requests for sexual favors and other verbal, written, visual, or physical conduct of a sexual nature when one or both of the following occur:

(I) Submission to that conduct is made either explicitly or implicitly a term or condition of a student's education.

(II) Submission to or rejection of such conduct by a student is used as a component of the basis for decisions affecting that student.

(ii) Racial harassment, which means conduct directed at the characteristics of a student's or a student's family member's actual or perceived race or color, and includes the use of epithets, stereotypes, racial slurs, comments, insults, derogatory remarks, gestures, threats, graffiti, display, or circulation of written or visual material, and taunts on manner of speech and negative references to racial customs.

(iii) Harassment of members of other protected categories, which means conduct directed at the characteristics of a student's or a student's family member's actual or perceived creed, national origin, marital status, sex, sexual orientation, gender identity, or disability and includes the use of epithets, stereotypes, slurs, comments, insults, derogatory remarks, gestures, threats, graffiti, display, or circulation of written or visual material, taunts on manner of speech, and negative references to customs related to any of these protected categories.

(30) (A) "Hazing" means any act committed by a person, whether individually or in concert with others, against a student in connection with pledging, being initiated into, affiliating with, holding office in, or maintaining membership in any organization which is affiliated with an educational institution; and which is intended to have the effect of, or should reasonably be expected to have the effect of, humiliating, intimidating or demeaning the student or endangering the mental or physical health of a student. Hazing also includes soliciting, directing, aiding, or otherwise participating actively or passively in the above acts. Hazing may occur on or off the campus of an educational institution. Hazing shall not include any activity or conduct that furthers legitimate curricular, extracurricular, or military training program goals, provided that:

(i) the goals are approved by the educational institution; and

(ii) the activity or conduct furthers the goals in a manner that is appropriate, contemplated by the educational institution, and normal and customary for similar programs at other educational institutions.

(B) The definitions of "educational institution," "organization," "pledging," and "student" shall be the same as those in section 140a of this title.

(32) "Bullying" means any overt act or combination of acts, including an act conducted by electronic means, directed against a student by another student or group of students and which:

(A) is repeated over time;

(B) is intended to ridicule, humiliate, or intimidate the student; and

(C) (i) occurs during the school day on school property, on a school bus, or at a school-sponsored activity, or before or after the school day on a school bus or at a school-sponsored activity; or

(ii) does not occur during the school day on school property, on a school bus, or at a school-sponsored activity and can be shown to pose a clear and substantial interference with another student's right to access educational programs.

16 V.S.A. § 14.Harassment; notice and response

(a) (1) An educational institution that receives actual notice of alleged conduct that may constitute harassment shall promptly investigate to determine whether harassment occurred. After receiving notice of the alleged conduct, the school shall provide a copy of its harassment policy, including its harassment investigation procedure, to the alleged victim and the alleged perpetrator. If either the alleged victim or the alleged perpetrator is a minor, the copy of the policy shall be provided to the person's parent or guardian. Nothing herein shall be construed to prohibit educational institutions from investigating and imposing disciplinary consequences upon students for misconduct. Elementary and secondary school officials shall strive to implement the plan developed in accordance with subdivision 1161a(a)(6) of this title in order to prevent misconduct from escalating to the level of harassment.

(2) If, after notice, the educational institution finds that the alleged conduct occurred and that it constitutes harassment, the educational institution shall take prompt and appropriate remedial action reasonably calculated to stop the harassment.

(b) A claim may be brought under the Fair Housing and Public Accommodations Act pursuant to 9 V.S.A. chapter 139 only after the administrative remedies available to the claimant under the policy adopted by the educational institution pursuant to subsection 166(e) or section 570 of this title or pursuant to the harassment policy of a postsecondary school have been exhausted. Such a showing shall not be necessary where the claimant demonstrates that:

(1) the educational institution does not maintain such a policy;

(2) a determination has not been rendered within the time limits established under section 570a of this title;

(3) the health or safety of the complainant would be jeopardized otherwise;

(4) exhaustion would be futile; or

(5) requiring exhaustion would subject the student to substantial and imminent retaliation.

(c) To prevail in an action alleging unlawful harassment filed pursuant to this section and 9 V.S.A. chapter 139, the plaintiff shall prove both of the following:

(1) The student was subjected to unwelcome conduct based on the student's or the student's family member's actual or perceived membership in a category protected by law by 9 V.S.A. § 4502.

(2) The conduct was either:

(A) for multiple instances of conduct, so pervasive that when viewed from an objective standard of a similarly situated reasonable person, it substantially and adversely affected the targeted student's equal access to educational opportunities or benefits provided by the educational institution; or

(B) for a single instance of conduct, so severe that when viewed from an objective standard of a similarly situated reasonable person, it substantially and adversely affected the targeted student's equal access to educational opportunities or benefits provided by the educational institution.

(d) As used in this section:

(1) "Designated employee" means an employee who has been designated by an educational institution to receive complaints of harassment pursuant to section 570a of this title or in accordance with the harassment policy of a postsecondary school.

(2) "Educational institution" means a Vermont public or independent school or a postsecondary school that offers or operates a program of college or professional education for credit or degree in Vermont.

(3) "Notice" means a written complaint or oral information that harassment may have occurred which has been provided to a designated employee from another employee, the student allegedly subjected to the harassment, another student, a parent or guardian, or any other individual who has reasonable cause to believe the alleged conduct may have occurred. If the complaint is oral, the designated employee shall promptly reduce the complaint to writing, including the time, place, and nature of the conduct, and the identity of the participants and complainant.

16 V.S.A.§140b. Unlawful conduct

(a) For purposes of this subchapter, "hazing" means any intentional, knowing or reckless act committed by a student, whether individually or in concert with others, against another student:

(1) in connection with pledging, being initiated into, affiliating with, holding office in, or maintaining membership in any organization which is affiliated with the educational institution; and

(2) which is intended to have the effect of, or should reasonably be expected to have the effect of, endangering the mental or physical health of the student.

(b) Hazing shall not include any activity or conduct that furthers legitimate curricular, extracurricular, or military training program goals, provided that:

(1) the goals are approved by the educational institution; and

(2) the activity or conduct furthers the goals in a manner that is appropriate, contemplated by the educational institution, and normal and customary for similar programs at other educational institutions.

(c) It shall be unlawful to:

(1) engage in hazing;

(2) solicit, direct, aid, or attempt to aid, or abet another person engaged in hazing; or

(3) knowingly fail to take reasonable measures within the scope of the person's authority to prevent hazing.

(d) It is not a defense in an action under this subchapter that the person against whom the hazing was directed consented to or acquiesced in the hazing activity.

16 V.S.A.§140c. Civil penalty; judicial bureau; waiver penalty

(a) A person who commits an unlawful act under this subchapter shall be subject to a civil penalty of not more than $ 5,000.00.

(b) Any law enforcement officer may issue a summons and complaint for an act of hazing, which shall be heard by the judicial bureau pursuant to the procedures provided in chapter 29 of Title 4.

(c) The court administrator shall appoint a panel of judicial bureau hearing officers to establish a waiver penalty for an act of hazing.

(d) Nothing in this section shall limit or affect the right of an educational institution to enforce its own penalties against hazing.

16 V.S.A.§140d. Criminal prosecution and civil action

Nothing in this subchapter shall limit or preclude a criminal prosecution or any criminal or civil action based on any act that may constitute hazing.

16 V.S.A.§§ 570. Harassment, hazing, and bullying prevention policies

(a) State policy. -- It is the policy of the state of Vermont that all Vermont educational institutions provide safe, orderly, civil, and positive learning environments. Harassment, hazing, and bullying have no place and will not be tolerated in Vermont schools. No Vermont student should feel threatened or be discriminated against while enrolled in a Vermont school.

(b) Prevention policies. -- Each school board shall develop, adopt, ensure the enforcement of and make available in the manner described under subdivision 563(1) of this title harassment, hazing, and bullying prevention policies that shall be at least as stringent as model policies developed by the commissioner. Any school board that fails to adopt one or more of these policies shall be presumed to have adopted the most current model policy or policies published by the commissioner.

(c) Notice. -- Annually, prior to the commencement of curricular and cocurricular activities, the school board shall provide notice of the policy and procedures developed under this subchapter to students, custodial parents or guardians of students, and staff members, including reference to the consequences of misbehavior contained in the plan required by section 1161a of this title. Notice to students shall be in age-appropriate language and should include examples of harassment, hazing, and bullying. At a minimum, this notice shall appear in any publication that sets forth the comprehensive rules, procedures, and standards of conduct for the school. The school board shall use its discretion in developing and initiating age-appropriate programs to inform students about the substance of the policy and procedures in order to help prevent harassment, hazing, and bullying. School boards are encouraged to foster opportunities for conversations between and among students regarding tolerance and respect.

(d) Duties of the commissioner. -- The commissioner shall:

(1) develop and, from time to time, update model harassment, hazing, and bullying prevention policies; and

(2) establish an advisory council to review and coordinate school and statewide activities relating to the prevention of and response to harassment, hazing, and bullying. The council shall report annually in January to the state board and the house and senate committees on education. The council shall include:

(A) the executive director of the Vermont Principals' Association or designee;

(B) the executive director of the Vermont School Boards Association or designee;

(C) the executive director of the Vermont Superintendents Association or designee;

(D) the president of the Vermont-National Education Association or designee;

(E) the executive director of the Vermont Human Rights Commission or designee;

(F) the executive director of the Vermont Independent Schools Association or designee; and

(G) other members selected by the commissioner, at least one of whom shall be a current secondary student who has witnessed or experienced harassment, hazing, or bullying in the school environment.

(e) Definitions. -- In this subchapter:

(1) "Educational institution" and "school" mean a public school or an approved or recognized independent school as defined in section 11 of this title.

(2) "Organization," "pledging," and "student" have the same meanings as in subdivisions 140a(2), (3), and (4) of this title.

(3) "Harassment," "hazing," and "bullying" have the same meanings as in subdivisions 11(a)(26), (30), and (32) of this title.

(4) "School board" means the board of directors or other governing body of an educational institution when referring to an independent school.

16 V.S.A.§ 570a. Harassment

(a) Policies and plan. -- The harassment prevention policy required by section 570 of this title and its plan for implementation shall include:

(1) A statement that harassment, as defined in subdivision 11(a)(26) of this title, is prohibited and may constitute a violation of the public accommodations act as more fully described in section 14 of this title.

(2) Consequences and appropriate remedial action for staff or students who commit harassment. At all stages of the investigation and determination process, school officials are encouraged to make available to complainants alternative dispute resolution methods, such as mediation, for resolving complaints.

(3) A procedure that directs students, staff, parents, and guardians how to report violations and file complaints.

(4) A description of the circumstances under which harassment may be reported to a law enforcement agency.

(5) A procedure for investigating reports of violations and complaints. The procedure shall provide that, unless special circumstances are present and documented by the school officials, an investigation is initiated no later than one school day from the filing of a complaint and the investigation and determination by school officials are concluded no later than five school days from the filing of the complaint with a person designated to receive complaints under subdivision (7) of this section. All internal reviews of the school's initial determination, including the issuance of a final decision, shall, unless special circumstances are present and documented by the school officials, be completed within 30 days after the review is requested.

(6) A description of how the school board will ensure that teachers and other staff members receive training in preventing, recognizing, and responding to harassment.

(7) Annual designation of two or more people at each school campus to receive complaints and a procedure for publicizing those people's availability.

(8) A procedure for publicizing the availability of the Vermont human rights commission and the federal Department of Education's Office of Civil Rights and other appropriate state and federal agencies to receive complaints of harassment.

(9) A statement that acts of retaliation for the reporting of harassment or for cooperating in an investigation of harassment are unlawful pursuant to 9 V.S.A. § 4503.

(b) Independent review.

(1) A student who desires independent review under this subsection because the student is either dissatisfied with the final determination of the school officials as to whether harassment occurred or believes that, although a final determination was made that harassment occurred, the school's response was inadequate to correct the problem shall make such request in writing to the headmaster or superintendent of schools. Upon such request, the headmaster or superintendent shall initiate an

independent review by a neutral person selected from a list developed jointly by the commissioner of education and the human rights commission and maintained by the commissioner. Individuals shall be placed on the list on the basis of their objectivity, knowledge of harassment issues, and relevant experience.

(2) The independent review shall proceed expeditiously and shall consist of an interview of the student and the relevant school officials and review of written materials involving the complaint maintained by the school or others.

(3) Upon the conclusion of the review, the reviewer shall advise the student and the school officials as to the sufficiency of the school's investigation, its determination, the steps taken by the school to correct any harassment found to have occurred, and any future steps the school should take. The reviewer shall advise the student of other remedies that may be available if the student remains dissatisfied and, if appropriate, may recommend mediation or other alternative dispute resolution.

(4) The independent reviewer shall be considered an agent of the school for the purpose of being able to review confidential student records.

(5) The costs of the independent review shall be borne by the public school district or independent school.

(6) Nothing in this subsection shall prohibit the school board from requesting an independent review at any stage of the process.

(7) Evidence of conduct or statements made in connection with an independent review shall not be admissible in any court proceeding. This subdivision shall not require exclusion of any evidence otherwise obtainable from independent sources merely because it is presented in the course of an independent review.

(8) The commissioner may adopt rules implementing this subsection.

16 V.S.A.§ 570b. Hazing

The hazing prevention policy required by section 570 of this title and its plan for implementation shall include:

(1) A statement that hazing, as defined in subdivision 11(a)(30) of this title, is prohibited and may be subject to civil penalties pursuant to subchapter 9 of chapter 1 of this title.

(2) A procedure that directs students, staff, parents, and guardians how to report violations and file complaints.

(3) A procedure for investigating reports of violations and complaints.

(4) A description of the circumstances under which hazing may be reported to a law enforcement agency.

(5) Appropriate penalties or sanctions or both for organizations that or individuals who engage in hazing and revocation or suspension of an organization's permission to operate or exist within the institution's purview if that organization knowingly permits, authorizes, or condones hazing.

(6) A description of how the school board will ensure that teachers and other staff members receive training in preventing, recognizing, and responding to hazing.

(7) Annual designation of two or more people at each school campus to receive complaints and a procedure for publicizing those people's availability.

16 V.S.A.§ 570c. Bullying

The bullying prevention policy required by section 570 of this title and its plan for implementation shall include:

(1) A statement that bullying, as defined in subdivision 11(a)(32) of this title, is prohibited.

(2) A procedure that directs students, staff, parents, and guardians how to report violations and file complaints.

(3) A procedure for investigating reports of violations and complaints.

(4) A description of the circumstances under which bullying may be reported to a law enforcement agency.

(5) Consequences and appropriate remedial action for students who commit bullying.

(6) A description of how the school board will ensure that teachers and other staff members receive training in preventing, recognizing, and responding to bullying.

(7) Annual designation of two or more people at each school campus to receive complaints and a procedure both for publicizing the availability of those people and clarifying that their designation does not preclude a student from bringing a complaint to any adult in the building.

Other special infractions or conditions

No relevant statutes found.

Prevention and Behavioral Interventions (Non-Punitive)

Prevention

STATUTES

16 V.S.A.§165. Standards of quality for public schools; equal educational opportunities.

(a) In order to carry out Vermont's policy that all Vermont children will be afforded educational opportunities which are substantially equal in quality, each Vermont public school, including each technical center, shall meet the following school quality standards:

(1) The school shall, through a process including parents, teachers, students and community members, develop, implement, and annually update a comprehensive action plan to improve student performance within the school. The plan shall include goals and objectives for improved student learning and educational strategies and activities to achieve their goals. The plan shall also address the effectiveness of efforts made since the previous action plan to ensure the school maintains a safe, orderly, civil and positive learning environment which is free from harassment, hazing and bullying. The school shall assess student performance under the plan using a method or methods of assessment developed under subdivision 164(9) of this title.

(8) The school maintains a safe, orderly, civil and positive learning environment, which is free from hazing, harassment and bullying, and based on sound instructional and classroom management practices and clear discipline policies that are consistently and effectively enforced.

16 V.S.A.§§ 570. Harassment, hazing, and bullying prevention policies

(b) Prevention policies. -- Each school board shall develop, adopt, ensure the enforcement of and make available in the manner described under subdivision 563(1) of this title harassment, hazing, and bullying prevention policies that shall be at least as stringent as model policies developed by the commissioner. Any school board that fails to adopt one or more of these policies shall be presumed to have adopted the most current model policy or policies published by the commissioner.

(d) Duties of the commissioner. -- The commissioner shall:

(1) develop and, from time to time, update model harassment, hazing, and bullying prevention policies; and

(2) establish an advisory council to review and coordinate school and statewide activities relating to the prevention of and response to harassment, hazing, and bullying. […]

909. Tobacco use, alcohol and drug abuse prevention education curriculum

(a) The department of education, in conjunction with the alcohol and drug abuse council, and where appropriate, with the division of health promotion, is hereby authorized and directed to develop a sequential alcohol and drug abuse prevention education curriculum for elementary and secondary schools. The curriculum shall include teaching about the effects and legal consequences of the possession and use of tobacco products.

(b) The department of education shall:

(1) provide for pre-service and in-service training programs for school personnel on alcohol and drug abuse prevention and on the effects and legal consequences of the possession and use of tobacco products. At least one training program shall be made available in electronic format. Each superintendent shall determine the content, duration, and frequency of training on issues concerning alcohol and drug abuse for the districts in his or her supervisory union;

(2) provide teaching materials which are appropriate to the age and learning ability of the students;

(3) provide technical assistance to the local school districts for implementation of the curriculum;

(4) encourage coordination of effort with existing community resources.

Behavioral interventions and student support services

STATUTES

16 V.S.A. § 1165. Alcohol and drug abuse

(a) The state board, in consultation with local school boards, the alcohol and drug division, the law enforcement authorities and the juvenile court system shall formulate a general policy for the education, discipline and referral for rehabilitation of students who are involved with alcohol or drug abuse on school property or at school functions.

(b) The state board shall adopt guidelines pursuant to 3 V.S.A. chapter 25 for all school districts. The guidelines shall include standards consistent with due process of law for discipline, suspension or dismissal of students and recommended procedures for education, and for referral for treatment and rehabilitation.

(c) Each school district shall adopt its own policy consistent with the state board's guidelines setting forth: recommended procedures for education; referral for treatment, counseling and rehabilitation; and standards consistent with due process of law for discipline, suspension or dismissal of students in accordance with section 1162 of this title. Nothing contained herein is intended to mandate local school districts to employ counselors for treatment or rehabilitation.

16 V.S.A.§ 570a. Harassment

(a) Policies and plan. -- The harassment prevention policy required by section 570 of this title and its plan for implementation shall include:

(2) Consequences and appropriate remedial action for staff or students who commit harassment. At all stages of the investigation and determination process, school officials are encouraged to make available to complainants alternative dispute resolution methods, such as mediation, for resolving complaints.

ADMINISTRATIVE CODE

22 000 036.4500.3. Definitions.

For purposes of these rules, the following definitions apply:

1. Behavioral Intervention Plan means a plan that details strategies to address behaviors that impede learning, or are ongoing, and do not readily respond to general intervention or classroom management techniques, by teaching pro-social skills and other positive replacement behaviors. The plan may include positive strategies, program or curricular modifications, and supplementary aids and supports required to address problem behaviors.

3. Functional Behavioral Assessment means the analysis of a student's behavior patterns before, during, and after rule-breaking or other inappropriate behavior for the purpose of guiding the development of a behavioral intervention plan.

8. Positive Behavioral Interventions and Supports means an approach to preventing and responding to targeted behavior that:

a. Is based on evidence-based practices;

b. Is proactive and instructional, rather than reactive;

c. Can operate on individual, group, classroom, or school wide levels;

d. Includes a system of continual data collection; and

e. Relies on data-driven decisions.

Section 4313 Discipline Procedures for Children Eligible for Special Education Services.

4313.1 Authority of School Personnel.

(a) Case-by-case determination. School personnel may consider any unique circumstances on a case-by-case basis when determining whether a change in placement, consistent with the requirements of this section, is appropriate for a child with a disability who violates a code of child conduct.

(f) Determination that behavior was a manifestation. If the LEA, the parent, and relevant members of the IEP Team make the determination that the conduct was a manifestation of the child's disability, the IEP Team shall--

(1) Either-

(i) Conduct a functional behavioral assessment, unless the LEA had conducted a functional behavioral assessment before the behavior that resulted in the change of placement occurred, and implement a behavioral intervention plan for the child; or

(ii) If a behavioral intervention plan already has been developed, review the behavioral intervention plan, and modify it, as necessary, to address the behavior; and

(2) Except as provided in paragraph (g) of this section, return the child to the placement from which the child was removed, unless the parent and the LEA agree to a change of placement as part of the modification of the behavioral intervention plan.

Professional development

STATUTES

16 V.S.A.§ 570a. Harassment

(a) Policies and plan. -- The harassment prevention policy required by section 570 of this title and its plan for implementation shall include:

(6) A description of how the school board will ensure that teachers and other staff members receive training in preventing, recognizing, and responding to harassment.

16 V.S.A.§ 570b. Hazing

The hazing prevention policy required by section 570 of this title and its plan for implementation shall include:

(6) A description of how the school board will ensure that teachers and other staff members receive training in preventing, recognizing, and responding to hazing.

16 V.S.A.§ 570c. Bullying

The bullying prevention policy required by section 570 of this title and its plan for implementation shall include:

(6) A description of how the school board will ensure that teachers and other staff members receive training in preventing, recognizing, and responding to bullying.

16 V.S.A.§ 909. Tobacco use, alcohol and drug abuse prevention education curriculum

(b) The department of education shall:

(1) provide for pre-service and in-service training programs for school personnel on alcohol and drug abuse prevention and on the effects and legal consequences of the possession and use of tobacco products. At least one training program shall be made available in electronic format. Each superintendent shall determine the content, duration, and frequency of training on issues concerning alcohol and drug abuse for the districts in his or her supervisory union;

(2) provide teaching materials which are appropriate to the age and learning ability of the students;

(3) provide technical assistance to the local school districts for implementation of the curriculum;

(4) encourage coordination of effort with existing community resources.

16 V.S.A.§1161a. Discipline.

(a) Each public and each approved independent school shall adopt and implement a comprehensive plan for responding to student misbehavior. To the extent appropriate, the plan shall promote the positive development of youth. The plan shall include:

(5) a description of how the school will ensure that all staff and contractors who routinely have unsupervised contact with students periodically receive training on the maintenance of a safe, orderly, civil and positive learning environment. The training shall be appropriate to the role of the staff member being trained and shall teach classroom and behavior management, enforcement of the school's discipline policies and positive youth development models;

ADMINISTRATIVE CODE

22 000 036.4509. State Recommended Training.

The Department of Education shall maintain a directory of recommended physical restraint training programs, which must include at least the following elements:

a. Appropriate procedures for preventing the need for physical restraint, including the de-escalation of dangerous behavior, relationship-building, and the use of alternatives to physical restraint;

b. Identification of dangerous behaviors that may indicate the need for physical restraint and methods for evaluating the risk of harm to determine if physical restraint is warranted;

c. Simulated experience in administering and in receiving a variety of physical restraint techniques, across a range of increasingly restrictive interventions;

d. Instruction regarding the effects of physical restraint on the person restrained, including monitoring physical signs of distress and how to obtain medical assistance;

e. Instruction regarding investigation of injuries and complaints.

A school may use a training program that is not on the state recommended list if it submits a plan to the Commissioner of Education demonstrating how that training program meets the purposes of these Rules and contains the elements listed above.

Monitoring and Accountability

Formal incident reporting of conduct violations

STATUTES

16.V.S.A.§ 1166. Possession of a firearm at school

(c) Annually at a time and on a form determined by the commissioner, each superintendent shall provide the commissioner with a description of the circumstances surrounding expulsions imposed under this section, the number of students expelled and the type of firearm involved.

ADMINISTRATIVE CODE

22 000 036.4503. Reporting the Use of Restraint and Seclusion.

4503.1 To the School Administrator.

Any person who imposes a restraint or seclusion shall report its use to the school administrator as soon as possible, but in no event later than the end of the school day of its use.

4503.3 To the Superintendent.

The school administrator shall report the use of restraint or seclusion to the superintendent of the Supervisory Union whenever:

a. There is death, injury or hospitalization to staff or student as a result of a restraint or seclusion; or

b. An individual employee or contracted service provider has engaged in the use of physical restraint or seclusion three (3) separate times on one (1) or more students; or

c. Physical restraint has been used for more than fifteen (15) minutes; or

d. Any student has been restrained or secluded three (3) or more times per school year; or

e. A student has been restrained or secluded more than once in a school day; or

f. A student is restrained or secluded who is not on a behavioral intervention plan; or

g. Restraint or seclusion has been used in violation of these rules, including the use of any prohibited form of restraint.

Reports to the Superintendent shall be made within three school days of the incident that requires reporting and shall include all the information set forth in Rule 4504 required of a written record of each use of restraint or seclusion.

4503.3.1 Learning environments other than public schools shall fulfill this reporting requirement by reporting to the Superintendent of the Supervisory Union that is the LEA or sending district for the student. If there is no sending district or LEA, this requirement shall be fulfilled by reporting to the Commissioner of the Department of Education in accordance with Rule 4503.4.

4503.4 To the Commissioner of the Department of Education.

The Superintendent of the supervisory union shall report the use of restraint or seclusion to the Commissioner of the Department of Education within three (3) school days of receipt of a report indicating any the following:

a. There is death, injury requiring outside medical treatment or hospitalization to staff or student as a result of a restraint or seclusion; or

b. Physical restraint or seclusion has been used for more than thirty (30) minutes or

c. Physical restraint or seclusion has been used in violation of these rules, including the use of any prohibited restraint or seclusion.

The report shall include all the information set forth in Rule 4504 required of a written record of each use of restraint or seclusion.

22 000 036.4504. Documentation.

Each school shall maintain written records of each use of restraint and seclusion. The records shall be maintained by the school administrator and shall include the following:

a. The name, age, gender and grade of the student;

b. The date, time and duration of the restraint or seclusion;

c. Any injuries, death or hospitalization to student or staff resulting from the use of restraint or seclusion;

d. The location where the restraint or seclusion occurred;

e. The precipitating event[s] leading up to the restraint or seclusion;

f. A list of school personnel who participated in the application, monitoring and supervision of the student while restrained or secluded;

g. The type of restraint or seclusion used;

h. The reason for the restraint or seclusion;

i. A description of all the interventions used prior to the application of the restraint or seclusion;

j. Whether the student has a behavioral intervention plan and/or individualized education plan, Section 504 plan or educational support plan; and

k. The date notification was provided to the student's parents.

22 000 036.4507. Complaints and Investigations.

4507.1 Filing a Complaint

a. A parent (as defined in 4500.3(13)) or school personnel may file a complaint regarding the use of restraint or seclusion at any time in accordance with school district policy.

b. The complaint shall be in writing and shall be directed to the principal, director or administrator of the school in which the student participates.

c. If the person filing the complaint is unable to submit the complaint in writing, the recipient of the complaint shall complete the form based on a verbal complaint. In this case, the complainant shall be provided with a copy of the complaint.

4507.2 Investigation

All complaints shall be investigated by the school or district and written findings issued within thirty (30) days;

4507.3 Unresolved Complaints

Unresolved complaints shall be directed to the superintendent of the Supervisory Union where the student resides in accordance with the school board's established complaint process. A student on an individualized education plan (IEP) or Section 504 Plan may also use the dispute resolution options available under Rules 2365.1.4 - 2365.1.6, if appropriate.

Parental notification

STATUTES

16.V.S.A.§ 1127. Notice and complaint by truant officer; penalty

(a) The truant officer, upon receiving the notice provided in section 1126 of this title, shall forthwith inquire into the cause of the nonattendance of the child. If he finds that the child is absent without cause, he shall give written notice to the person having the control of the child that the child is absent from school without cause, and he shall also notify that person to cause the child to attend school regularly thereafter.

16 V.S.A.§1161a. Discipline.

(a) Each public and each approved independent school shall adopt and implement a comprehensive plan for responding to student misbehavior. To the extent appropriate, the plan shall promote the positive development of youth. The plan shall include:

(3) procedures for informing parents of the school's discipline policies, for notifying parents of student misconduct, and for working with parents to improve student behavior;

ADMINISTRATIVE CODE

22 000 036.4503. Reporting the Use of Restraint and Seclusion.

4503.2 To Parents.

a. The school administrator shall make a documented attempt to provide verbal or electronic notice of any incident of restraint or seclusion to the student's parents (as defined in 4500.3(13)) as soon as practical but in no event later than the end of the school day of its use; and

b. Shall provide written notice to the parents within 24 hours of each use of restraint or seclusion that includes:

i. The date and time of its use;

ii. A description of the restraint and other intervention used;

iii. The date and time when the debriefing session will occur; including notice that the parents have the opportunity to participate in the debriefing; and

iv. The name and telephone number of the contact person who can provide further information.

22 000 036.4505. Debriefing Following Use of Restraint or Seclusion.

c. An opportunity for parents to participate in the review of an incident of restraint or seclusion within four (4) school days:

i. Parents shall receive prior written (including e-mail) notice of the review meeting; and

ii. The meeting shall be convened at a mutually acceptable time and place; and

PART 4300 DISCIPLINARY ACTION

Section 4311 Procedures.

When a student is subject to disciplinary action, the school district shall afford the student due process procedures as follows:

4311.1 In all cases of short-term suspension from school, which is generally regarded as 10 days or less, the student and his or her parent/guardian shall be given an opportunity for an informal hearing before an appropriately designated school official. Except for cases set forth in the last paragraph 4311.3, the hearing must precede the suspension and the district shall provide:

(1) notice of the charges;

(2) explanation of the evidence against the student;

(3) opportunity for the student to tell his or her side of the story;

(4) decision in writing to the parent/guardian.

4311.2 In cases of a long term suspension which is generally more than 10 days unless a school district establishes a shorter period, the student and his or her parent/guardian shall be given an opportunity for a formal hearing before the school board and the district shall provide:

(1) written notice of the following:

(a) nature of charges against the student;

(b) date, time and place of hearing;

(c) right to legal representation;

(d) possible penalties involved;

(2) opportunity to present evidence;

(3) opportunity to cross-examine witnesses;

(4) decision in writing to parent/guardian.

Section 4313 Discipline Procedures for Children Eligible for Special Education Services.

4313.1 Authority of School Personnel.

(a) Case-by-case determination. School personnel may consider any unique circumstances on a case-by-case basis when determining whether a change in placement, consistent with the requirements of this section, is appropriate for a child with a disability who violates a code of child conduct.

(h) Notification. Not later than the date on which the decision to take disciplinary action is made, the LEA shall notify the parents of that decision, and provide the parents a copy of their Parents' Rights in Special Education.

Reporting and referrals between schools and law enforcement

STATUTES

16 V.S.A.§ 570a. Harassment

(a) Policies and plan. -- The harassment prevention policy required by section 570 of this title and its plan for implementation shall include:

(4) A description of the circumstances under which harassment may be reported to a law enforcement agency.

16 V.S.A.§ 570b. Hazing

The hazing prevention policy required by section 570 of this title and its plan for implementation shall include:

(4) A description of the circumstances under which hazing may be reported to a law enforcement agency.

16 V.S.A.§ 570c. Bullying

The bullying prevention policy required by section 570 of this title and its plan for implementation shall include:

(4) A description of the circumstances under which bullying may be reported to a law enforcement agency.

16.V.S.A.§ 1166. Possession of a firearm at school

(b) Each school board shall adopt and implement policies regarding a student who brings a firearm to or possesses a firearm at school which at a minimum shall include:

(1) A provision that any student who brings a firearm to or possesses a firearm at school shall be referred to a law enforcement agency. In addition to any other action the law enforcement agency may take, it may report the incident to the department for children and families.

ADMINISTRATIVE CODE

Section 4313 Discipline Procedures for Children Eligible for Special Education Services.

4313.6 Referral to and Action by Law Enforcement and Judicial Authorities.

(a) Rule of construction. Nothing in this part prohibits an agency from reporting a crime committed by a child with a disability to appropriate authorities or prevents State law enforcement and judicial authorities from exercising their responsibilities with regard to the application of Federal and State law to crimes committed by a child with a disability.

Disclosure of school records

STATUTES

22 000 003.2365.2.11 Consent

[...] (c) Disclosure of special education and disciplinary records may be made without the prior written consent of the parent or a youth aged 18 or older, if:

(1) It is made in compliance with a lawfully issued subpoena or court order, and the school has made reasonable attempts to notify the parent or the youth aged 18 or older of the order or subpoena before complying with the request, so he or she may seek protective action from the court, such as limiting the scope of the subpoena or quashing it; and

(2) The subpoena or court order mandating disclosure specifies that the existence or the contents of, or the information furnished in response to, such subpoena or court order should not be disclosed by the receiving party; or

(3) It is to law enforcement or other appropriate parties, and, if the required information from the educational records is needed in connection with an emergency and knowledge of the information is necessary to protect the health or safety of the child or other individuals.

(4) If a parent refuses to give written consent when required for disclosure of personally identifiable information, the responsible LEA may seek an order from a due process hearing officer allowing disclosure.

2365.2.15 Disciplinary Information in Student Records

(a) A participating agency shall include in the records of a child receiving special education services a statement of any current or previous disciplinary action that has been taken against the child and transmit the statement to the same extent that the disciplinary information is included in, and transmitted with, the student records of children not receiving special education services.

(b) The statement shall include a description of any behavior engaged in by the child that required disciplinary action, a description of the disciplinary action taken, and any other information that is relevant to the safety of the child and other individuals involved with the child.

(c) If the child transfers from one school to another, the transmission of any of the child's records shall include both the child's current individualized education program and any statement of current or previous disciplinary action that has been taken against the child as consistent with subsection (a) of this section.

ADMINISTRATIVE CODE

Section 4313 Discipline Procedures for Children Eligible for Special Education Services.

4313.6 Referral to and Action by Law Enforcement and Judicial Authorities.

(b) Transmittal of records.

(1) An agency reporting a crime committed by a child with a disability shall ensure that copies of the special education and disciplinary records of the child are transmitted for consideration by the appropriate authorities to whom the agency reports the crime.

(2) An agency reporting a crime under this section may transmit copies of the child's special education and disciplinary records only to the extent that the transmission is permitted by the Family Educational Rights and Privacy Act.

Data collection, review, and reporting of disciplinary policies and actions

STATUTES

16 V.S.A.§570. Harassment, hazing, and bullying prevention policies.

(d) Duties of the commissioner. -- The commissioner shall:

(2) establish an advisory council to review and coordinate school and statewide activities relating to the prevention of and response to harassment, hazing, and bullying. The council shall report annually in January to the state board and the house and senate committees on education. […]

16 V.S.A.§ 570a. Harassment

(b) Independent review.

(1) A student who desires independent review under this subsection because the student is either dissatisfied with the final determination of the school officials as to whether harassment occurred or believes that, although a final determination was made that harassment occurred, the school's response was inadequate to correct the problem shall make such request in writing to the headmaster or superintendent of schools. Upon such request, the headmaster or superintendent shall initiate an independent review by a neutral person selected from a list developed jointly by the commissioner of education and the human rights commission and maintained by the commissioner. Individuals shall be placed on the list on the basis of their objectivity, knowledge of harassment issues, and relevant experience.

(2) The independent review shall proceed expeditiously and shall consist of an interview of the student and the relevant school officials and review of written materials involving the complaint maintained by the school or others.

(3) Upon the conclusion of the review, the reviewer shall advise the student and the school officials as to the sufficiency of the school's investigation, its determination, the steps taken by the school to correct any harassment found to have occurred, and any future steps the school should take. The reviewer

shall advise the student of other remedies that may be available if the student remains dissatisfied and, if appropriate, may recommend mediation or other alternative dispute resolution.

(4) The independent reviewer shall be considered an agent of the school for the purpose of being able to review confidential student records.

(5) The costs of the independent review shall be borne by the public school district or independent school.

(6) Nothing in this subsection shall prohibit the school board from requesting an independent review at any stage of the process.

(7) Evidence of conduct or statements made in connection with an independent review shall not be admissible in any court proceeding. This subdivision shall not require exclusion of any evidence otherwise obtainable from independent sources merely because it is presented in the course of an independent review.

(8) The commissioner may adopt rules implementing this subsection.

ADMINISTRATIVE CODE

22 000 036.4505. Debriefing Following Use of Restraint or Seclusion.

Following each incident of restraint or seclusion, the school administrator shall implement follow-up procedures that include:

a. Within two (2) school days, a proper staff person reviewing the incident with the student in a manner appropriate to the student's age and developmental ability, to discuss the behavior[s] that precipitated the use of restraint or seclusion;

b. Within two (2) school days, reviewing the incident with the staff person(s) who administered the restraint or seclusion to discuss whether proper restraint or seclusion procedures were followed, including the use of proper procedures to prevent the need for restraint or seclusion;

c. An opportunity for parents to participate in the review of an incident of restraint or seclusion within four (4) school days:

i. Parents shall receive prior written (including e-mail) notice of the review meeting; and

ii. The meeting shall be convened at a mutually acceptable time and place; and

d. Determining, in consultation with the parents, any specific follow up actions to be taken.

22 000 036.4508. Monitoring and Corrective Action.

The commissioner of the Department of Education shall review reports received pursuant to Rule 4503.4 and identify those schools in need of additional training and, when those reports reflect an over-use of these interventions, shall direct the school to work with the department to develop a corrective action plan.

School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers

Authority and power to implement school arrest

STATUTES

16.V.S.A.§ 1125. Truant officers

(a) A school board shall annually appoint one or more truant officers and record their appointments with the clerk of the school district on or before July 3. State police, sheriffs, deputy sheriffs, constables and police officers shall be truant officers ex officio.

(b) Truant officers shall receive remuneration for time actually spent in performance of their duties and shall be allowed their necessary expenses incurred in connection therewith.

16.V.S.A.§ 1126. Failure to attend; notice by teacher

When a pupil between the ages of six and 16 years, who is not excused or exempted from school attendance, fails to enter school at the beginning thereof, or being enrolled, fails to attend the same, and when a pupil who has become 16 years of age becomes enrolled in a public school and fails to attend, the teacher or principal shall forthwith notify the superintendent or school directors, and the truant officer, unless the teacher or principal is satisfied upon information that the pupil is absent on account of sickness.

16.V.S.A.§ 1127. Notice and complaint by truant officer; penalty

(a) The truant officer, upon receiving the notice provided in section 1126 of this title, shall forthwith inquire into the cause of the nonattendance of the child. If he finds that the child is absent without cause, he shall give written notice to the person having the control of the child that the child is absent from school without cause, and he shall also notify that person to cause the child to attend school regularly thereafter.

(b) When, after receiving such notice, a person fails, without legal excuse, to cause a child to attend school as required by this chapter, he shall be fined not more than $ 1,000.00.

(c) The truant officer shall forthwith enter a complaint to the town grand juror of the town in which such person resides, or to the state's attorney of the county, and shall furnish him with a statement of the evidence upon which the complaint is based, and the grand juror or state's attorney shall prosecute the person. In the prosecution, the complaint, information or indictment shall be deemed sufficient if it states that the respondent, (naming him) having the control of a child of school age, (naming him) neglects to send that child to an approved public school or an approved or reporting independent school or a home study program as required by law.

16.V.S.A.§ 1128. Legal pupil taken to school; nonresident child living in district

(a) A superintendent may and the truant officer shall stop a child between the ages of six and 16 years or a child 16 years of age or over and enrolled in public school, wherever found during school hours, and shall, unless such child is excused or exempted from school attendance, take the child to the school which she or he should attend.

(b) A child of legal school age who is not exempt from school attendance and who has not finished the elementary school course, and is living in a district other than the place of legal residence shall, with the school board's approval, be admitted immediately to a school in the district where he is found. If the child

is not admitted to school, then immediate action shall be taken by the truant officer to cause the return of the child to the district of his residence.

16.V.S.A.§ § 1129. Jurisdiction of nonresidents

The superintendent of a school in which a nonresident pupil is enrolled and a truant officer having jurisdiction of the pupils in such school shall have the same authority and jurisdiction over such nonresident pupil and the person having the control of such pupil as they have over resident pupils and the persons having control of such pupils.

Certification or training

No relevant statutes found.

MOUs, authorization, and/or funding

STATUTES

16.V.S.A.§ 1167. School resource officer; memorandum of understanding

(a) Neither the state board nor the department shall regulate the use of restraint and seclusion on school property by a school resource officer certified pursuant to 20 V.S.A. § 2358.

(b) School boards and law enforcement agencies are encouraged to enter into memoranda of understanding relating to:

(1) the possession and use of weapons and devices by a school resource officer on school property; and

(2) the nature and scope of assistance that a school resource officer will provide to the school system.

State Education Agency Support

State model policies and implementation support

No relevant statutes found.

Funding appropriations

No relevant statutes found.

Other/Uncategorized

Professional immunity or liability

STATUTES

16 V.S.A. § 1165. Alcohol and drug abuse

(e) No municipality, school district, or the officers and employees of the school district shall be liable for civil damages in connection with the implementation of and carrying out the purposes of this section so long as they have acted in good faith and not knowingly in violation of the constitutional or civil rights of any person.

Community input or involvement

STATUTES

16 V.S.A.§165. Standards of quality for public schools; equal educational opportunities.

(a) In order to carry out Vermont's policy that all Vermont children will be afforded educational opportunities which are substantially equal in quality, each Vermont public school, including each technical center, shall meet the following school quality standards:

(1) The school shall, through a process including parents, teachers, students and community members, develop, implement, and annually update a comprehensive action plan to improve student performance within the school. The plan shall include goals and objectives for improved student learning and educational strategies and activities to achieve their goals. The plan shall also address the effectiveness of efforts made since the previous action plan to ensure the school maintains a safe, orderly, civil and positive learning environment which is free from harassment, hazing and bullying. The school shall assess student performance under the plan using a method or methods of assessment developed under subdivision 164(9) of this title.

(8) The school maintains a safe, orderly, civil and positive learning environment, which is free from hazing, harassment and bullying, and based on sound instructional and classroom management practices and clear discipline policies that are consistently and effectively enforced.

16 V.S.A.§§ 570. Harassment, hazing, and bullying prevention policies

(d) Duties of the commissioner. -- The commissioner shall:

(1) develop and, from time to time, update model harassment, hazing, and bullying prevention policies; and

(2) establish an advisory council to review and coordinate school and statewide activities relating to the prevention of and response to harassment, hazing, and bullying. The council shall report annually in January to the state board and the house and senate committees on education. The council shall include:

(A) the executive director of the Vermont Principals' Association or designee;

(B) the executive director of the Vermont School Boards Association or designee;

(C) the executive director of the Vermont Superintendents Association or designee;

(D) the president of the Vermont-National Education Association or designee;

(E) the executive director of the Vermont Human Rights Commission or designee;

(F) the executive director of the Vermont Independent Schools Association or designee; and

(G) other members selected by the commissioner, at least one of whom shall be a current secondary student who has witnessed or experienced harassment, hazing, or bullying in the school environment.

(e) Definitions. -- In this subchapter:

(1) "Educational institution" and "school" mean a public school or an approved or recognized independent school as defined in section 11 of this title.

(2) "Organization," "pledging," and "student" have the same meanings as in subdivisions 140a(2), (3), and (4) of this title.

(3) "Harassment," "hazing," and "bullying" have the same meanings as in subdivisions 11(a)(26), (30), and (32) of this title.

(4) "School board" means the board of directors or other governing body of an educational institution when referring to an independent school.

Other/Uncategorized

STATUTES

No relevant statutes found.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by Vermont provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
Website		
Rule 4500-Use of Restraint & Seclusion in Schools	Guidance on use of restraint and seclusion in schools	http://education.vermont.gov/new/html/board/rules/4500.html
Model Policies	Webpage with model policies	http://education.vermont.gov/new/html/resources/model_policies.html
PBIS Vermont	Homepage for Vermont's PBIS initiative	http://pbisvermont.org
Documents		
Policy on Prevention of Harassment of Students	Model policy on harassment prevention	http://education.vermont.gov/documents/educ_model_harassment.pdf
VSBA Policy Manual	How-to on creating a school policy manual	http://www.vtvsba.org/policies.html#manual
Vermont State Board of Education Manual of Rules and Practice	Manual of education rules and statutes	http://education.vermont.gov/new/html/board/rules.html
No. 264 An act relating to the creation of an advisory board and state and local interagency teams to assist in the provision of care for children and adolescents with severe emotional disturbances	Text of act passed in 1990	http://education.vermont.gov/documents/act_264.pdf
Building Effective Strategies for Teaching (BEST) Students with Behavioral Challenges	Department of Education publication on the pyramid of school discipline	http://education.vermont.gov/documents/best_guide_99.pdf
A Guide to Positive School Discipline	Department of Education resource guide	http://education.vermont.gov/documents/positive_school_discipline_06.pdf

Title	Description	Website address (if applicable)
Guidelines for Discipline Plan Development	Guidelines for developing discipline plans based on Act 113 of 2000	http://education.vermont.gov/documents/discipline_plan_03.pdf
Other Resources		
No relevant resources found		

Virginia Compilation of School Discipline Laws and Regulations

Prepared: August 12, 2013

Introduction

This compilation presents school discipline-related state statutes, school discipline-related regulations, and, where available, links to state-sponsored websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSLE). For example, one major category encompasses all state laws or regulations mandating specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of state legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in each state.

Discipline categories were not mutually exclusive. Statutes and regulations often appeared across multiple categories. For states with more extensive statutes covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. State laws, ordered by chapter and section number, appear first within each category followed by state regulations. All statutes and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists statutes by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to state-sponsored websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of May 2013, with the exception of the state laws related to seclusion and restraint, which are complete and current as of December 2012. Readers should also note that the information in this document was compiled from individual state sources that are created by each state and which are maintained and updated with varying frequencies. Readers should consult the source information provided for each state directly in order to check for updates to this state's laws and regulations or conduct further research.

For further information, including definitions of the different policy categories, please refer to the Discipline Laws and Regulations Compendium posted on the Center's website.

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Safe Supportive Learning
Engagement | Safety | Environment

Table of Contents

Virginia State Codes Cited **1**

General Provisions **4**

Authority to develop and establish rules of conduct 4
Scope 5
Communication of Policy 5

In-School Discipline **7**

Use of multi-tiered discipline approaches 7
Teacher authority to remove students from classrooms 7
Alternatives to suspension 7
Use of corporal punishment 8
Use of student and locker searches 8
Other in-school disciplinary approaches 9

Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements **10**

Grounds for possible suspension or expulsion 10
Grounds for mandatory suspension or expulsion 10
Limitations, conditions, or exclusions for use of suspension and expulsion 11
Administrative procedures related to suspensions and expulsion 11
In-school suspension 15
Return to school following removal 15
Use of restraint and seclusion 16
Alternative Placements 17

Disciplinary Approaches Addressing Specific Infractions and Conditions **26**

Firearms (as required by the Guns-Free Schools Act) 26
Other weapons 28
Students with chronic disciplinary issues 30
Attendance and truancy 30
Substance use 32
Bullying, harassment, or hazing 34
Other special infractions or conditions 35

Prevention and Behavioral Interventions (Non-Punitive) **37**

Prevention 37
Behavioral interventions and student support services 40
Professional development 41

Monitoring and Accountability **42**

Formal incident reporting of conduct violations 42
Parental notification 44
Reporting and referrals between schools and law enforcement 47
Disclosure of school records 51
Data collection, review, and reporting of disciplinary policies and actions 54

School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers 56
Authority and power to implement school arrest 56
Certification or training 58
MOUs, authorization and/or funding 58
State Education Agency Support 60
State model policies and implementation support 60
Funding appropriations 61
Other/Uncategorized 64
Professional immunity or liability 64
Community input or involvement 65
Other/uncategorized 67
State-Sponsored, Publicly Available Websites or Other Resources on School Discipline 68

Virginia State Codes Cited

Code of Virginia

Title 8.01. Civil Remedies and Procedure

Chapter 3. Actions

8.01-47. Immunity of school personnel investigating or reporting certain incidents
8.01-220.1:2. Civil immunity for teachers under certain circumstances

Title 9.1. Commonwealth Public Safety

Chapter 1. Department of Criminal Justice Services

9.1-101. Definitions
9.1-110. School resource officer grants program and fund

Title 16.1. Courts Not of Record

Chapter 11. Juvenile and Domestic Relations District Courts

16.1.260. Intake; petition; investigation*
16.1-301. Juvenile and Domestic Relations District Courts: Confidentiality of juvenile law-enforcement records; disclosures to school principal
16.1-305.1. Juvenile and Domestic Relations District Courts: Disclosure of disposition in certain delinquency cases
16.1-305.2. Juvenile and Domestic Relations District Courts: Disclosure of notice of the filing of a petition and certain reports by division superintendent

Title 18.2. Crimes and Offenses Generally

Chapter 4. Crimes Against the Person

18.2-46.2. Prohibited criminal street gang participation; penalty
18.2-46.3:3. Enhanced punishment for gang activity taking place in a gang-free zone; penalties
18.2-56. Hazing unlawful; civil and criminal liability; duty of school, etc., officials

Chapter 7. Crimes Involving Health and Safety

18.2-308.1. Possession of firearm, stun weapon, or other weapon on school property prohibited

Title 22.1. Education

Chapter 1. System of Public Schools; General Provisions

22.1-3.2. Notice of student's school status required as condition of admission; penalty

Chapter 13. Programs, Courses of Instruction and Textbooks

22.1-208. Emphasis on moral education
22.1-209.1:2. Regional alternative education programs for certain students

Chapter 14. Pupils

22.1-254. Compulsory attendance required; excuses and waivers; alternative education program attendance; exemptions from article

22.1-258. Appointment of attendance officers; notification when pupil fails to report to school**
22.1-260. Reports of children enrolled and not enrolled; nonattendance; social security numbers required
22.1-261. Attendance officer to make list of children not enrolled; duties of attendance officer***
22.1-265. Inducing children to absent themselves
22.1-266. Law-enforcement officers and truant children
22.1-267. Proceedings against habitually absent child
22.1-268. Duty of attorneys for the Commonwealth to prosecute cases arising under article; jurisdiction of offenses
22.1-269. Board to enforce
22.1-276.01. Definitions
22.1-276.2. Removal of students from classes
22.1-277. Suspensions and expulsions of pupils generally
22.1-277.04. Short-term suspension; procedures; readmission
22.1-277.05. Long-term suspensions; procedures; readmission
22.1-277.06. Expulsions; procedures; readmission
22.1-277.07. Expulsion of students under certain circumstances; exceptions
22.1-277.07:1. Policies prohibiting possession of firearms
22.1-277.08. Expulsion of students for certain drug offenses
22.1-277.2. Authority to exclude students under certain circumstances; petition for readmission; alternative education program
22.1-277.2:1. Disciplinary authority of school boards under certain circumstances; alternative education program
22.1-279.1. Corporal punishment prohibited
22.1-279.3. Parental responsibility and involvement requirements
22.1-279.3:1. Reports of certain acts to school authorities
22.1-279.4. Information regarding prosecution for certain crimes
22.1-279.6. Board of Education guidelines and model policies for codes of student conduct; school board regulations
22.1-279.7. Guidelines for student searches
22.1-279.9. Development of programs to prevent crime and violence
22.1-280.2. School crime line defined; development of school crime lines authorized; local school boards' authority; Board of Education to promulgate regulations
22.1-280.2:1. Employment of school safety personnel
22.1-280.4. School board action regarding destruction of property
22.1-288.2. Receipt, dissemination and maintenance of records of certain law-enforcement information
22.1-289. Transfer and management of scholastic records; disclosure of information in court notices; penalty

Chapter 15. Teachers Officers and Employees

22.1-291.4. Teachers, officers and employees: Bullying prohibited

Virginia Administrative Code

Title 8. Education

Title 8. Agency 20. State Board of Education

Chapter 70. Regulations Governing Pupil Transportation

8VAC20-70-360. Regulations governing pupil transportation: In-service training

Chapter 81. Regulations Governing Special Education Programs for Children with Disabilities in Virginia

8VAC20-81-160. Discipline procedures

Chapter 310. Rules Governing Instructions Concerning Drugs and Substance Abuse

8 VAC 20-310-10. Health education program

Chapter 560. Regulations Governing Reporting of Acts of Violence and Substance Abuse in Schools

8VAC20-560-10. Reportable incidents

Chapter 620. Regulations Regarding School Guidance and Counseling Programs in the Public Schools of Virginia

8VAC20-620-10. School guidance and counseling services

*(The General Assembly passed a bill that will amend this code, effective in 2014. For the revised code, see here: http://leg1.state.va.us/cgi-bin/legp504.exe?131+ful+CHAP0803.)

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General Provisions

Authority to develop and establish rules of conduct

STATUTES

§ 22.1-277.07. Expulsion of students under certain circumstances; exceptions

B. The Board of Education is designated as the state education agency to carry out the provisions of the federal Improving America's Schools Act of 1994, and shall administer the funds to be appropriated to the Commonwealth under this act.

§ 22.1-279.6. Board of Education guidelines and model policies for codes of student conduct; school board regulations

A. The Board of Education shall establish guidelines and develop model policies for codes of student conduct to aid local school boards in the implementation of such policies. The guidelines and model policies shall include, but not be limited to, (i) criteria for the removal of a student from a class, the use of suspension, expulsion, and exclusion as disciplinary measures, the grounds for suspension and expulsion and exclusion, and the procedures to be followed in such cases, including proceedings for such suspension, expulsion, and exclusion decisions and all applicable appeals processes; (ii) standards, consistent with state, federal and case laws, for school board policies on alcohol and drugs, gang-related activity, hazing, vandalism, trespassing, threats, search and seizure, disciplining of students with disabilities, intentional injury of others, self-defense, bullying, the use of electronic means for purposes of bullying, harassment, and intimidation, and dissemination of such policies to students, their parents, and school personnel; and (iii) standards for in-service training of school personnel in and examples of the appropriate management of student conduct and student offenses in violation of school board policies.

In accordance with the most recent enunciation of constitutional principles by the Supreme Court of the United States of America, the Board's standards for school board policies on alcohol and drugs and search and seizure shall include guidance for procedures relating to voluntary and mandatory drug testing in schools, including, but not limited to, which groups may be tested, use of test results, confidentiality of test information, privacy considerations, consent to the testing, need to know, and release of the test results to the appropriate school authority.

In the case of suspension and expulsion, the procedures set forth in this article shall be the minimum procedures that the school board may prescribe.

B. School boards shall adopt and revise, as required by § 22.1-253.13:7 and in accordance with the requirements of this section, regulations on codes of student conduct that are consistent with, but may be more stringent than, the guidelines of the Board. School boards shall include, in the regulations on codes of student conduct, procedures for suspension, expulsion, and exclusion decisions and shall biennially review the model student conduct code to incorporate discipline options and alternatives to preserve a safe, nondisruptive environment for effective teaching and learning.

C. Each school board shall include, in its code of student conduct, prohibitions against bullying, hazing, and profane or obscene language or conduct. School boards shall also cite, in their codes of student conduct, the provisions of § 18.2-56, which defines and prohibits hazing and imposes a Class 1 misdemeanor penalty for violations, i.e. that is, confinement in jail for not more than 12 months and a fine of not more than $2,500, either or both.

D. Each school board shall include in its code of student conduct, by July 1, 2014, policies and procedures that include a prohibition against bullying. Such policies and procedures shall be consistent

with the standards for school board policies on bullying and the use of electronic means for purposes of bullying developed by the Board pursuant to subsection A.

Such policies and procedures shall not be interpreted to infringe upon the First Amendment rights of students and are not intended to prohibit expression of religious, philosophical, or political views, provided that such expression does not cause an actual, material disruption of the work of the school.

E. A school board may regulate the use or possession of beepers or other portable communications devices and laser pointers by students on school property or attending school functions or activities and establish disciplinary procedures pursuant to this article to which students violating such regulations will be subject.

F. Nothing herein in this section shall be construed to require any school board to adopt policies requiring or encouraging any drug testing in schools. However, a school board may, in its discretion, require or encourage drug testing in accordance with the Board of Education's guidelines and model student conduct policies required by subsection A and the Board's guidelines for student searches required by § 22.1-279.7.*)*

Scope

No relevant statutes found.

Communication of Policy

STATUTES

§ 22.1-279.3. Parental responsibility and involvement requirements

C. Within one calendar month of the opening of school, each school board shall, simultaneously with any other materials customarily distributed at that time, send to the parents of each enrolled student (i) a notice of the requirements of this section; (ii) a copy of the school board's standards of student conduct; and (iii) a copy of the compulsory school attendance law. These materials shall include a notice to the parents that by signing the statement of receipt, parents shall not be deemed to waive, but to expressly reserve, their rights protected by the constitutions or laws of the United States or the Commonwealth and that a parent shall have the right to express disagreement with a school's or school division's policies or decisions.

Each parent of a student shall sign and return to the school in which the student is enrolled a statement acknowledging the receipt of the school board's standards of student conduct, the notice of the requirements of this section, and the compulsory school attendance law. Each school shall maintain records of such signed statements.

D. The school principal may request the student's parent or parents, if both parents have legal and physical custody of such student, to meet with the principal or his designee to review the school board's standards of student conduct and the parent's or parents' responsibility to participate with the school in disciplining the student and maintaining order, to ensure the student's compliance with compulsory school attendance law, and to discuss improvement of the child's behavior, school attendance, and educational progress.

E. In accordance with the due process procedures set forth in this article and the guidelines required by § 22.1-279.6, the school principal may notify the parents of any student who violates a school board policy or the compulsory school attendance requirements when such violation could result in the student's suspension or the filing of a court petition, whether or not the school administration has imposed such disciplinary action or filed a petition. The notice shall state (i) the date and particulars of the violation; (ii) the obligation of the parent to take actions to assist the school in improving the student's behavior and

ensuring compulsory school attendance compliance; (iii) that, if the student is suspended, the parent may be required to accompany the student to meet with school officials; and (iv) that a petition with the juvenile and domestic relations court may be filed under certain circumstances to declare the student a child in need of supervision.

In-School Discipline

Use of multi-tiered discipline approaches

No relevant statutes found.

Teacher authority to remove students from classrooms

STATUTES

§ 22.1-276.2. Removal of students from classes

A. Teachers shall have the initial authority to remove a student for disruptive behavior from a class.

B. Each school board shall establish, within the regulations governing student conduct required by § 22.1-279.6:

1. Criteria for teachers to remove disruptive students from their classes;
2. Requirements for incident reports of disruptive behavior to school administrators and any other documentation to support such removals from class;
3. Procedures for the written notification of a student and his parents of any incident report and its contents and for the opportunity to meet with the teacher and school administrators to discuss the student's behavior and the possible consequences if such behavior does not cease;
4. Guidelines for the alternative assignment and instruction of such students and for the duration of such removals; and
5. Procedures for the return of students to class, for teacher participation in any decision by the principal to return a student to the class from which he has been removed, and for the resolution of any disagreements between such principal and teacher regarding such return.

C. The principal shall, unless a student who has been removed from class is suspended or expelled from school attendance, ensure that such student continues to receive an education.

D. Any teacher whose evaluation indicates deficiencies in the management of student conduct may be required by the school board to attend professional development activities designed to improve classroom management and disciplinary skills.

E. Application of this section to students with disabilities shall be in accordance with state and federal law and regulations.

F. This section shall not be construed to limit or restrict other school board policies and regulations for maintaining order in the classroom.

§ 22.1-277. Suspensions and expulsions of pupils generally

C. The authority provided in § 22.1-276.2 for teachers to remove students from their classes in certain instances of disruptive behavior shall not be interpreted to affect the operation of § 22.1-277.04, 22.1-277.05, or 22.1-277.06.

Alternatives to suspension

No relevant statutes found.

Use of corporal punishment

STATUTES

§ 22.1-279.1. Corporal punishment prohibited

A. No teacher, principal or other person employed by a school board or employed in a school operated by the Commonwealth shall subject a student to corporal punishment. This prohibition of corporal punishment shall not be deemed to prevent (i) the use of incidental, minor or reasonable physical contact or other actions designed to maintain order and control; (ii) the use of reasonable and necessary force to quell a disturbance or remove a student from the scene of a disturbance which threatens physical injury to persons or damage to property; (iii) the use of reasonable and necessary force to prevent a student from inflicting physical harm on himself; (iv) the use of reasonable and necessary force for self-defense or the defense of others; or (v) the use of reasonable and necessary force to obtain possession of weapons or other dangerous objects or controlled substances or paraphernalia which are upon the person of the student or within his control.

B. In determining whether a person was acting within the exceptions provided in this section, due deference shall be given to reasonable judgments at the time of the event which were made by a teacher, principal or other person employed by a school board or employed in a school operated by the Commonwealth.

C. For the purposes of this section, "corporal punishment" means the infliction of, or causing the infliction of, physical pain on a student as a means of discipline.

This definition shall not include physical pain, injury or discomfort caused by the use of incidental, minor or reasonable physical contact or other actions designed to maintain order and control as permitted in subdivision (i) of subsection A of this section or the use of reasonable and necessary force as permitted by subdivisions (ii), (iii), (iv), and (v) of subsection A of this section, or by participation in practice or competition in an interscholastic sport, or participation in physical education or an extracurricular activity.

Use of student and locker searches

STATUTES

§ 22.1-279.6. Board of Education guidelines and model policies for codes of student conduct; school board regulations

F. Nothing in this section shall be construed to require any school board to adopt policies requiring or encouraging any drug testing in schools. However, a school board may, in its discretion, require or encourage drug testing in accordance with the Board of Education's guidelines and model student conduct policies required by subsection A and the Board's guidelines for student searches required by § 22.1-279.7.

§ 22.1-279.7. Guidelines for student searches

The Board of Education shall develop, in consultation with the Office of the Attorney General, guidelines for school boards for the conduct of student searches, including random locker searches, voluntary and mandatory drug testing, and strip searches, consistent with relevant state and federal laws and constitutional principles.

School boards shall adopt and revise, in accordance with the requirements of this section, regulations governing student searches that are consistent with the guidelines of the Board.

Other in-school disciplinary approaches

No relevant statutes found.

Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements

Grounds for possible suspension or expulsion

STATUTES

§ 22.1-277. Suspensions and expulsions of pupils generally

A. Pupils may be suspended or expelled from attendance at school for sufficient cause; however, in no cases may sufficient cause for suspensions include only instances of truancy.

B. Any student for whom the division superintendent of the school division in which such student is enrolled has received a report pursuant to § 16.1-305.1 of an adjudication of delinquency or a conviction for an offense listed in subsection G of § 16.1-260 may be suspended or expelled from school attendance pursuant to this article.

C. The authority provided in § 22.1-276.2 for teachers to remove students from their classes in certain instances of disruptive behavior shall not be interpreted to affect the operation of § 22.1-277.04, 22.1-277.05, or 22.1-277.06.

ADMINISTRATIVE CODE

8 VAC 20-81-160. Discipline procedures

A. General. (§ 22.1-277 of the Code of Virginia; 34 CFR 300.530(a); 34 CFR 300.324(a)(2)(i))

1. A child with a disability shall be entitled to the same due process rights that all children are entitled to under the Code of Virginia and the local educational agency's disciplinary policies and procedures.

B. Short-term removals.

1. A short-term removal is for a period of time of up to 10 consecutive school days or 10 cumulative school days in a school year. (34 CFR 300.530(b))

a. School personnel may short-term remove a child with a disability from the child's current educational setting to an appropriate interim alternative educational setting, another setting, or suspension, to the extent those alternatives are applied to a child without disabilities.

Grounds for mandatory suspension or expulsion

STATUTES

§ 22.1-277.07. Expulsion of students under certain circumstances; exceptions

A. In compliance with the federal Improving America's Schools Act of 1994 (Part F-Gun-Free Schools Act of 1994), a school board shall expel from school attendance for a period of not less than one year any student whom such school board has determined, in accordance with the procedures set forth in this article, to have possessed a firearm on school property or at a school-sponsored activity as prohibited by § 18.2-308.1; to have possessed a firearm or destructive device as defined in subsection E, a firearm muffler or firearm silencer, or a pneumatic gun as defined in subsection E of § 15.2-915.4 on school property or at a school-sponsored activity. A school administrator, pursuant to school board policy, or a school board may, however, determine, based on the facts of a particular situation, that special circumstances exist and no disciplinary action or another disciplinary action or another term of expulsion

is appropriate. A school board may promulgate guidelines for determining what constitutes special circumstances. In addition, a school board may, by regulation, authorize the division superintendent or his designee to conduct a preliminary review of such cases to determine whether a disciplinary action other than expulsion is appropriate. Such regulations shall ensure that, if a determination is made that another disciplinary action is appropriate, any such subsequent disciplinary action is to be taken in accordance with the procedures set forth in this article.

§ 22.1-277.08. Expulsion of students for certain drug offenses

A. School boards shall expel from school attendance any student whom such school board has determined, in accordance with the procedures set forth in this article, to have brought a controlled substance, imitation controlled substance, marijuana as defined in § 18.2-247, or synthetic cannabinoids as defined in § 18.2-248.1:1 onto school property or to a school-sponsored activity. A school board may, however, determine, based on the facts of the particular case that special circumstances exist and another disciplinary action is appropriate. In addition, a school board may, by regulation, authorize the division superintendent or his designee to conduct a preliminary review of such cases to determine whether a disciplinary action other than expulsion is appropriate. Such regulations shall ensure that, if a determination is made that another disciplinary action is appropriate, any such subsequent disciplinary action is to be taken in accordance with the procedures set forth in this article.

B. Each school board shall revise its standards of student conduct to incorporate the requirements of this section no later than three months after the date on which this act becomes effective.

Limitations, conditions, or exclusions for use of suspension and expulsion

STATUTES

§ 22.1-277. Suspensions and expulsions of pupils generally

A. Pupils may be suspended or expelled from attendance at school for sufficient cause; however, in no cases may sufficient cause for suspensions include only instances of truancy.

§ 22.1-277.04. Short-term suspension; procedures; readmission

A pupil may be suspended for not more than ten school days by either the school principal, any assistant principal, or, in their absence, any teacher. The principal, assistant principal, or teacher may suspend the pupil after giving the pupil oral or written notice of the charges against him and, if he denies them, an explanation of the facts as known to school personnel and an opportunity to present his version of what occurred. In the case of any pupil whose presence poses a continuing danger to persons or property, or whose presence is an ongoing threat of disruption, the pupil may be removed from school immediately and the notice, explanation of facts, and opportunity to present his version shall be given as soon as practicable thereafter.

Administrative procedures related to suspensions and expulsion

STATUTES

§ 22.1-276.01. Definitions

A. For the purposes of this article, unless the context requires a different meaning:

"Exclusion" means a Virginia school board's denial of school admission to a student who has been expelled or has been placed on a long-term suspension of more than 30 calendar days by another school

board or a private school, either in Virginia or another state, or for whom admission has been withdrawn by a private school in Virginia or another state.

"Expulsion" means any disciplinary action imposed by a school board or a committee thereof, as provided in school board policy, whereby a student is not permitted to attend school within the school division and is ineligible for readmission for 365 calendar days after the date of the expulsion.

"Long-term suspension" means any disciplinary action whereby a student is not permitted to attend school for more than ten school days but less than 365 calendar days.

"Short-term suspension" means any disciplinary action whereby a student is not permitted to attend school for a period not to exceed 10 school days.

§ 22.1-277.04. Short-term suspension; procedures; readmission

A pupil may be suspended for not more than ten school days by either the school principal, any assistant principal, or, in their absence, any teacher. The principal, assistant principal, or teacher may suspend the pupil after giving the pupil oral or written notice of the charges against him and, if he denies them, an explanation of the facts as known to school personnel and an opportunity to present his version of what occurred. In the case of any pupil whose presence poses a continuing danger to persons or property, or whose presence is an ongoing threat of disruption, the pupil may be removed from school immediately and the notice, explanation of facts, and opportunity to present his version shall be given as soon as practicable thereafter.

Upon suspension of any pupil, the principal, assistant principal, or teacher responsible for such suspension shall report the facts of the case in writing to the division superintendent or his designee and the parent of the pupil suspended. The division superintendent or his designee shall review forthwith the action taken by the principal, assistant principal, or teacher upon a petition for such review by any party in interest and confirm or disapprove such action based on an examination of the record of the pupil's behavior.

The decision of the division superintendent or his designee may be appealed to the school board or a committee thereof in accordance with regulations of the school board; however, the decision of the division superintendent or his designee shall be final if so prescribed by school board regulations.

The school board shall require that any oral or written notice to the parent of a student who is suspended from school attendance for not more than ten days include notification of the length of the suspension, information regarding the availability of community-based educational programs, alternative education programs or other educational options, and of the student's right to return to regular school attendance upon the expiration of the suspension. The costs of any community-based educational program, or alternative education program or educational option, which is not a part of the educational program offered by the school division, shall be borne by the parent of the student.

§ 22.1-277.05. Long-term suspensions; procedures; readmission

A. A pupil may be suspended from attendance at school for more than ten days after providing written notice to the pupil and his parent of the proposed action and the reasons therefor and of the right to a hearing before the school board, or a committee thereof, or the superintendent or his designee, in accordance with regulations of the school board. If the regulations provide for a hearing by the superintendent or his designee, the regulations shall also provide for an appeal of the decision to the full school board. Such appeal shall be decided by the school board within thirty days.

If the regulations provide for a hearing by a committee of the school board, the regulations shall also provide that such committee may confirm or disapprove the suspension of a student. Any such committee of the school board shall be composed of at least three members. If the committee's decision is not

unanimous, the pupil or his parent may appeal the committee's decision to the full school board. Such appeal shall be decided by the school board within thirty days.

B. A school board shall include in the written notice of a suspension for more than ten days required by this section, notification of the length of the suspension. In the case of a suspension for more than ten days, such written notice shall provide information concerning the availability of community-based educational, alternative education, or intervention programs. Such notice shall also state that the student is eligible to return to regular school attendance upon the expiration of the suspension or to attend an appropriate alternative education program approved by the school board during or upon the expiration of the suspension. The costs of any community-based educational, alternative education, or intervention program that is not a part of the educational program offered by the school division that the student may attend during his suspension shall be borne by the parent of the student.

Nothing in this section shall be construed to prohibit the school board from permitting or requiring students suspended pursuant to this section to attend an alternative education program provided by the school board for the term of such suspension.

§ 22.1-277.06. Expulsions; procedures; readmission

A. Pupils may be expelled from attendance at school after written notice to the pupil and his parent of the proposed action and the reasons therefor and of the right to a hearing before the school board or a committee thereof in accordance with regulations of the school board.

If the regulations provide for a hearing by a committee of the school board, the regulations shall also provide that such committee may confirm or disapprove the expulsion of a student. Any such committee of the school board shall be composed of at least three members. If the committee's decision is not unanimous, the pupil or his parent may appeal the committee's decision to the full school board. Such appeal shall be decided by the school board within 30 days.

The regulations shall also provide for subsequent confirmation or disapproval of the proposed expulsion by the school board, or a committee thereof, as may be provided in regulation, regardless of whether the pupil exercised the right to a hearing.

B. The written notice required by this section shall include notification of the length of the expulsion and shall provide information to the parent of the student concerning the availability of community-based educational, training, and intervention programs. Such notice shall state further whether or not the student is eligible to return to regular school attendance, or to attend an appropriate alternative education program approved by the school board, or an adult education program offered by the school division, during or upon the expiration of the expulsion, and the terms or conditions of such readmission. The costs of any community-based educational, training, or intervention program that is not a part of the educational program offered by the school division that the student may attend during his expulsion shall be borne by the parent of the student.

Nothing in this section shall be construed to prohibit the school board from permitting or requiring students expelled pursuant to this section to attend an alternative education program provided by the school board for the term of such expulsion.

If the school board determines that the student is ineligible to return to regular school attendance or to attend during the expulsion an alternative education program or an adult education program in the school division, the written notice shall also advise the parent of such student that the student may petition the school board for readmission to be effective one calendar year from the date of his expulsion, and of the conditions, if any, under which readmission may be granted.

School boards shall establish, by regulation, a schedule pursuant to which such students may apply and reapply for readmission to school. Such schedule shall be designed to ensure that any initial petition for readmission will be reviewed by the school board or a committee thereof, or the division superintendent,

and, if granted, would enable the student to resume school attendance one calendar year from the date of the expulsion. If the division superintendent or a committee of the school board denies such petition, the student may petition the school board for review of such denial.

C. Recommendations for expulsion for actions other than those specified in §§ 22.1-277.07 and 22.1-277.08 shall be based on consideration of the following factors:

1. The nature and seriousness of the violation;
2. The degree of danger to the school community;
3. The student's disciplinary history, including the seriousness and number of previous infractions;
4. The appropriateness and availability of an alternative education placement or program;
5. The student's age and grade level;
6. The results of any mental health, substance abuse, or special education assessments;
7. The student's attendance and academic records; and
8. Such other matters as he deems appropriate.

No decision to expel a student shall be reversed on the grounds that such factors were not considered.

Nothing in this subsection shall be deemed to preclude a school board from considering any of these factors as "special circumstances" for purposes of §§ 22.1-277.07 and 22.1-277.08.

§ 22.1-277.2. Authority to exclude students under certain circumstances; petition for readmission; alternative education program

A. A student, who has been expelled or suspended for more than thirty days from attendance at school by a school board or a private school in this Commonwealth or in another state or for whom admission has been withdrawn by a private school in this Commonwealth or in another state may be excluded from attendance by a local school board in Virginia, regardless of whether such student has been admitted to another school division or private school in the Commonwealth or in another state subsequent to such expulsion, suspension, or withdrawal of admission upon a finding that the student presents a danger to the other students or staff of the school division after (i) written notice to the student and his parent that the student may be subject to exclusion, the reasons therefor, and, in the event of such exclusion, of the right to appeal the decision at a hearing before the school board or a committee thereof; and (ii) a review of the case has been conducted by the division superintendent or his designee and exclusion has been recommended.

In the case of a suspension of more than thirty days, the term of the exclusion may not exceed the duration of such suspension.

In excluding any such expelled student from school attendance, the local school board may accept or waive any or all of any conditions for readmission imposed upon such student by the expelling school board pursuant to § 22.1-277.06. The excluding school board shall not impose additional conditions for readmission to school.

If the decision by the superintendent or his designee to exclude has been appealed to a committee of the school board, the student or his parent shall be provided written notice of the right to appeal the decision to the full board, which shall, within thirty days following any such hearing, in the case of an expulsion or withdrawal of admission and, in the case of a suspension of more than thirty days, within fifteen days following any such hearing, notify in writing the student or his parent of its decision.

B. In lieu of the procedures established in subsection A, a school board may adopt regulations providing that a student may be excluded from attendance after (i) written notice to the student and his parent that the student may be subject to exclusion, including the reasons therefor, and notice of the opportunity for the student or his parent to participate in a hearing to be conducted by the division superintendent or his

designee regarding such exclusion; and (ii) a hearing of the case has been conducted by the division superintendent or his designee, and the decision has been to exclude the student from attendance. The decision of the superintendent or his designee to exclude shall be final unless altered by the school board, upon timely written petition, as established in regulation, of the student so excluded or his parent, for a review of the record by the school board.

C. Upon the expiration of the exclusion period for an expulsion or a withdrawal of admission, which period shall be established by the school board, committee thereof, or superintendent or his designee, as the case may be, at the relevant hearing, the student may re-petition the school board for admission. If the petition for admission is rejected, the school board shall identify the length of the continuing exclusion period and the subsequent date upon which such student may re-petition the school board for admission.

D. The school board may permit students excluded pursuant to this section to attend an alternative education program provided by the school board for the term of such exclusion.

In-school suspension

No relevant statutes found.

Return to school following removal

STATUTES

§ 22.1-277.05. Long-term suspensions; procedures; readmission

B. A school board shall include in the written notice of a suspension for more than ten days required by this section, notification of the length of the suspension. In the case of a suspension for more than ten days, such written notice shall provide information concerning the availability of community-based educational, alternative education, or intervention programs. Such notice shall also state that the student is eligible to return to regular school attendance upon the expiration of the suspension or to attend an appropriate alternative education program approved by the school board during or upon the expiration of the suspension. The costs of any community-based educational, alternative education, or intervention program that is not a part of the educational program offered by the school division that the student may attend during his suspension shall be borne by the parent of the student.

Nothing in this section shall be construed to prohibit the school board from permitting or requiring students suspended pursuant to this section to attend an alternative education program provided by the school board for the term of such suspension.

§ 22.1-277.06. Expulsions; procedures; readmission

[…] School boards shall establish, by regulation, a schedule pursuant to which such students may apply and reapply for readmission to school. Such schedule shall be designed to ensure that any initial petition for readmission will be reviewed by the school board or a committee thereof, or the division superintendent, and, if granted, would enable the student to resume school attendance one calendar year from the date of the expulsion. If the division superintendent or a committee of the school board denies such petition, the student may petition the school board for review of such denial.

§ 22.1-277.2. Authority to exclude students under certain circumstances; petition for readmission; alternative education program

A. A student, who has been expelled or suspended for more than thirty days from attendance at school by a school board or a private school in this Commonwealth or in another state or for whom admission has been withdrawn by a private school in this Commonwealth or in another state may be excluded from

attendance by a local school board in Virginia, regardless of whether such student has been admitted to another school division or private school in the Commonwealth or in another state subsequent to such expulsion, suspension, or withdrawal of admission upon a finding that the student presents a danger to the other students or staff of the school division after (i) written notice to the student and his parent that the student may be subject to exclusion, the reasons therefor, and, in the event of such exclusion, of the right to appeal the decision at a hearing before the school board or a committee thereof; and (ii) a review of the case has been conducted by the division superintendent or his designee and exclusion has been recommended.

In the case of a suspension of more than thirty days, the term of the exclusion may not exceed the duration of such suspension.

In excluding any such expelled student from school attendance, the local school board may accept or waive any or all of any conditions for readmission imposed upon such student by the expelling school board pursuant to § 22.1-277.06. The excluding school board shall not impose additional conditions for readmission to school.

If the decision by the superintendent or his designee to exclude has been appealed to a committee of the school board, the student or his parent shall be provided written notice of the right to appeal the decision to the full board, which shall, within thirty days following any such hearing, in the case of an expulsion or withdrawal of admission and, in the case of a suspension of more than thirty days, within fifteen days following any such hearing, notify in writing the student or his parent of its decision.

B. In lieu of the procedures established in subsection A, a school board may adopt regulations providing that a student may be excluded from attendance after (i) written notice to the student and his parent that the student may be subject to exclusion, including the reasons therefor, and notice of the opportunity for the student or his parent to participate in a hearing to be conducted by the division superintendent or his designee regarding such exclusion; and (ii) a hearing of the case has been conducted by the division superintendent or his designee, and the decision has been to exclude the student from attendance. The decision of the superintendent or his designee to exclude shall be final unless altered by the school board, upon timely written petition, as established in regulation, of the student so excluded or his parent, for a review of the record by the school board.

C. Upon the expiration of the exclusion period for an expulsion or a withdrawal of admission, which period shall be established by the school board, committee thereof, or superintendent or his designee, as the case may be, at the relevant hearing, the student may re-petition the school board for admission. If the petition for admission is rejected, the school board shall identify the length of the continuing exclusion period and the subsequent date upon which such student may re-petition the school board for admission.

D. The school board may permit students excluded pursuant to this section to attend an alternative education program provided by the school board for the term of such exclusion.

§ 22.1-279.3. Parental responsibility and involvement requirements

F. No suspended student shall be admitted to the regular school program until such student and his parent have met with school officials to discuss improvement of the student's behavior, unless the school principal or his designee determines that readmission, without parent conference, is appropriate for the student.

Use of restraint and seclusion

No relevant statutes found.

Alternative Placements

STATUTES

§ 22.1-209.1:2. Regional alternative education programs for certain students

A. With such funds as may be appropriated for this purpose, the Board of Education shall establish a program consisting of regional alternative education options for elementary, middle, and high school students in compliance with subdivision D 7 of § 22.1-253.13:1 who (i) have committed an offense in violation of school board policies relating to weapons, alcohol or drugs, or intentional injury to another person, or against whom a petition or warrant has been filed alleging such acts or school board charges alleging such policy violations are pending; (ii) have been expelled from school attendance or have received one suspension for an entire semester, or have received two or more long-term suspensions within one school year; or (iii) have been released from a juvenile correctional center and have been identified by the Superintendent of the Department of Juvenile Justice's Division of Education and the relevant division superintendent as requiring a regional alternative education program. Based on available space, a student may also be administratively assigned to a regional alternative education program either at the request of the parent and with the consent of the division superintendent or by the division superintendent after written notice to the student and his parent. Such notice of the opportunity for the student and/or his parent to participate in a hearing conducted by the division superintendent or his designee regarding such placement shall be issued and the assignment shall be final unless altered by the school board, upon timely written petition, in accordance with regulations of the school board, by the student or his parent, for a review of the record by the school board. However, no child shall be assigned to any regional alternative education program described in this section for more than one school year without an annual assessment of the placement to determine the appropriateness of transitioning the child into the school division's regular program.

B. Applications for grants shall include the following components:

1. An agreement executed by two or more school divisions and approval of their respective governing bodies to offer a regional alternative education option as provided in subsection A, and a plan for the apportionment of responsibilities for the administration, management, and support of the program, including, but not limited to, the facilities and location for the program, daily operation and oversight, staffing, instructional materials and resources, transportation, funding and in-kind services, and the program of instruction.
2. A procedure for obtaining the participation in or support for the program, as may be determined, of the parents, guardian or other person having charge or control of a child placed in the program.
3. An interagency agreement for cooperation executed by the local departments of health and social services or welfare; the juvenile and domestic relations district court; law-enforcement agencies; institutions of higher education and other postsecondary training programs; professional and community organizations; the business and religious communities; dropout prevention and substance abuse prevention programs; community services boards located in the applicants' respective jurisdictions; and the Department of Juvenile Justice.
4. A curriculum developed for intensive, accelerated instruction designed to establish high standards and academic achievement for participating students.
5. An emphasis on building self-esteem and the promotion of personal and social responsibility.
6. A low pupil/teacher ratio to promote a high level of interaction between the students and the teacher.
7. An extended day program, where appropriate, to facilitate remediation; tutoring; counseling; organized, age-appropriate, developmental education for elementary and middle school children; and

opportunities that enhance acculturation and permit students to improve their social and interpersonal relationship skills.

8. Community outreach to build strong school, business, and community partnerships, and to promote parental involvement in the educational process of participating children.

9. Specific, measurable goals and objectives and an evaluation component to determine the program's effectiveness in reducing acts of crime and violence by students, the dropout rate, the number of youth committed to juvenile correctional centers, and recidivism; and in increasing the academic achievement levels and rehabilitative success of participating students, admission to institutions of higher education and other postsecondary education and training programs, and improving staff retention rates.

10. The number of children who may be assigned to the regional alternative education program during the school year.

11. A plan for transitioning the enrolled students into the relevant school division's regular program.

12. A current program of staff development and training.

C. Beginning with the first year of program implementation, the Department of Education shall be entitled to deduct annually from the locality's share for the education of its students a sum equal to the actual local expenditure per pupil for the support of those students placed by the relevant school division in any such program. The amount of the actual transfers shall be based on data accumulated during the prior school year.

D. A school board shall require written notification to the pupil's parent, guardian, or other person having charge or control, when a pupil commits an offense in violation of school board policies, which school officials determine was committed without the willful intent to violate such policies, or when the offense did not endanger the health and safety of the individual or other persons, of the nature of the offense no later than two school days following its occurrence. A school board shall require the principal of the school where the child is in attendance or other appropriate school personnel to develop appropriate measures, in conjunction with the pupil's parent or guardian, for correcting such behavior.

E. For the purposes of this section, "regional alternative education program" means a program supported and implemented by two or more school divisions which are either geographically contiguous or have a community of interest.

F. For the purposes of this section, "one school year" means no more than 180 teaching days.

§ 22.1-276.01. Definitions

A. For the purposes of this article, unless the context requires a different meaning:

"Alternative education program" includes night school, adult education, or any other education program designed to offer instruction to students for whom the regular program of instruction may be inappropriate.

§ 22.1-276.2. Removal of students from classes

B. Each school board shall establish, within the regulations governing student conduct required by § 22.1-279.6:

4. Guidelines for the alternative assignment and instruction of such students and for the duration of such removals; and

§ 22.1-277.04. Short-term suspension; procedures; readmission

The school board shall require that any oral or written notice to the parent of a student who is suspended from school attendance for not more than ten days include notification of the length of the suspension, information regarding the availability of community-based educational programs, alternative education

programs or other educational options, and of the student's right to return to regular school attendance upon the expiration of the suspension. The costs of any community-based educational program, or alternative education program or educational option, which is not a part of the educational program offered by the school division, shall be borne by the parent of the student.

§ 22.1-277.05. Long-term suspensions; procedures; readmission

B. A school board shall include in the written notice of a suspension for more than ten days required by this section, notification of the length of the suspension. In the case of a suspension for more than ten days, such written notice shall provide information concerning the availability of community-based educational, alternative education, or intervention programs. Such notice shall also state that the student is eligible to return to regular school attendance upon the expiration of the suspension or to attend an appropriate alternative education program approved by the school board during or upon the expiration of the suspension. The costs of any community-based educational, alternative education, or intervention program that is not a part of the educational program offered by the school division that the student may attend during his suspension shall be borne by the parent of the student.

Nothing in this section shall be construed to prohibit the school board from permitting or requiring students suspended pursuant to this section to attend an alternative education program provided by the school board for the term of such suspension.

§ 22.1-277.06. Expulsions; procedures; readmission

B. The written notice required by this section shall include notification of the length of the expulsion and shall provide information to the parent of the student concerning the availability of community-based educational, training, and intervention programs. Such notice shall state further whether or not the student is eligible to return to regular school attendance, or to attend an appropriate alternative education program approved by the school board, or an adult education program offered by the school division, during or upon the expiration of the expulsion, and the terms or conditions of such readmission. The costs of any community-based educational, training, or intervention program that is not a part of the educational program offered by the school division that the student may attend during his expulsion shall be borne by the parent of the student.

Nothing in this section shall be construed to prohibit the school board from permitting or requiring students expelled pursuant to this section to attend an alternative education program provided by the school board for the term of such expulsion.

If the school board determines that the student is ineligible to return to regular school attendance or to attend during the expulsion an alternative education program or an adult education program in the school division, the written notice shall also advise the parent of such student that the student may petition the school board for readmission to be effective one calendar year from the date of his expulsion, and of the conditions, if any, under which readmission may be granted.

School boards shall establish, by regulation, a schedule pursuant to which such students may apply and reapply for readmission to school. Such schedule shall be designed to ensure that any initial petition for readmission will be reviewed by the school board or a committee thereof, or the division superintendent, and, if granted, would enable the student to resume school attendance one calendar year from the date of the expulsion. If the division superintendent or a committee of the school board denies such petition, the student may petition the school board for review of such denial.

§ 22.1-277.2:1. Disciplinary authority of school boards under certain circumstances; alternative education program

A. A school board may, in accordance with the procedures set forth in this article, require any student who has been (i) charged with an offense relating to the Commonwealth's laws, or with a violation of

school board policies, on weapons, alcohol or drugs, or intentional injury to another person, or with an offense that is required to be disclosed to the superintendent of the school division pursuant to subsection G of § 16.1-260; (ii) found guilty or not innocent of an offense relating to the Commonwealth's laws on weapons, alcohol, or drugs, or of a crime that resulted in or could have resulted in injury to others, or of an offense that is required to be disclosed to the superintendent of the school division pursuant to subsection G of § 16.1-260; (iii) found to have committed a serious offense or repeated offenses in violation of school board policies; (iv) suspended pursuant to § 22.1-277.05; or (v) expelled pursuant to § 22.1-277.06, 22.1-277.07, or 22.1-277.08, or subsection B of § 22.1-277, to attend an alternative education program. A school board may require such student to attend such programs regardless of where the crime occurred. School boards may require any student who has been found, in accordance with the procedures set forth in this article, to have been in possession of, or under the influence of, drugs or alcohol on a school bus, on school property, or at a school-sponsored activity in violation of school board policies, to undergo evaluation for drug or alcohol abuse, or both, and, if recommended by the evaluator and with the consent of the student's parent, to participate in a treatment program.

As used in this section, the term "charged" means that a petition or warrant has been filed or is pending against a pupil.

B. A school board may adopt regulations authorizing the division superintendent or his designee to require students to attend an alternative education program consistent with the provisions of subsection A after (i) written notice to the student and his parent that the student will be required to attend an alternative education program and (ii) notice of the opportunity for the student or his parent to participate in a hearing to be conducted by the division superintendent or his designee regarding such placement. The decision of the superintendent or his designee regarding such alternative education placement shall be final unless altered by the school board, upon timely written petition, as established in regulation, by the student or his parent, for a review of the record by the school board.

C. A school board may adopt regulations authorizing the principal or his designee to impose a short-term suspension, pursuant to § 22.1-277.04, upon a student who has been charged with an offense involving intentional injury enumerated in subsection G of § 16.1-260, to another student in the same school pending a decision as to whether to require that such student attend an alternative education program.

ADMINISTRATIVE CODE

8 VAC 20-81-160. Discipline procedures

A. General. (§ 22.1-277 of the Code of Virginia; 34 CFR 300.530(a); 34 CFR 300.324(a)(2)(i))

1. A child with a disability shall be entitled to the same due process rights that all children are entitled to under the Code of Virginia and the local educational agency's disciplinary policies and procedures.

B. Short-term removals.

1. A short-term removal is for a period of time of up to 10 consecutive school days or 10 cumulative school days in a school year. (34 CFR 300.530(b))

a. School personnel may short-term remove a child with a disability from the child's current educational setting to an appropriate interim alternative educational setting, another setting, or suspension, to the extent those alternatives are applied to a child without disabilities.

b. Additional short-term removals may apply to a child with a disability in a school year for separate incidents of misconduct as long as the removals do not constitute a pattern. If the short-term removals constitute a pattern, the requirements of subsection C of this section apply.

(1) The local educational agency determines when isolated, short-term removals for unrelated instances of misconduct are considered a pattern.(2) These removals only constitute a change in placement if the local educational agency determines there is a pattern.

2. Services during short-term removals.

a. The local educational agency is not required to provide services during the first 10 school days in a school year that a child with a disability is short-term removed if services are not provided to a child without a disability who has been similarly removed. (34 CFR 300.530(b)(2))

b. For additional short-term removals, which do not constitute a pattern, the local educational agency shall provide services to the extent determined necessary to enable the student to continue to participate in the general education curriculum and to progress toward meeting the goals of the student's IEP. School personnel, in consultation with the student's special education teacher, make the service determinations. (34 CFR 300.530(b)(2))

c. For additional short-term removals that do not constitute a pattern, the local educational agency shall ensure that children with disabilities are included in the Virginia Department of Education and divisionwide assessment programs in accordance with the provisions of subdivision 4 of 8 VAC 20-81-20. (20 USC § 1412(a)(16)(A))

C. Long-term removals.

1. A long-term removal is for more than 10 consecutive school days; or (34 CFR 300.530; 34 CFR 300.536)

2. The child has received a series of short-term removals that constitutes a pattern:

a. Because the removals cumulate to more than 10 school days in a school year;

b. Because the child's behavior is substantially similar to the child's behavior in previous incidents that results in a series of removals; and

c. Because of such additional factors such as the length of each removal, the total amount of time the student is removed, and the proximity of the removals to one another.

3. The local educational agency determines on a case-by-case basis whether a pattern of removals constitutes a change in placement. This determination is subject to review through due process and judicial proceedings. (34 CFR 300.530(a) and (b) and 34 CFR 300.536)

4. On the date on which the decision is made to long-term remove the student because of a violation of a code of student conduct, the local educational agency shall notify the parent(s) of the decision and provide the parent(s) with the procedural safeguards. (34 CFR 300.530(h))

5. Special circumstances. (34 CFR 300.530(g))

a. School personnel may remove a child with a disability to an appropriate interim alternative educational setting for the same amount of time that a child without a disability would be subject to discipline, but for not more than 45 school days without regard to whether the behavior is determined to be a manifestation of the child's disability, if:

(1) The child carries a weapon to or possesses a weapon at school, on school premises, or at a school function under the jurisdiction of a local educational agency or the Virginia Department of Education; or

(2) The child knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school, on school premises, or at a school function under the jurisdiction of a local educational agency or the Virginia Department of Education; or

(3) The child inflicts serious bodily injury upon another person at school, on school premises, or at a school function under the jurisdiction of a local educational agency or the Virginia Department of Education.

b. For purposes of this part, "weapon," "controlled substance," and "serious bodily injury" have the meaning given the terms under 8 VAC 20-81-10.

6. Services during long-term removals.

a. A child with a disability who is long-term removed receives services during the disciplinary removal so as to enable the student to: (34 CFR 300.530(d))

(1) Continue to receive educational services so as to enable the student to continue to participate in the general educational curriculum, although in another setting;

(2) Continue to receive those services and modifications including those described in the child's current IEP that will enable the child to progress toward meeting the IEP goals; and

(3) Receive, as appropriate, a functional behavioral assessment, and behavioral intervention services and modifications, that are designed to address the behavior violation so that it does not recur.

b. For long-term removals, the local educational agency shall ensure that children with disabilities are included in the Virginia Department of Education and divisionwide assessment programs in accordance with the provisions of subdivision 4 of 8 VAC 20-81-20. (20 USC § 1412(a)(16)(A))

c. The IEP team determines the services needed for the child with a disability who has been long-term removed. (34 CFR 300.530(d)(5) and 34 CFR 300.531)

D. Manifestation determination. (34 CFR 300.530(c), (e), (f), and (g))

1. Manifestation determination is required if the local educational agency is contemplating a removal that constitutes a change in placement for a child with a disability who has violated a code of student conduct of the local educational agency that applies to all students.

2. The local educational agency, the parent(s), and relevant members of the child's IEP team, as determined by the parent and the local educational agency, constitute the IEP team that shall convene immediately, if possible, but not later than 10 school days after the date on which the decision to take the action is made.

3. The IEP team shall review all relevant information in the child's file, including the child's IEP, any teacher observations, and any relevant information provided by the parent(s).

4. The IEP team then shall determine the conduct to be a manifestation of the child's disability:

(1) If the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability; or

(2) If the conduct in question was the direct result of the local educational agency's failure to implement the child's IEP.

5. If the IEP team determines that the local educational agency failed to implement the child's IEP, the local educational agency shall take immediate steps to remedy those deficiencies.

6. If the IEP team determines that the child's behavior was a manifestation of the child's disability:

a. The IEP team shall return the child to the placement from which the child was removed unless the parent and the local educational agency agree to a change in placement as part of the modification of the behavioral intervention plan. The exception to this provision is when the child has been removed for not more than 45 school days to an interim alternative educational setting for matters described in subdivision C 5 a of this section. In that case, school personnel may keep the student in the interim alternative educational setting until the expiration of the 45-day period.

(1) Conduct a functional behavioral assessment, unless the local educational agency had conducted this assessment before the behavior that resulted in the change in placement occurred, and implement a behavioral intervention plan for the child.

(a) A functional behavioral assessment may include a review of existing data or new testing data or evaluation as determined by the IEP team.

(b) If the IEP team determines that the functional behavioral assessment will include obtaining new testing data or evaluation, then the parent is entitled to an independent educational evaluation in

accordance with 8 VAC 20-81-170 B if the parent disagrees with the evaluation or a component of the evaluation obtained by the local educational agency; or

(2) If a behavioral intervention plan already has been developed, review this plan, and modify it, as necessary, to address the behavior.

7. If the IEP team determines that the child's behavior was not a manifestation of the child's disability, school personnel may apply the relevant disciplinary procedures to children with disabilities in the same manner and for the same duration as the procedures would be applied to children without disabilities, except that services shall be provided in accordance with subdivision C 6 a of this section.

E. Appeal. (34 CFR 300.532(a) and (c))

1. If the child's parent(s) disagrees with the determination that the student's behavior was not a manifestation of the student's disability or with any decision regarding placement under these disciplinary procedures, the parent(s) may request an expedited due process hearing.

2. A local educational agency that believes that maintaining the current placement of the child is substantially likely to result in injury to the child or others, may request an expedited due process hearing.

3. The local educational agency is responsible for arranging the expedited due process in accordance with the Virginia Department of Education's hearing procedures at 8 VAC 20-81-210.

a. The hearing shall occur within 20 school days of the date the request for the hearing is filed.

b. The special education hearing officer shall make a determination within 10 school days after the hearing.

c. Unless the parent(s) and the local educational agency agree in writing to waive the resolution meeting, or agree to use the mediation process:

(1) A resolution meeting shall occur within 7 calendar days of receiving the request for a hearing.

(2) The due process hearing may proceed unless the matter has been resolved to the satisfaction of both parties within 15 calendar days of the receipt of the request for a hearing.

d. The decisions on expedited due process hearings are appealable consistent with 8 VAC 20-81-210.

F. Authority of the special education hearing officer. (34 CFR 300.532(a) and (b))

1. A local educational agency may request an expedited due process hearing under the Virginia Department of Education's due process hearing procedures to effect a change in placement of a child with a disability for not more than 45 school days without regard to whether the behavior is determined to be a manifestation of the child's disability, if the local educational agency believes that the child's behavior is substantially likely to result in injury to self or others.

2. The special education hearing officer under 8 VAC 20-81-210 may:

a. Return the child with a disability to the placement from which the child was removed if the special education hearing officer determines that the removal was a violation of subsections C and D of this section, or that the child's behavior was a manifestation of the child's disability; or

b. Order a change in the placement to an appropriate interim alternative educational setting for not more than 45 school days if the special education hearing officer determines that maintaining the current placement of the child is substantially likely to result in injury to the student or others.

3. A local educational agency may ask the special education hearing officer for an extension of 45 school days for the interim alternative educational setting of a child with a disability when school personnel believe that the child's return to the regular placement would result in injury to the student or others.

G. Placement during appeals. (34 CFR 300.533)

1. The child shall remain in the interim alternative educational setting pending the decision of the special education hearing officer; or

2. Until the expiration of the time for the disciplinary period set forth in this section, whichever comes first, unless the parent and the local educational agency agree otherwise.

H. Protection for children not yet eligible for special education and related services. (34 CFR 300.534)

1. A child who has not been determined to be eligible for special education and related services and who has engaged in behavior that violates a code of student conduct of the local educational agency may assert any of the protections provided in this chapter if the local educational agency had knowledge that the child was a child with a disability before the behavior that precipitated the disciplinary action occurred.

2. A local educational agency shall be deemed to have knowledge that a child is a child with a disability if before the behavior that precipitated the disciplinary action occurred:

(a) The parent(s) of the child expressed concern in writing (or orally if the parent(s) does not know how to write or has a disability that prevents a written statement) to school personnel that the child is in need of special education and related services;

(b) The parent(s) of the child requested an evaluation of the child to be determined eligible for special education and related services; or

(c) A teacher of the child or school personnel expressed concern about a pattern of behavior demonstrated by the child directly to the director of special education of the local educational agency or to other supervisory personnel of the local educational agency.

3. A local educational agency would not be deemed to have knowledge that a child is a child with a disability if:

(a) The parent of the child has not allowed a previous evaluation of the child or has refused services; or

(b) The child has been evaluated in accordance with 8 VAC 20-81-70 and 8 VAC 20-81-80 and determined ineligible for special education and related services.

4. If the local educational agency does not have knowledge that a child is a child with a disability prior to taking disciplinary measures against the child, the child may be subjected to the same disciplinary measures applied to a child without a disability who engages in comparable behaviors.

5. If a request is made for an evaluation of a child during the time period in which the child is subjected to disciplinary measures under this section, the evaluation shall be conducted in an expedited manner.

a. Until the evaluation is completed, the child remains in the educational placement determined by the school personnel, which can include suspension or expulsion without educational services.

b. If the child is determined to be a child with a disability, taking into consideration information from the evaluations conducted by the local educational agency and information provided by the parent(s), the local educational agency shall provide special education and related services as required for a child with a disability who is disciplined.

I. Referral to and action by law enforcement and judicial authorities. (34 CFR 300.535)

1. Nothing in this chapter prohibits a local educational agency from reporting a crime by a child with a disability to appropriate authorities, or prevents state law enforcement and judicial authorities from exercising their responsibilities with regard to the application of federal and state law to crimes committed by a child with a disability to the extent such action applies to a student without a disability.

2. In reporting the crime, the local educational agency shall ensure that copies of the special education and disciplinary records of the child are transmitted for consideration by the appropriate authorities to

whom school personnel report the crime. Transmission of such records shall be in accordance with requirements under the Management of the Student's Scholastic Record in the Public Schools of Virginia (8 VAC 20-150).

J. Information on disciplinary actions. (34 CFR 300.229)

1. The Virginia Department of Education requires that local educational agencies include in the records of a child with a disability a statement of any current or previous disciplinary action that has been taken against the child.

2. Local educational agencies are responsible for transmitting the statement to the Virginia Department of Education upon request to the same extent that the disciplinary information is included in, and transmitted with, the student records of nondisabled students.

3. The statement may include:

a. A description of any behavior engaged in by the child who required disciplinary action;

b. A description of the disciplinary action; and

c. Any other information that is relevant to the safety of the child and other individuals involved with the child.

4. If the child transfers from one school to another, the transmission of any of the child's records shall include the child's current IEP and any statement of current or previous disciplinary action that has been taken against the child.

Disciplinary Approaches Addressing Specific Infractions and Conditions

Firearms (as required by the Guns-Free Schools Act)

STATUTES

§ 18.2-308.1. Possession of firearm, stun weapon, or other weapon on school property prohibited

A. If any person possesses any (i) stun weapon as defined in this section; (ii) knife, except a pocket knife having a folding metal blade of less than three inches; or (iii) weapon, including a weapon of like kind, designated in subsection A of § 18.2-308, other than a firearm; upon (a) the property of any public, private or religious elementary, middle or high school, including buildings and grounds; (b) that portion of any property open to the public and then exclusively used for school-sponsored functions or extracurricular activities while such functions or activities are taking place; or (c) any school bus owned or operated by any such school, he shall be guilty of a Class 1 misdemeanor.

B. If any person possesses any firearm designed or intended to expel a projectile by action of an explosion of a combustible material while such person is upon (i) any public, private or religious elementary, middle or high school, including buildings and grounds; (ii) that portion of any property open to the public and then exclusively used for school-sponsored functions or extracurricular activities while such functions or activities are taking place; or (iii) any school bus owned or operated by any such school, he shall be guilty of a Class 6 felony.

C. If any person possesses any firearm designed or intended to expel a projectile by action of an explosion of a combustible material within a public, private or religious elementary, middle or high school building and intends to use, or attempts to use, such firearm, or displays such weapon in a threatening manner, such person shall be guilty of a Class 6 felony and sentenced to a mandatory minimum term of imprisonment of five years to be served consecutively with any other sentence.

The exemptions set out in § 18.2-308 shall apply, mutatis mutandis, to the provisions of this section. The provisions of this section shall not apply to (i) persons who possess such weapon or weapons as a part of the school's curriculum or activities; (ii) a person possessing a knife customarily used for food preparation or service and using it for such purpose; (iii) persons who possess such weapon or weapons as a part of any program sponsored or facilitated by either the school or any organization authorized by the school to conduct its programs either on or off the school premises; (iv) any law-enforcement officer; (v) any person who possesses a knife or blade which he uses customarily in his trade; (vi) a person who possesses an unloaded firearm that is in a closed container, or a knife having a metal blade, in or upon a motor vehicle, or an unloaded shotgun or rifle in a firearms rack in or upon a motor vehicle; or (vii) a person who has a valid concealed handgun permit and possesses a concealed handgun while in a motor vehicle in a parking lot, traffic circle, or other means of vehicular ingress or egress to the school. For the purposes of this paragraph, "weapon" includes a knife having a metal blade of three inches or longer and "closed container" includes a locked vehicle trunk.

As used in this section:

"Stun weapon" means any device that emits a momentary or pulsed output, which is electrical, audible, optical or electromagnetic in nature and which is designed to temporarily incapacitate a person.

§ 22.1-277.07. Expulsion of students under certain circumstances; exceptions

A. In compliance with the federal Improving America's Schools Act of 1994 (Part F-Gun-Free Schools Act of 1994), a school board shall expel from school attendance for a period of not less than one year any

student whom such school board has determined, in accordance with the procedures set forth in this article, to have possessed a firearm on school property or at a school-sponsored activity as prohibited by § 18.2-308.1; to have possessed a firearm or destructive device as defined in subsection E, a firearm muffler or firearm silencer, or a pneumatic gun as defined in subsection E of § 15.2-915.4 on school property or at a school-sponsored activity. A school administrator, pursuant to school board policy, or a school board may, however, determine, based on the facts of a particular situation, that special circumstances exist and no disciplinary action or another disciplinary action or another term of expulsion is appropriate. A school board may promulgate guidelines for determining what constitutes special circumstances. In addition, a school board may, by regulation, authorize the division superintendent or his designee to conduct a preliminary review of such cases to determine whether a disciplinary action other than expulsion is appropriate. Such regulations shall ensure that, if a determination is made that another disciplinary action is appropriate, any such subsequent disciplinary action is to be taken in accordance with the procedures set forth in this article.

B. The Board of Education is designated as the state education agency to carry out the provisions of the federal Improving America's Schools Act of 1994, and shall administer the funds to be appropriated to the Commonwealth under this act.

C. Each school board shall revise its standards of student conduct no later than three months after the date on which this act becomes effective. Local school boards requesting moneys apportioned to the Commonwealth through the federal Improving America's Schools Act of 1994 shall submit to the Department of Education an application requesting such assistance. Applications for assistance shall include:

1. Documentation that the local school board has adopted and implemented student conduct policies in compliance with this section; and
2. A description of the circumstances pertaining to expulsions imposed under this section, including (i) the schools from which students were expelled under this section, (ii) the number of students expelled from each such school in the school division during the school year, and (iii) the types of firearms involved in the expulsions.

D. No school operating a Junior Reserve Officers Training Corps (JROTC) program shall prohibit the JROTC program from conducting marksmanship training when such training is a normal element of such programs. Such programs may include training in the use of pneumatic guns. The administration of a school operating a JROTC program shall cooperate with the JROTC staff in implementing such marksmanship training.

E. As used in this section:

"Destructive device" means (i) any explosive, incendiary, or poison gas, bomb, grenade, rocket having a propellant charge of more than four ounces, missile having an explosive or incendiary charge of more than one-quarter ounce, mine, or other similar device; (ii) any weapon, except a shotgun or a shotgun shell generally recognized as particularly suitable for sporting purposes, by whatever name known that will, or may be readily converted to, expel a projectile by the action of an explosive or other propellant, and that has any barrel with a bore of more than one-half inch in diameter that is homemade or was not made by a duly licensed weapon manufacturer, any fully automatic firearm, any sawed-off shotgun or sawed-off rifle as defined in § 18.2-299 or any firearm prohibited from civilian ownership by federal law; and (iii) any combination of parts either designed or intended for use in converting any device into any destructive device described in this subsection and from which a destructive device may be readily assembled. "Destructive device" does not include any device that is not designed or redesigned for use as a weapon, or any device originally designed for use as a weapon and that is redesigned for use as a signaling, pyrotechnic, line-throwing, safety, or other similar device, nor shall it include any antique firearm as defined in subsection G of § 18.2-308.2:2.

"Firearm" means any weapon, including a starter gun, that will, or is designed or may readily be converted to, expel single or multiple projectiles by the action of an explosion of a combustible material or the frame or receiver of any such weapon. "Firearm" does not include any pneumatic gun, as defined in subsection E of § 15.2-915.4.

"One year" means 365 calendar days as required in federal regulations.

"School property" means any real property owned or leased by the school board or any vehicle owned or leased by the school board or operated by or on behalf of the school board.

F. The exemptions set out in § 18.2-308 regarding concealed weapons shall apply, mutatis mutandis, to the provisions of this section. The provisions of this section shall not apply to persons who possess such firearm or firearms or pneumatic guns as a part of the curriculum or other programs sponsored by the schools in the school division or any organization permitted by the school to use its premises or to any law-enforcement officer while engaged in his duties as such.

G. This section shall not be construed to diminish the authority of the Board of Education or the Governor concerning decisions on whether, or the extent to which, Virginia shall participate in the federal Improving America's Schools Act of 1994, or to diminish the Governor's authority to coordinate and provide policy direction on official communications between the Commonwealth and the United States government.

§ 22.1-277.07:1. Policies prohibiting possession of firearms

Notwithstanding any other provision of law to the contrary, each school division may develop and implement procedures addressing disciplinary actions against students, and may establish disciplinary policies prohibiting the possession of firearms on school property, school buses, and at school-sponsored activities.

Other weapons

STATUTES

§ 22.1-277.07. Expulsion of students under certain circumstances; exceptions

A. In compliance with the federal Improving America's Schools Act of 1994 (Part F-Gun-Free Schools Act of 1994), a school board shall expel from school attendance for a period of not less than one year any student whom such school board has determined, in accordance with the procedures set forth in this article, to have possessed a firearm on school property or at a school-sponsored activity as prohibited by § 18.2-308.1; to have possessed a firearm or destructive device as defined in subsection E, a firearm muffler or firearm silencer, or a pneumatic gun as defined in subsection E of § 15.2-915.4 on school property or at a school-sponsored activity. A school administrator, pursuant to school board policy, or a school board may, however, determine, based on the facts of a particular situation, that special circumstances exist and no disciplinary action or another disciplinary action or another term of expulsion is appropriate. A school board may promulgate guidelines for determining what constitutes special circumstances. In addition, a school board may, by regulation, authorize the division superintendent or his designee to conduct a preliminary review of such cases to determine whether a disciplinary action other than expulsion is appropriate. Such regulations shall ensure that, if a determination is made that another disciplinary action is appropriate, any such subsequent disciplinary action is to be taken in accordance with the procedures set forth in this article.

B. The Board of Education is designated as the state education agency to carry out the provisions of the federal Improving America's Schools Act of 1994, and shall administer the funds to be appropriated to the Commonwealth under this act.

C. Each school board shall revise its standards of student conduct no later than three months after the date on which this act becomes effective. Local school boards requesting moneys apportioned to the Commonwealth through the federal Improving America's Schools Act of 1994 shall submit to the Department of Education an application requesting such assistance. Applications for assistance shall include:

1. Documentation that the local school board has adopted and implemented student conduct policies in compliance with this section; and
2. A description of the circumstances pertaining to expulsions imposed under this section, including (i) the schools from which students were expelled under this section, (ii) the number of students expelled from each such school in the school division during the school year, and (iii) the types of firearms involved in the expulsions.

D. No school operating a Junior Reserve Officers Training Corps (JROTC) program shall prohibit the JROTC program from conducting marksmanship training when such training is a normal element of such programs. Such programs may include training in the use of pneumatic guns. The administration of a school operating a JROTC program shall cooperate with the JROTC staff in implementing such marksmanship training.

E. As used in this section:

"Destructive device" means (i) any explosive, incendiary, or poison gas, bomb, grenade, rocket having a propellant charge of more than four ounces, missile having an explosive or incendiary charge of more than one-quarter ounce, mine, or other similar device; (ii) any weapon, except a shotgun or a shotgun shell generally recognized as particularly suitable for sporting purposes, by whatever name known that will, or may be readily converted to, expel a projectile by the action of an explosive or other propellant, and that has any barrel with a bore of more than one-half inch in diameter that is homemade or was not made by a duly licensed weapon manufacturer, any fully automatic firearm, any sawed-off shotgun or sawed-off rifle as defined in § 18.2-299 or any firearm prohibited from civilian ownership by federal law; and (iii) any combination of parts either designed or intended for use in converting any device into any destructive device described in this subsection and from which a destructive device may be readily assembled. "Destructive device" does not include any device that is not designed or redesigned for use as a weapon, or any device originally designed for use as a weapon and that is redesigned for use as a signaling, pyrotechnic, line-throwing, safety, or other similar device, nor shall it include any antique firearm as defined in subsection G of § 18.2-308.2:2.

"Firearm" means any weapon, including a starter gun, that will, or is designed or may readily be converted to, expel single or multiple projectiles by the action of an explosion of a combustible material or the frame or receiver of any such weapon. "Firearm" does not include any pneumatic gun, as defined in subsection E of § 15.2-915.4.

"One year" means 365 calendar days as required in federal regulations.

"School property" means any real property owned or leased by the school board or any vehicle owned or leased by the school board or operated by or on behalf of the school board.

F. The exemptions set out in § 18.2-308 regarding concealed weapons shall apply, mutatis mutandis, to the provisions of this section. The provisions of this section shall not apply to persons who possess such firearm or firearms or pneumatic guns as a part of the curriculum or other programs sponsored by the schools in the school division or any organization permitted by the school to use its premises or to any law-enforcement officer while engaged in his duties as such.

G. This section shall not be construed to diminish the authority of the Board of Education or the Governor concerning decisions on whether, or the extent to which, Virginia shall participate in the federal Improving

America's Schools Act of 1994, or to diminish the Governor's authority to coordinate and provide policy direction on official communications between the Commonwealth and the United States government.

Students with chronic disciplinary issues

No relevant statutes found.

Attendance and truancy

STATUTES

§ 16.1-260. Intake; petition; investigation

[...] If a juvenile is alleged to be a truant pursuant to a complaint filed in accordance with § 22.1-258 and the attendance officer has provided documentation to the intake officer that the relevant school division has complied with the provisions of § 22.1-258, then the intake officer shall file a petition with the court. The intake officer may defer filing the complaint for 90 days and proceed informally by developing a truancy plan. The intake officer may proceed informally only if the juvenile has not previously been proceeded against informally or adjudicated in need of supervision for failure to comply with compulsory school attendance as provided in § 22.1-254. The juvenile and his parent or parents, guardian or other person standing in loco parentis must agree, in writing, for the development of a truancy plan. The truancy plan may include requirements that the juvenile and his parent or parents, guardian or other person standing in loco parentis participate in such programs, cooperate in such treatment or be subject to such conditions and limitations as necessary to ensure the juvenile's compliance with compulsory school attendance as provided in § 22.1-254. The intake officer may refer the juvenile to the appropriate public agency for the purpose of developing a truancy plan using an interagency interdisciplinary team approach. The team may include qualified personnel who are reasonably available from the appropriate department of social services, community services board, local school division, court service unit and other appropriate and available public and private agencies and may be the family assessment and planning team established pursuant to § 2.2-5207. If at the end of the 90-day period the juvenile has not successfully completed the truancy plan or the truancy program, then the intake officer shall file the petition.

Whenever informal action is taken as provided in this subsection on a complaint alleging that a child is in need of services, in need of supervision or delinquent, the intake officer shall (i) develop a plan for the juvenile, which may include restitution and the performance of community service, based upon community resources and the circumstances which resulted in the complaint, (ii) create an official record of the action taken by the intake officer and file such record in the juvenile's case file, and (iii) advise the juvenile and the juvenile's parent, guardian or other person standing in loco parentis and the complainant that any subsequent complaint alleging that the child is in need of supervision or delinquent based upon facts which may be sufficient to invoke the jurisdiction of the court pursuant to § 16.1-241 will result in the filing of a petition with the court [...]

§ 22.1-258. Appointment of attendance officers; notification when pupil fails to report to school

Every school board shall have power to appoint one or more attendance officers, who shall be charged with the enforcement of the provisions of this article. Where no attendance officer is appointed by the school board, the division superintendent or his designee shall act as attendance officer.

Whenever any pupil fails to report to school on a regularly scheduled school day and no indication has been received by school personnel that the pupil's parent is aware of and supports the pupil's absence, a reasonable effort to notify by telephone the parent to obtain an explanation for the pupil's absence shall be made by either the school principal or his designee, the attendance officer, other school personnel, or

volunteers organized by the school administration for this purpose. Any such volunteers shall not be liable for any civil damages for any acts or omissions resulting from making such reasonable efforts to notify parents and obtain such explanation when such acts or omissions are taken in good faith, unless such acts or omissions were the result of gross negligence or willful misconduct. This subsection shall not be construed to limit, withdraw, or overturn any defense or immunity already existing in statutory or common law or to affect any claim occurring prior to the effective date of this law. School divisions are encouraged to use noninstructional personnel for this notice.

Whenever any pupil fails to report to school for a total of five scheduled school days for the school year and no indication has been received by school personnel that the pupil's parent is aware of and supports the pupil's absence, and a reasonable effort to notify the parent has failed, the school principal or his designee or the attendance officer shall make a reasonable effort to ensure that direct contact is made with the parent, either in person or through telephone conversation, to obtain an explanation for the pupil's absence and to explain to the parent the consequences of continued nonattendance. The school principal or his designee or the attendance officer, the pupil, and the pupil's parent shall jointly develop a plan to resolve the pupil's nonattendance. Such plan shall include documentation of the reasons for the pupil's nonattendance.

If the pupil is absent an additional day after direct contact with the pupil's parent and the attendance officer has received no indication that the pupil's parent is aware of and supports the pupil's absence, either the school principal or his designee or the attendance officer shall schedule a conference within 10 school days with the pupil, his parent, and school personnel, which conference may include other community service providers, to resolve issues related to the pupil's nonattendance. The conference shall be held no later than 15 school days after the sixth absence. Upon the next absence by such pupil without indication to the attendance officer that the pupil's parent is aware of and supports the pupil's absence, the school principal or his designee shall notify the attendance officer or the division superintendent or his designee, as the case may be, who shall enforce the provisions of this article by either or both of the following: (i) filing a complaint with the juvenile and domestic relations court alleging the pupil is a child in need of supervision as defined in § 16.1-228 or (ii) instituting proceedings against the parent pursuant to § 18.2-371 or § 22.1-262. In filing a complaint against the student, the attendance officer shall provide written documentation of the efforts to comply with the provisions of this section. In the event that both parents have been awarded joint physical custody pursuant to § 20-124.2and the school has received notice of such order, both parents shall be notified at the last known addresses of the parents.

Nothing in this section shall be construed to limit in any way the authority of any attendance officer or division superintendent to seek immediate compliance with the compulsory school attendance law as set forth in this article. Attendance officers, other school personnel or volunteers organized by the school administration for this purpose shall be immune from any civil or criminal liability in connection with the notice to parents of a pupil's absence or failure to give such notice as required by this section.

§ 22.1-261. Attendance officer to make list of children not enrolled; duties of attendance officer

The attendance officer or the division superintendent or his designee shall check the reports submitted pursuant to subsection A of § 22.1-260 with reports from the State Registrar of Vital Records and Health Statistics. From these reports and from any other reliable source the attendance officer or the division superintendent or his designee shall, within five days after receiving all reports submitted pursuant to subsection A of § 22.1-260, make a list of the names of children who are not enrolled in any school and who are not exempt from school attendance. It shall be the duty of the attendance officer, on behalf of the local school board, to investigate all cases of nonenrollment and, when no valid reason is found therefor, to notify the parent, guardian or other person having control of the child to require the attendance of such child at the school within three days from the date of such notice.

§ 22.1-266. Law-enforcement officers and truant children

A. Notwithstanding the provisions of § 16.1-246, any law-enforcement officer as defined in § 9.1-101 or any attendance officer may pick up any child who (i) is reported to be truant from a public school by a school principal or division superintendent or (ii) the law-enforcement officer or attendance officer reasonably determines to be a public school student and by reason of the child's age and circumstances is either truant from public school or has been expelled from school and has been required to attend an alternative education program pursuant to § 22.1-254 or § 22.1-277.2:1, and may deliver such child to the appropriate public school, alternative education program, or truancy center and personnel thereof without charging the parent or guardian of such child with a violation of any provision of law.

B. Any such law-enforcement officer or attendance officer shall not be liable for any civil damages for any acts or omissions resulting from picking up or delivering a public school child as provided in subsection A when such acts or omissions are within the scope of the employment of such law-enforcement officer or attendance officer and are taken in good faith, unless such acts or omissions were the result of gross negligence or willful misconduct. This subsection shall not be construed to limit, withdraw or overturn any defense or immunity already existing in statutory or common law or to affect any claim occurring prior to the effective date of this law.

C. For the purposes of this section, "truancy center" means a facility or site operated by a school division, sometimes jointly with the local law-enforcement agency, and designated for receiving children who have been retrieved by a law-enforcement officer or attendance officer for truancy from school.

§ 22.1-277. Suspensions and expulsions of pupils generally

A. Pupils may be suspended or expelled from attendance at school for sufficient cause; however, in no cases may sufficient cause for suspensions include only instances of truancy.

Substance use

STATUTES

§ 22.1-277.08. Expulsion of students for certain drug offenses

A. School boards shall expel from school attendance any student whom such school board has determined, in accordance with the procedures set forth in this article, to have brought a controlled substance, imitation controlled substance, marijuana as defined in § 18.2-247, or synthetic cannabinoids as defined in § 18.2-248.1:1 onto school property or to a school-sponsored activity. A school board may, however, determine, based on the facts of the particular case, that special circumstances exist and another disciplinary action is appropriate. In addition, a school board may, by regulation, authorize the division superintendent or his designee to conduct a preliminary review of such cases to determine whether a disciplinary action other than expulsion is appropriate. Such regulations shall ensure that, if a determination is made that another disciplinary action is appropriate, any such subsequent disciplinary action is to be taken in accordance with the procedures set forth in this article.

B. Each school board shall revise its standards of student conduct to incorporate the requirements of this section no later than three months after the date on which this act becomes effective.

§ 22.1-279.3:1. Reports of certain acts to school authorities

A. Reports shall be made to the division superintendent and to the principal or his designee on all incidents involving (i) the assault or assault and battery, without bodily injury, of any person on a school bus, on school property, or at a school-sponsored activity; (ii) the assault and battery that results in bodily injury, sexual assault, death, shooting, stabbing, cutting, or wounding of any person, or stalking of any person as described in § 18.2-60.3, on a school bus, on school property, or at a school-sponsored

activity; (iii) any conduct involving alcohol, marijuana, synthetic cannabinoids as defined in § 18.2-248.1:1, a controlled substance, imitation controlled substance, or an anabolic steroid on a school bus, on school property, or at a school-sponsored activity, including the theft or attempted theft of student prescription medications; (iv) any threats against school personnel while on a school bus, on school property or at a school-sponsored activity; (v) the illegal carrying of a firearm, as defined in § 22.1-277.07, onto school property; (vi) any illegal conduct involving firebombs, explosive materials or devices, or hoax explosive devices, as defined in § 18.2-85, or explosive or incendiary devices, as defined in § 18.2-433.1, or chemical bombs, as described in § 18.2-87.1, on a school bus, on school property, or at a school-sponsored activity; (vii) any threats or false threats to bomb, as described in § 18.2-83, made against school personnel or involving school property or school buses; or (viii) the arrest of any student for an incident occurring on a school bus, on school property, or at a school-sponsored activity, including the charge therefor.

B. Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.) of Chapter 11 of Title 16.1, local law-enforcement authorities shall report, and the principal or his designee and the division superintendent shall receive such reports, on offenses, wherever committed, by students enrolled at the school if the offense would be a felony if committed by an adult or would be a violation of the Drug Control Act (§ 54.1-3400 et seq.) and occurred on a school bus, on school property, or at a school-sponsored activity, or would be an adult misdemeanor involving any incidents described in clauses (i) through (viii) of subsection A, and whether the student is released to the custody of his parent or, if 18 years of age or more, is released on bond. As part of any report concerning an offense that would be an adult misdemeanor involving an incident described in clauses (i) through (viii) of subsection A, local law-enforcement authorities and attorneys for the Commonwealth shall be authorized to disclose information regarding terms of release from detention, court dates, and terms of any disposition orders entered by the court, to the superintendent of such student's school division, upon request by the superintendent, if, in the determination of the law-enforcement authority or attorney for the Commonwealth, such disclosure would not jeopardize the investigation or prosecution of the case. No disclosures shall be made pursuant to this section in violation of the confidentiality provisions of subsection A of § 16.1-300 or the record retention and redisclosure provisions of § 22.1-288.2. Further, any school superintendent who receives notification that a juvenile has committed an act that would be a crime if committed by an adult pursuant to subsection G of § 16.1-260 shall report such information to the principal of the school in which the juvenile is enrolled.

C. The principal or his designee shall submit a report of all incidents required to be reported pursuant to this section to the superintendent of the school division. The division superintendent shall annually report all such incidents to the Department of Education for the purpose of recording the frequency of such incidents on forms that shall be provided by the Department and shall make such information available to the public.

In submitting reports of such incidents, principals and division superintendents shall accurately indicate any offenses, arrests, or charges as recorded by law-enforcement authorities and required to be reported by such authorities pursuant to subsection B.

A division superintendent who knowingly fails to comply or secure compliance with the reporting requirements of this subsection shall be subject to the sanctions authorized in § 22.1-65. A principal who knowingly fails to comply or secure compliance with the reporting requirements of this section shall be subject to sanctions prescribed by the local school board, which may include, but need not be limited to, demotion or dismissal.

The principal or his designee shall also notify the parent of any student involved in an incident required pursuant to this section to be reported, regardless of whether disciplinary action is taken against such

student or the nature of the disciplinary action. Such notice shall relate to only the relevant student's involvement and shall not include information concerning other students.

Whenever any student commits any reportable incident as set forth in this section, such student shall be required to participate in such prevention and intervention activities as deemed appropriate by the superintendent or his designee. Prevention and intervention activities shall be identified in the local school division's drug and violence prevention plans developed pursuant to the federal Improving America's Schools Act of 1994 (Title IV -- Safe and Drug-Free Schools and Communities Act).

D. Except as may otherwise be required by federal law, regulation, or jurisprudence, the principal shall immediately report to the local law-enforcement agency any act enumerated in clauses (ii) through (vii) of subsection A that may constitute a criminal offense and may report to the local law-enforcement agency any incident described in clause (i) of subsection A. Nothing in this section shall require delinquency charges to be filed or prevent schools from dealing with school-based offenses through graduated sanctions or educational programming before a delinquency charge is filed with the juvenile court.

Further, except as may be prohibited by federal law, regulation, or jurisprudence, the principal shall also immediately report any act enumerated in clauses (ii) through (v) of subsection A that may constitute a criminal offense to the parents of any minor student who is the specific object of such act. Further, the principal shall report that the incident has been reported to local law enforcement as required by law and that the parents may contact local law enforcement for further information, if they so desire.

E. A statement providing a procedure and the purpose for the requirements of this section shall be included in school board policies required by § 22.1-253.13:7.

The Board of Education shall promulgate regulations to implement this section, including, but not limited to, establishing reporting dates and report formats.

F. For the purposes of this section, "parent" or "parents" means any parent, guardian or other person having control or charge of a child.

G. This section shall not be construed to diminish the authority of the Board of Education or to diminish the Governor's authority to coordinate and provide policy direction on official communications between the Commonwealth and the United States government.

Bullying, harassment, or hazing

STATUTES

§ 18.2-56. Hazing unlawful; civil and criminal liability; duty of school, etc., officials

It shall be unlawful to haze so as to cause bodily injury, any student at any school, college, or university.

Any person found guilty thereof shall be guilty of a Class 1 misdemeanor.

Any person receiving bodily injury by hazing shall have a right to sue, civilly, the person or persons guilty thereof, whether adults or infants.

The president or other presiding official of any school, college or university receiving appropriations from the state treasury shall, upon satisfactory proof of the guilt of any student hazing another student, sanction and discipline such student in accordance with the institution's policies and procedures. The institution's policies and procedures shall provide for expulsions or other appropriate discipline based on the facts and circumstances of each case. The president or other presiding official of any school, college or university receiving appropriations from the state treasury shall report hazing which causes bodily injury to the attorney for the Commonwealth of the county or city in which such school, college or university is, who shall take such action as he deems appropriate.

For the purposes of this section, "hazing" means to recklessly or intentionally endanger the health or safety of a student or students or to inflict bodily injury on a student or students in connection with or for the purpose of initiation, admission into or affiliation with or as a condition for continued membership in a club, organization, association, fraternity, sorority, or student body regardless of whether the student or students so endangered or injured participated voluntarily in the relevant activity.

§ 22.1-276.01. Definitions

"Bullying" means any aggressive and unwanted behavior that is intended to harm, intimidate, or humiliate the victim; involves a real or perceived power imbalance between the aggressor or aggressors and victim; and is repeated over time or causes severe emotional trauma. "Bullying" includes cyber bullying. "Bullying" does not include ordinary teasing, horseplay, argument, or peer conflict.

§ 22.1-279.6. Board of Education guidelines and model policies for codes of student conduct; school board regulations.

A. The Board of Education shall establish guidelines and develop model policies for codes of student conduct to aid local school boards in the implementation of such policies. The guidelines and model policies shall include, but not be limited to, (i) criteria for the removal of a student from a class, the use of suspension, expulsion, and exclusion as disciplinary measures, the grounds for suspension and expulsion and exclusion, and the procedures to be followed in such cases, including proceedings for such suspension, expulsion, and exclusion decisions and all applicable appeals processes; (ii) standards, consistent with state, federal and case laws, for school board policies on […]hazing, vandalism, trespassing, threats, search and seizure, disciplining of students with disabilities, intentional injury of others, self-defense, bullying, the use of electronic means for purposes of bullying, harassment, and intimidation, and dissemination of such policies to students, their parents, and school personnel; and (iii) standards for in-service training of school personnel in and examples of the appropriate management of student conduct and student offenses in violation of school board policies. […]In the case of suspension and expulsion, the procedures set forth in this article shall be the minimum procedures that the school board may prescribe.

§ 22.1-291.4. Bullying prohibited

Each school board shall implement, by July 1, 2014, policies and procedures to educate school board employees about bullying, as defined in § 22.1-276.01, and the need to create a bully-free environment.

[...]2. That the Board of Education shall develop, by January 1, 2014, model policies and procedures for use by each school board to educate school board employees about bullying, as defined in § 22.1-276.01, and the need to create a bully-free environment.

Other special infractions or conditions

STATUTES

§ 18.2-46.2. Prohibited criminal street gang participation; penalty.

A. Any person who actively participates in or is a member of a criminal street gang and who knowingly and willfully participates in any predicate criminal act committed for the benefit of, at the direction of, or in association with any criminal street gang shall be guilty of a Class 5 felony. However, if such participant in or member of a criminal street gang is age eighteen years or older and knows or has reason to know that such criminal street gang also includes a juvenile member or participant, he shall be guilty of a Class 4 felony.

B. Violation of this section shall constitute a separate and distinct offense. If the acts or activities violating this section also violate another provision of law, a prosecution under this section shall not prohibit or bar any prosecution or proceeding under such other provision or the imposition of any penalties provided for thereby.

§ 18.2-46.3:3. Enhanced punishment for gang activity taking place in a gang-free zone; penalties

Any person who violates § 18.2-46.2 (i) upon the property, including buildings and grounds, of any public or private elementary, secondary, or postsecondary school, or any public or private two-year or four-year institution of higher education; (ii) upon public property or any property open to public use within 1,000 feet of such school property; (iii) on any school bus as defined in § 46.2-100; or (iv) upon the property, including buildings and grounds, of any publicly owned or operated community center or any publicly owned or operated recreation center is guilty of a felony punishable as specified in § 18.2-46.2, and shall be sentenced to a mandatory minimum term of imprisonment of two years. A person who violates subsection A of § 18.2-46.3 upon any property listed in this section is guilty of a Class 6 felony, except that any person 18 years of age or older who violates subsection A of § 18.2-46.3 upon any property listed in this section, when such offense is committed against a juvenile, is guilty of a Class 5 felony. Any person who violates subsection B of § 18.2-46.3 upon any property listed in this section is guilty of a Class 5 felony. It is a violation of this section if the person violated § 18.2-46.2 or 18.2-46.3 on the property described in clauses (i) through (iii) regardless of where the person intended to commit such violation.

§ 22.1-280.4. School board action regarding destruction of property

A school board may take action against a pupil or the pupil's parent for any actual loss, breakage, or destruction of or failure to return property, owned by or under the control of the school board, caused or committed by such pupil in pursuit of his studies. Such action may include seeking reimbursement from a pupil or the pupil's parent for any such loss, breakage, or destruction of or failure to return school property.

Prevention and Behavioral Interventions (Non-Punitive)

Prevention

STATUTES

§ 9.1-184. Virginia Center for School Safety created; duties.

A. From such funds as may be appropriated, the Virginia Center for School Safety (the Center) is hereby established within the Department. The Center shall:

1. Provide training for Virginia public school personnel in school safety, on evidence-based antibullying tactics, and in the effective identification of students who may be at risk for violent behavior and in need of special services or assistance;
2. Serve as a resource and referral center for Virginia school divisions by conducting research, sponsoring workshops, and providing information regarding current school safety concerns, such as conflict management and peer mediation, bullying, school facility design and technology, current state and federal statutory and regulatory school safety requirements, and legal and constitutional issues regarding school safety and individual rights;
3. Maintain and disseminate information to local school divisions on effective school safety initiatives in Virginia and across the nation;
4. Collect, analyze, and disseminate various Virginia school safety data, including school safety audit information submitted to it pursuant to § 22.1-279.8, collected by the Department;
5. Encourage the development of partnerships between the public and private sectors to promote school safety in Virginia;
6. Provide technical assistance to Virginia school divisions in the development and implementation of initiatives promoting school safety, including threat assessment-based protocols with such funds as may be available for such purpose;
7. Develop a memorandum of understanding between the Director of the Department of Criminal Justice Services and the Superintendent of Public Instruction to ensure collaboration and coordination of roles and responsibilities in areas of mutual concern, such as school safety audits and crime prevention;
8. Provide training for and certification of school security officers, as defined in § 9.1-101 and consistent with § 9.1-110;
9. Develop, in conjunction with the Department of State Police, the Department of Behavioral Health and Developmental Services, and the Department of Education, a model critical incident response training program for public school personnel and others providing services to schools that shall also be made available to private schools in the Commonwealth; and
10. In consultation with the Department of Education, provide schools with a model policy for the establishment of threat assessment teams, including procedures for the assessment of and intervention with students whose behavior poses a threat to the safety of school staff or students.

B. All agencies of the Commonwealth shall cooperate with the Center and, upon request, assist the Center in the performance of its duties and responsibilities.

§ 22.1-208.01. Character education required

A. Each school board shall establish, within its existing programs or as a separate program, a character education program in its schools, which may occur during the regular school year, during the summer in a

youth development academy offered by the school division, or both. The Department of Education shall develop curricular guidelines for school divisions to use in establishing a character education program through a summer youth development academy. The purpose of the character education program shall be to instill in students civic virtues and personal character traits so as to improve the learning environment, promote student achievement, reduce disciplinary problems, and develop civic-minded students of high character. The components of each program shall be developed in cooperation with the students, their parents, and the community at large. The basic character traits taught may include (i) trustworthiness, including honesty, integrity, reliability, and loyalty; (ii) respect, including the precepts of the Golden Rule, tolerance, and courtesy; (iii) responsibility, including hard work, economic self-reliance, accountability, diligence, perseverance, and self-control; (iv) fairness, including justice, consequences of bad behavior, principles of nondiscrimination, and freedom from prejudice; (v) caring, including kindness, empathy, compassion, consideration, generosity, and charity; and (vi) citizenship, including patriotism, the Pledge of Allegiance, respect for the American flag, concern for the common good, respect for authority and the law, and community-mindedness.

Classroom instruction may be used to supplement a character education program; however, each program shall be interwoven into the school procedures and environment and structured to instruct primarily through example, illustration, and participation, in such a way as to complement the Standards of Learning. The program shall also address the inappropriateness of bullying, as defined in § 22.1-276.01.

This provision is intended to educate students regarding those core civic values and virtues that are efficacious to civilized society and are common to the diverse social, cultural, and religious groups of the Commonwealth. Consistent with this purpose, Virginia's civic values, which are the principles articulated in the Bill of Rights (Article I) of the Constitution of Virginia and the ideals reflected in the seal of the Commonwealth, as described in § 1-500, may be taught as representative of such civic values. Nothing herein shall be construed as requiring or authorizing the indoctrination in any particular religious or political belief.

B. The Board of Education shall establish criteria for character education programs, consistent with the provisions of this section. The Department of Education shall assist school divisions in implementing character education programs and practices that are designed to promote the development of personal qualities as set forth in this section and the Standards of Quality and that will improve family and community involvement in the public schools. With such funds as are made available for this purpose, the Department of Education shall provide resources and technical assistance to school divisions regarding successful character education programs and shall (i) identify and analyze effective character education programs and practices and (ii) collect and disseminate among school divisions information regarding such programs and practices and potential funding and support sources. The Department of Education may also provide resources supporting professional development for administrators and teachers in the delivery of any character education programs.

C. The Department of Education shall award, with such funds as are appropriated for this purpose, grants to school boards for the implementation of innovative character education programs, including a summer youth development academy.

§ 22.1-279.3:1. Reports of certain acts to school authorities

C. […] Whenever any student commits any reportable incident as set forth in this section, such student shall be required to participate in such prevention and intervention activities as deemed appropriate by the superintendent or his designee. Prevention and intervention activities shall be identified in the local school division's drug and violence prevention plans developed pursuant to the federal Improving America's Schools Act of 1994 (Title IV -- Safe and Drug-Free Schools and Communities Act).

§ 22.1-279.9. Development of programs to prevent crime and violence

All school boards shall develop, in cooperation with the local law-enforcement agencies, juvenile and domestic relations court judges and personnel, parents, and the community at large, programs to prevent violence and crime on school property and at school-sponsored events, which shall include prevention of hazing. Activities designed to prevent the recurrence of violence and crime, including hazing, may include such interventions as education relating to Virginia's criminal law, school crime lines, peer mediation, conflict resolution, community service requirements, and any program focused on demonstrating the consequences of violence and crime. School boards are encouraged to develop and use a network of volunteer services in implementing these prevention activities.

§ 22.1-280.2. School crime line defined; development of school crime lines authorized; local school boards' authority; Board of Education to promulgate regulations

A. As used in this section:

"School crime line" means a confidential, anonymous system providing inducements for students to report any unlawful act occurring in school buildings or on school grounds or during school-sponsored activities to local law-enforcement authorities which is established as a cooperative alliance between the local school board, news media, the community, and law-enforcement officials or through a separate, nonprofit corporation governed by a board of directors or as part of a local "Crime Stoppers" program.

B. In order to reduce crime and violence within the school divisions in the Commonwealth, any local school board may develop a school crime line program as a joint, self-sustaining, cooperative alliance with news media, the community, and law-enforcement authorities to receive, screen, and reward student reports of unlawful acts committed in school buildings or on school grounds or at school functions, when such reports lead to arrests or recovery of contraband or stolen property. Police or other law-enforcement personnel shall staff every school crime line program, receive reported information from anonymous student callers, screen such information, and direct information for further investigation, as may be appropriate.

C. Such programs may be established (i) by a local school board as a joint, self-sustaining, cooperative alliance with news media, the community, and law-enforcement authorities; (ii) through a separate nonprofit corporation initiated jointly by the local school board, news media, the community, and law-enforcement authorities and governed by a board of directors; or (iii) as part of a local "Crime Stoppers" program.

The governing board of any separate nonprofit school crime line corporation shall include broad-based community representation and shall, through its bylaws, set the policy, coordinate fund raising, and formulate a system of rewards. Prior to implementation of any school crime line program and annually thereafter, the local school board shall review and approve, as complying with the Board of Education's regulations for implementation of school crime lines, its regulations or the bylaws of any nonprofit school crime line corporation or the bylaws of any nonprofit "Crime Stoppers" corporation operating a school crime line. No school crime line program shall be implemented or revised without first obtaining the local school board's approval. Every local school board developing a school crime line program shall also notify all students and their parents or other custodian of the procedures and policies governing the program prior to implementation and annually thereafter.

D. By July 1, 1994, the Board of Education shall promulgate regulations for the implementation of school crime lines, including, but not limited to, appropriate fund raising, and the appropriateness of and limitations on rewards. In developing the regulations, the Board shall, in consultation with the Office of the Attorney General, address issues relating to civil rights, privacy, and any other question of law, including the civic duty to report crime without compensation.

E. Local school boards may establish, as a separate account, a school crime line fund, consisting of private contributions, local appropriations specifically designated for such purposes, and such funds as may be appropriated for this purpose by the Commonwealth pursuant to the appropriation act. No state or local funds appropriated for educational purposes shall be used to implement a school crime line.

ADMINISTRATIVE CODE

8 VAC 20-310-10. Health education program

The Board of Education recognizes that the illegal and inappropriate use of certain substances constitutes a hazard to the development of students. Elementary and secondary schools shall include in the health education program instruction in drugs and drug abuse.

Therefore, the public schools of the Commonwealth shall:

1. Be concerned with education and prevention in all areas of substance use and abuse.
2. Establish and maintain a realistic, meaningful substance abuse prevention and education program that shall be developed and incorporated in the total education program.
3. Establish and maintain an ongoing in-service substance abuse prevention program for all school personnel.
4. Cooperate with government and approved private agencies involved with health of students relating to the abuse of substances.
5. Encourage and support pupil-run organizations and activities that will develop a positive peer influence in the area of substance abuse.
6. Create a climate whereby students may seek and receive counseling about substance abuse and related problems without fear of reprisal.

8VAC20-620-10. School guidance and counseling services

A. Pursuant to the Standards of Quality, each school shall make reasonably available, with available resources, to all students the following guidance and counseling services:

3. Personal/social counseling which assists a student to develop an understanding of themselves, the rights and needs of others, how to resolve conflict and to define individual goals, reflecting their interests, abilities and aptitudes. Such counseling may be provided either (i) in groups (e.g., all fifth graders) in which generic issues of social development are addressed or (ii) through structured individual or small group multi-session counseling which focuses on the specific concerns of the participant (e.g., divorce, abuse or aggressive behavior).

Behavioral interventions and student support services

ADMINSTRATIVE CODE

8 VAC 20-81-160. Discipline procedures

A. General. (§ 22.1-277 of the Code of Virginia; 34 CFR 300.530(a); 34 CFR 300.324(a)(2)(i))

1. A child with a disability shall be entitled to the same due process rights that all children are entitled to under the Code of Virginia and the local educational agency's disciplinary policies and procedures.
2. In the event that the child's behavior impedes the child's learning or that of others, the IEP team shall consider the use of positive behavioral interventions, strategies, and supports to address the behavior. The IEP team shall consider either:
   a. Developing goals and services specific to the child's behavioral needs; or

b. Conducting a functional behavioral assessment and determining the need for a behavioral intervention plan to address the child's behavioral needs.

3. School personnel may consider any unique circumstances on a case-by-case basis when deciding whether or not to order a change in placement for a child with a disability that violates a code of student conduct.

a. In reviewing the disciplinary incident, school personnel may review the child's IEP and any behavioral intervention plan, or consult with the child's teacher(s) to provide further guidance in considering any unique circumstances related to the incident.

b. School personnel may convene an IEP team for this purpose.

C. Long-term removals

6. Services during long-term removals.

a. A child with a disability who is long-term removed receives services during the disciplinary removal so as to enable the student to: (34 CFR 300.530(d))

(1) Continue to receive educational services so as to enable the student to continue to participate in the general educational curriculum, although in another setting;

(2) Continue to receive those services and modifications including those described in the child's current IEP that will enable the child to progress toward meeting the IEP goals; and

(3) Receive, as appropriate, a functional behavioral assessment, and behavioral intervention services and modifications, that are designed to address the behavior violation so that it does not recur.

b. For long-term removals, the local educational agency shall ensure that children with disabilities are included in the Virginia Department of Education and divisionwide assessment programs in accordance with the provisions of subdivision 4 of 8 VAC 20-81-20. (20 USC § 1412(a)(16)(A))

c. The IEP team determines the services needed for the child with a disability who has been long-term removed. (34 CFR 300.530(d)(5) and 34 CFR 300.531)

8VAC20-620-10. School guidance and counseling services

A. Pursuant to the Standards of Quality, each school shall make reasonably available, with available resources, to all students the following guidance and counseling services:

[…]3. Personal/social counseling which assists a student to develop an understanding of themselves, the rights and needs of others, how to resolve conflict and to define individual goals, reflecting their interests, abilities and aptitudes. Such counseling may be provided either (i) in groups (e.g., all fifth graders) in which generic issues of social development are addressed or (ii) through structured individual or small group multi-session counseling which focuses on the specific concerns of the participant (e.g., divorce, abuse or aggressive behavior).

Professional development

No relevant statutes found.

Monitoring and Accountability

Formal incident reporting of conduct violations

STATUTES

§ 16.1-260. Intake; petition; investigation

[…] Whenever informal action is taken as provided in this subsection on a complaint alleging that a child is in need of services, in need of supervision or delinquent, the intake officer shall (i) develop a plan for the juvenile, which may include restitution and the performance of community service, based upon community resources and the circumstances which resulted in the complaint, (ii) create an official record of the action taken by the intake officer and file such record in the juvenile's case file, and (iii) advise the juvenile and the juvenile's parent, guardian or other person standing in loco parentis and the complainant that any subsequent complaint alleging that the child is in need of supervision or delinquent based upon facts which may be sufficient to invoke the jurisdiction of the court pursuant to § 16.1-241 will result in the filing of a petition with the court [...]

§ 22.1-277.04. Short-term suspension; procedures; readmission

Upon suspension of any pupil, the principal, assistant principal, or teacher responsible for such suspension shall report the facts of the case in writing to the division superintendent or his designee and the parent of the pupil suspended. The division superintendent or his designee shall review forthwith the action taken by the principal, assistant principal, or teacher upon a petition for such review by any party in interest and confirm or disapprove such action based on an examination of the record of the pupil's behavior.

§ 22.1-276.2. Removal of students from classes

B. Each school board shall establish, within the regulations governing student conduct required by § 22.1-279.6:

2. Requirements for incident reports of disruptive behavior to school administrators and any other documentation to support such removals from class;

§ 22.1-279.3:1. Reports of certain acts to school authorities

A. Reports shall be made to the division superintendent and to the principal or his designee on all incidents involving (i) the assault or assault and battery, without bodily injury, of any person on a school bus, on school property, or at a school-sponsored activity; (ii) the assault and battery that results in bodily injury, sexual assault, death, shooting, stabbing, cutting, or wounding of any person, or stalking of any person as described in § 18.2-60.3, on a school bus, on school property, or at a school-sponsored activity; (iii) any conduct involving alcohol, marijuana, synthetic cannabinoids as defined in § 18.2-248.1:1, a controlled substance, imitation controlled substance, or an anabolic steroid on a school bus, on school property, or at a school-sponsored activity, including the theft or attempted theft of student prescription medications; (iv) any threats against school personnel while on a school bus, on school property or at a school-sponsored activity; (v) the illegal carrying of a firearm, as defined in § 22.1-277.07, onto school property; (vi) any illegal conduct involving firebombs, explosive materials or devices, or hoax explosive devices, as defined in § 18.2-85, or explosive or incendiary devices, as defined in § 18.2-433.1, or chemical bombs, as described in § 18.2-87.1, on a school bus, on school property, or at a school-sponsored activity; (vii) any threats or false threats to bomb, as described in § 18.2-83, made against school personnel or involving school property or school buses; or (viii) the arrest of any student for an

incident occurring on a school bus, on school property, or at a school-sponsored activity, including the charge therefor.

B. Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.) of Chapter 11 of Title 16.1, local law-enforcement authorities shall report, and the principal or his designee and the division superintendent shall receive such reports, on offenses, wherever committed, by students enrolled at the school if the offense would be a felony if committed by an adult or would be a violation of the Drug Control Act (§ 54.1-3400 et seq.) and occurred on a school bus, on school property, or at a school-sponsored activity, or would be an adult misdemeanor involving any incidents described in clauses (i) through (viii) of subsection A, and whether the student is released to the custody of his parent or, if 18 years of age or more, is released on bond. As part of any report concerning an offense that would be an adult misdemeanor involving an incident described in clauses (i) through (viii) of subsection A, local law-enforcement authorities and attorneys for the Commonwealth shall be authorized to disclose information regarding terms of release from detention, court dates, and terms of any disposition orders entered by the court, to the superintendent of such student's school division, upon request by the superintendent, if, in the determination of the law-enforcement authority or attorney for the Commonwealth, such disclosure would not jeopardize the investigation or prosecution of the case. No disclosures shall be made pursuant to this section in violation of the confidentiality provisions of subsection A of § 16.1-300 or the record retention and redisclosure provisions of § 22.1-288.2. Further, any school superintendent who receives notification that a juvenile has committed an act that would be a crime if committed by an adult pursuant to subsection G of § 16.1-260 shall report such information to the principal of the school in which the juvenile is enrolled.

C. The principal or his designee shall submit a report of all incidents required to be reported pursuant to this section to the superintendent of the school division. The division superintendent shall annually report all such incidents to the Department of Education for the purpose of recording the frequency of such incidents on forms that shall be provided by the Department and shall make such information available to the public.

In submitting reports of such incidents, principals and division superintendents shall accurately indicate any offenses, arrests, or charges as recorded by law-enforcement authorities and required to be reported by such authorities pursuant to subsection B.

A division superintendent who knowingly fails to comply or secure compliance with the reporting requirements of this subsection shall be subject to the sanctions authorized in § 22.1-65. A principal who knowingly fails to comply or secure compliance with the reporting requirements of this section shall be subject to sanctions prescribed by the local school board, which may include, but need not be limited to, demotion or dismissal.

The principal or his designee shall also notify the parent of any student involved in an incident required pursuant to this section to be reported, regardless of whether disciplinary action is taken against such student or the nature of the disciplinary action. Such notice shall relate to only the relevant student's involvement and shall not include information concerning other students.

Whenever any student commits any reportable incident as set forth in this section, such student shall be required to participate in such prevention and intervention activities as deemed appropriate by the superintendent or his designee. Prevention and intervention activities shall be identified in the local school division's drug and violence prevention plans developed pursuant to the federal Improving America's Schools Act of 1994 (Title IV -- Safe and Drug-Free Schools and Communities Act).

D. Except as may otherwise be required by federal law, regulation, or jurisprudence, the principal shall immediately report to the local law-enforcement agency any act enumerated in clauses (ii) through (vii) of subsection A that may constitute a criminal offense and may report to the local law-enforcement agency any incident described in clause (i) of subsection A.

Further, except as may be prohibited by federal law, regulation, or jurisprudence, the principal shall also immediately report any act enumerated in clauses (ii) through (v) of subsection A that may constitute a criminal offense to the parents of any minor student who is the specific object of such act. Further, the principal shall report that the incident has been reported to local law enforcement as required by law and that the parents may contact local law enforcement for further information, if they so desire.

E. A statement providing a procedure and the purpose for the requirements of this section shall be included in school board policies required by§ 22.1-253.13:7.

The Board of Education shall promulgate regulations to implement this section, including, but not limited to, establishing reporting dates and report formats.

F. For the purposes of this section, "parent" or "parents" means any parent, guardian or other person having control or charge of a child.

G. This section shall not be construed to diminish the authority of the Board of Education or to diminish the Governor's authority to coordinate and provide policy direction on official communications between the Commonwealth and the United States government.

Parental notification

STATUTES

§ 22.1-209.1:2. Regional alternative education programs for certain students

D. A school board shall require written notification to the pupil's parent, guardian, or other person having charge or control, when a pupil commits an offense in violation of school board policies, which school officials determine was committed without the willful intent to violate such policies, or when the offense did not endanger the health and safety of the individual or other persons, of the nature of the offense no later than two school days following its occurrence. A school board shall require the principal of the school where the child is in attendance or other appropriate school personnel to develop appropriate measures, in conjunction with the pupil's parent or guardian, for correcting such behavior.

§ 22.1-258. Appointment of attendance officers; notification when pupil fails to report to school

[…] Whenever any pupil fails to report to school on a regularly scheduled school day and no indication has been received by school personnel that the pupil's parent is aware of and supports the pupil's absence, a reasonable effort to notify by telephone the parent to obtain an explanation for the pupil's absence shall be made by either the school principal or his designee, the attendance officer, other school personnel, or volunteers organized by the school administration for this purpose […]

§ 16.1-260. Intake; petition; investigation

B.[…]Whenever informal action is taken as provided in this subsection on a complaint alleging that a child is in need of services, in need of supervision or delinquent, the intake officer shall (i) develop a plan for the juvenile, which may include restitution and the performance of community service, based upon community resources and the circumstances which resulted in the complaint, (ii) create an official record of the action taken by the intake officer and file such record in the juvenile's case file, and (iii) advise the juvenile and the juvenile's parent, guardian or other person standing in loco parentis and the complainant that any subsequent complaint alleging that the child is in need of supervision or delinquent based upon facts which may be sufficient to invoke the jurisdiction of the court pursuant to § 16.1-241 will result in the filing of a petition with the court [...]

§ 22.1-277.04. Short-term suspension; procedures; readmission

Upon suspension of any pupil, the principal, assistant principal, or teacher responsible for such suspension shall report the facts of the case in writing to the division superintendent or his designee and the parent of the pupil suspended. The division superintendent or his designee shall review forthwith the action taken by the principal, assistant principal, or teacher upon a petition for such review by any party in interest and confirm or disapprove such action based on an examination of the record of the pupil's behavior.

The decision of the division superintendent or his designee may be appealed to the school board or a committee thereof in accordance with regulations of the school board; however, the decision of the division superintendent or his designee shall be final if so prescribed by school board regulations.

The school board shall require that any oral or written notice to the parent of a student who is suspended from school attendance for not more than ten days include notification of the length of the suspension, information regarding the availability of community-based educational programs, alternative education programs or other educational options, and of the student's right to return to regular school attendance upon the expiration of the suspension. The costs of any community-based educational program, or alternative education program or educational option, which is not a part of the educational program offered by the school division, shall be borne by the parent of the student.

§ 22.1-276.2. Removal of students from classes

B. Each school board shall establish, within the regulations governing student conduct required by § 22.1-279.6:

3. Procedures for the written notification of a student and his parents of any incident report and its contents and for the opportunity to meet with the teacher and school administrators to discuss the student's behavior and the possible consequences if such behavior does not cease;

§ 22.1-277.06. Expulsions; procedures; readmission

A. Pupils may be expelled from attendance at school after written notice to the pupil and his parent of the proposed action and the reasons therefor and of the right to a hearing before the school board or a committee thereof in accordance with regulations of the school board. […]

B. The written notice required by this section shall include notification of the length of the expulsion and shall provide information to the parent of the student concerning the availability of community-based educational, training, and intervention programs. Such notice shall state further whether or not the student is eligible to return to regular school attendance, or to attend an appropriate alternative education program approved by the school board, or an adult education program offered by the school division, during or upon the expiration of the expulsion, and the terms or conditions of such readmission. The costs of any community-based educational, training, or intervention program that is not a part of the educational program offered by the school division that the student may attend during his expulsion shall be borne by the parent of the student.

§ 22.1-277.2:1. Disciplinary authority of school boards under certain circumstances; alternative education program

B. A school board may adopt regulations authorizing the division superintendent or his designee to require students to attend an alternative education program consistent with the provisions of subsection A after (i) written notice to the student and his parent that the student will be required to attend an alternative education program and (ii) notice of the opportunity for the student or his parent to participate in a hearing to be conducted by the division superintendent or his designee regarding such placement. The decision of the superintendent or his designee regarding such alternative education placement shall

be final unless altered by the school board, upon timely written petition, as established in regulation, by the student or his parent, for a review of the record by the school board.

§ 22.1-277.2. Authority to exclude students under certain circumstances; petition for readmission; alternative education program

A. A student, who has been expelled or suspended for more than thirty days from attendance at school by a school board or a private school in this Commonwealth or in another state or for whom admission has been withdrawn by a private school in this Commonwealth or in another state may be excluded from attendance by a local school board in Virginia, regardless of whether such student has been admitted to another school division or private school in the Commonwealth or in another state subsequent to such expulsion, suspension, or withdrawal of admission upon a finding that the student presents a danger to the other students or staff of the school division after (i) written notice to the student and his parent that the student may be subject to exclusion, the reasons therefor, and, in the event of such exclusion, of the right to appeal the decision at a hearing before the school board or a committee thereof; and (ii) a review of the case has been conducted by the division superintendent or his designee and exclusion has been recommended.

In the case of a suspension of more than thirty days, the term of the exclusion may not exceed the duration of such suspension.

In excluding any such expelled student from school attendance, the local school board may accept or waive any or all of any conditions for readmission imposed upon such student by the expelling school board pursuant to § 22.1-277.06. The excluding school board shall not impose additional conditions for readmission to school.

If the decision by the superintendent or his designee to exclude has been appealed to a committee of the school board, the student or his parent shall be provided written notice of the right to appeal the decision to the full board, which shall, within thirty days following any such hearing, in the case of an expulsion or withdrawal of admission and, in the case of a suspension of more than thirty days, within fifteen days following any such hearing, notify in writing the student or his parent of its decision.

B. In lieu of the procedures established in subsection A, a school board may adopt regulations providing that a student may be excluded from attendance after (i) written notice to the student and his parent that the student may be subject to exclusion, including the reasons therefor, and notice of the opportunity for the student or his parent to participate in a hearing to be conducted by the division superintendent or his designee regarding such exclusion; and (ii) a hearing of the case has been conducted by the division superintendent or his designee, and the decision has been to exclude the student from attendance. The decision of the superintendent or his designee to exclude shall be final unless altered by the school board, upon timely written petition, as established in regulation, of the student so excluded or his parent, for a review of the record by the school board.

§ 22.1-279.3:1. Reports of certain acts to school authorities

C. […]The principal or his designee shall also notify the parent of any student involved in an incident required pursuant to this section to be reported, regardless of whether disciplinary action is taken against such student or the nature of the disciplinary action. Such notice shall relate to only the relevant student's involvement and shall not include information concerning other students.

Whenever any student commits any reportable incident as set forth in this section, such student shall be required to participate in such prevention and intervention activities as deemed appropriate by the superintendent or his designee. Prevention and intervention activities shall be identified in the local school division's drug and violence prevention plans developed pursuant to the federal Improving America's Schools Act of 1994 (Title IV -- Safe and Drug-Free Schools and Communities Act).

D. […] Further, except as may be prohibited by federal law, regulation, or jurisprudence, the principal shall also immediately report any act enumerated in clauses (ii) through (v) of subsection A that may constitute a criminal offense to the parents of any minor student who is the specific object of such act. Further, the principal shall report that the incident has been reported to local law enforcement as required by law and that the parents may contact local law enforcement for further information, if they so desire.

§ 22.1-279.4. Information regarding prosecution for certain crimes

School boards shall provide information developed by the office of the Attorney General to students regarding laws governing the prosecution of juveniles as adults for the commission of certain crimes. Methods of providing such information may include, but shall not be limited to, public announcements in the schools, written notification to parents, publication in the student conduct manual, and inclusion in those materials distributed to parents pursuant to § 22.1-279.3.

Reporting and referrals between schools and law enforcement

STATUTES

§ 22.1-279.3:1. Reports of certain acts to school authorities

B. Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.) of Chapter 11 of Title 16.1, local law-enforcement authorities shall report, and the principal or his designee and the division superintendent shall receive such reports, on offenses, wherever committed, by students enrolled at the school if the offense would be a felony if committed by an adult or would be a violation of the Drug Control Act (§ 54.1-3400 et seq.) and occurred on a school bus, on school property, or at a school-sponsored activity, or would be an adult misdemeanor involving any incidents described in clauses (i) through (viii) of subsection A, and whether the student is released to the custody of his parent or, if 18 years of age or more, is released on bond. As part of any report concerning an offense that would be an adult misdemeanor involving an incident described in clauses (i) through (viii) of subsection A, local law-enforcement authorities and attorneys for the Commonwealth shall be authorized to disclose information regarding terms of release from detention, court dates, and terms of any disposition orders entered by the court, to the superintendent of such student's school division, upon request by the superintendent, if, in the determination of the law-enforcement authority or attorney for the Commonwealth, such disclosure would not jeopardize the investigation or prosecution of the case. No disclosures shall be made pursuant to this section in violation of the confidentiality provisions of subsection A of § 16.1-300 or the record retention and redisclosure provisions of § 22.1-288.2. Further, any school superintendent who receives notification that a juvenile has committed an act that would be a crime if committed by an adult pursuant to subsection G of § 16.1-260 shall report such information to the principal of the school in which the juvenile is enrolled.

D. Except as may otherwise be required by federal law, regulation, or jurisprudence, the principal shall immediately report to the local law-enforcement agency any act enumerated in clauses (ii) through (vii) of subsection A that may constitute a criminal offense and may report to the local law-enforcement agency any incident described in clause (i) of subsection A. Nothing in this section shall require delinquency charges to be filed or prevent schools from dealing with school-based offenses through graduated sanctions or educational programming before a delinquency charge is filed with the juvenile court.

Further, except as may be prohibited by federal law, regulation, or jurisprudence, the principal shall also immediately report any act enumerated in clauses (ii) through (v) of subsection A that may constitute a criminal offense to the parents of any minor student who is the specific object of such act. Further, the principal shall report that the incident has been reported to local law enforcement as required by law and that the parents may contact local law enforcement for further information, if they so desire.

§ 16.1-301. Confidentiality of juvenile law-enforcement records; disclosures to school principal

A. The court shall require all law-enforcement agencies to take special precautions to ensure that law-enforcement records concerning a juvenile are protected against disclosure to any unauthorized person. The police departments of the cities of the Commonwealth, and the police departments or sheriffs of the counties, as the case may be, shall keep separate records as to violations of law other than violations of motor vehicle laws committed by juveniles. Such records with respect to such juvenile shall not be open to public inspection nor their contents disclosed to the public unless a juvenile 14 years of age or older is charged with a violent juvenile felony as specified in subsections B and C of § 16.1-269.1.

B. Notwithstanding any other provision of law, the chief of police or sheriff of a jurisdiction or his designee may disclose, for the protection of the juvenile, his fellow students and school personnel, to the school principal that a juvenile is a suspect in or has been charged with (i) a violent juvenile felony, as specified in subsections B and C of § 16.1-269.1; (ii) a violation of any of the provisions of Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2; or (iii) a violation of law involving any weapon as described in subsection A of § 18.2-308. If a chief of police, sheriff or a designee has disclosed to a school principal pursuant to this section that a juvenile is a suspect in or has been charged with a crime listed above, upon a court disposition of a proceeding regarding such crime in which a juvenile is adjudicated delinquent, convicted, found not guilty or the charges are reduced, the chief of police, sheriff or a designee shall, within 15 days of the expiration of the appeal period, if there is no notice of appeal, provide notice of the disposition ordered by the court to the school principal to whom disclosure was made. If the court defers disposition or if charges are withdrawn, dismissed or nolle prosequi, the chief of police, sheriff or a designee shall, within 15 days of such action provide notice of such action to the school principal to whom disclosure was made. If charges are withdrawn in intake or handled informally without a court disposition or if charges are not filed within 90 days of the initial disclosure, the chief of police, sheriff or a designee shall so notify the school principal to whom disclosure was made. In addition to any other disclosure that is permitted by this subsection, the principal in his discretion may provide such information to a threat assessment team established by the local school division. No member of a threat assessment team shall (a) disclose any juvenile record information obtained pursuant to this section or (b) use such information for any purpose other than evaluating threats to students and school personnel. For the purposes of this subsection, "principal" also refers to the chief administrator of any private primary or secondary school.

§ 16.1-305.1. Disclosure of disposition in certain delinquency cases

Upon a court's disposition of a proceeding where a juvenile is charged with a crime listed in subsection G of § 16.1-260 in which a juvenile is adjudicated delinquent, convicted, found not guilty or the charges are reduced, the clerk of the court in which the disposition is entered shall, within 15 days of the expiration of the appeal period, if there has been no notice of an appeal, provide written notice of the disposition ordered by the court, including the nature of the offense upon which the disposition was based, to the superintendent of the school division in which the child is enrolled at the time of the disposition or, if he is not then enrolled in school, the division in which he was enrolled at the time of the offense. If the court defers disposition, or the charges are nolle prosequi, withdrawn, or dismissed the clerk shall, within 15 days of such action, provide written notice of such action to the superintendent of the school division in which the child is enrolled at such time or, if he is not then enrolled in school, the division in which he was enrolled at the time of the offense. If charges are withdrawn in intake or handled informally without a court disposition, the intake officer shall, within 15 days of such action, provide written notification of the action to the superintendent of the school division in which the child is enrolled at that time or, if he is not then enrolled in school, the division in which he was enrolled at the time of the offense.

If the child is not enrolled in the school division that receives notification under this section, the superintendent of that division may forward the notification to the superintendent of the school division where the child is enrolled.

A superintendent who receives notification under this section may disclose the information received to anyone to whom he or a principal disclosed that a petition had been filed. Further disclosure of information received under this section by the superintendent to school personnel is authorized only as provided in § 22.1-288.2.

§ 16.1-305.2. Disclosure of notice of the filing of a petition and certain reports by division superintendent

Except as otherwise provided in this section, a division superintendent shall not disclose information contained in or derived from a (i) notice of petition received pursuant to § 16.1-260 or (ii) report received pursuant to § 66-25.2:1. If the juvenile is not enrolled as a student in a public school in the division to which the notice or report was given, the superintendent shall promptly so notify the intake officer of the juvenile court in which the petition was filed or the Director of the Department who sent the report and may forward the notice of petition or report to the superintendent of the division in which the juvenile is enrolled, if known.

If the division superintendent believes that disclosure of information regarding a petition to school personnel is necessary to ensure the physical safety of the juvenile, other students or school personnel within the division, he may at any time prior to receipt of the notice of disposition in accordance with § 16.1-305.1, disclose the fact of the filing of the petition and the nature of the offense to the principal of the school in which the juvenile who is the subject of the petition is enrolled. The principal may further disseminate the information regarding a petition, after the juvenile has been taken into custody, whether or not the child has been released, only to those students and school personnel having direct contact with the juvenile and need of the information to ensure physical safety or the appropriate educational placement or other educational services.

If the division superintendent believes that disclosure of information regarding a report received pursuant to§ 66-25.2:1 to school personnel is necessary to ensure the physical safety of the juvenile, other students, or school personnel within the division he may disclose the information to the principal of the school in which the juvenile is enrolled. The principal may further disseminate the information regarding such report only to school personnel as necessary to protect the juvenile, the subject or subjects of the danger, other students, or school personnel.

§ 16.1-309. Penalty

A. Except as provided in §§ 16.1-299, 16.1-300, 16.1-301, 16.1-305 and 16.1-307, any person who (i) files a petition, (ii) receives a petition or has access to court records in an official capacity, (iii) participates in the investigation of allegations which form the basis of a petition, (iv) is interviewed concerning such allegations and whose information is derived solely from such interview or (v) is present during any court proceeding, who discloses or makes use of or knowingly permits the use of identifying information not otherwise available to the public concerning a juvenile who is suspected of being or is the subject of a proceeding within the jurisdiction of the juvenile court pursuant to subdivisions 1 through 5 of subsection A of § 16.1-241 or who is in the custody of the State Department of Juvenile Justice, which information is directly or indirectly derived from the records or files of a law-enforcement agency, court or the Department of Juvenile Justice or acquired in the course of official duties, shall be guilty of a Class 3 misdemeanor.

B. The provisions of this section shall not apply to any law-enforcement officer or school employee who discloses to school personnel identifying information concerning a juvenile who is suspected of committing or has committed a delinquent act that has met applicable criteria of § 16.1-260 and is committed or alleged to have been committed on school property during a school-sponsored activity or on the way to or from such activity, if the disclosure is made solely for the purpose of enabling school personnel to take appropriate disciplinary action within the school setting against the juvenile. Further, the

provisions of this section shall not apply to school personnel who disclose information obtained pursuant to §§ 16.1-305.1 and 22.1-288.2, if the disclosure is made in compliance with those sections.

§ 22.1-279.4. Information regarding prosecution for certain crimes

School boards shall provide information developed by the office of the Attorney General to students regarding laws governing the prosecution of juveniles as adults for the commission of certain crimes. Methods of providing such information may include, but shall not be limited to, public announcements in the schools, written notification to parents, publication in the student conduct manual, and inclusion in those materials distributed to parents pursuant to § 22.1-279.3.

§ 22.1-288.2. Receipt, dissemination and maintenance of records of certain law-enforcement information

C. When a superintendent receives notice of the filing of a petition from the intake officer in accordance with § 16.1-260, or upon request of a court services unit for information made in conjunction with the preparation of a social history report pursuant to § 16.1-273, the superintendent shall provide information regarding the student's educational and attendance status to the intake officer or court services unit, as the case may be. Whenever a division superintendent receives notice of a student's commitment to the Department of Juvenile Justice, the superintendent or his designee shall participate in the development of a reenrollment plan as provided in § 16.1-293.

§ 22.1-289. Transfer and management of scholastic records; disclosure of information in court notices; penalty

E. Whenever the division superintendent is notified by the Department of Juvenile Justice, pursuant to § 16.1-287, or by a school division employee responsible for education programs in a local jail or a detention center, that a pupil who last attended a school within the school division is a pupil in a school of a juvenile correctional center of the Department of Juvenile Justice, or a pupil in an educational program in a local jail or detention center, the school division superintendent or his designee shall transfer the scholastic record of such pupil to the designated juvenile correctional center or local jail or a detention center, as the case may be, within five work days. The Department of Juvenile Justice shall transfer the scholastic record of a student who has been discharged from a juvenile correctional center to the relevant school division within five work days of the student's discharge.

The Board of Education shall adopt regulations concerning the transfer and management of scholastic records from one school division to another, to the learning centers of the Department of Juvenile Justice, and to educational programs in local jails and detention centers.

Upon receiving notice of a foster care placement of a student across jurisdictional lines, the sending school division and the receiving school division, as such school divisions are defined in subsection D of § 22.1-3.4, shall expedite the transfer of the scholastic record of the student.

F. The division superintendent or his designee shall notify the local police or sheriff's department for investigation as a possible missing child of any enrolled pupil whose scholastic record he is unable to obtain within 60 days or sooner, if the division superintendent or his designee has reason to suspect that the pupil is a missing child.

G. Superintendents and their designees shall be immune from any civil or criminal liability in connection with any notice to a police or sheriff's department of a pupil lacking a scholastic record or failure to give such notice as required by this section.

H. Except as provided in §§ 16.1-309 and 22.1-287 and this section, a superintendent or his designee, or other school personnel who unlawfully discloses information obtained pursuant to § 16.1-305.1 shall be guilty of a Class 3 misdemeanor.

ADMINISTRATIVE CODE

8 VAC 20-81-160. Discipline procedures

I. Referral to and action by law enforcement and judicial authorities. (34 CFR 300.535)

1. Nothing in this chapter prohibits a local educational agency from reporting a crime by a child with a disability to appropriate authorities, or prevents state law enforcement and judicial authorities from exercising their responsibilities with regard to the application of federal and state law to crimes committed by a child with a disability to the extent such action applies to a student without a disability.

2. In reporting the crime, the local educational agency shall ensure that copies of the special education and disciplinary records of the child are transmitted for consideration by the appropriate authorities to whom school personnel report the crime. Transmission of such records shall be in accordance with requirements under the Management of the Student's Scholastic Record in the Public Schools of Virginia (8 VAC 20-150).

Disclosure of school records

STATUTES

§ 22.1-3.2. Notice of student's school status required as condition of admission; penalty

A. Prior to admission to any public school of the Commonwealth, a school board shall require the parent, guardian, or other person having control or charge of a child of school age to provide, upon registration:

1. A sworn statement or affirmation indicating whether the student has been expelled from school attendance at a private school or in a public school division of the Commonwealth or in another state for an offense in violation of school board policies relating to weapons, alcohol or drugs, or for the willful infliction of injury to another person. This document shall be maintained as a part of the student's scholastic record.

2. A sworn statement or affirmation indicating whether the student has been found guilty of or adjudicated delinquent for any offense listed in subsection G of § 16.1-260 or any substantially similar offense under the laws of any state, the District of Columbia, or the United States or its territories. This document shall be maintained as provided in § 22.1-288.2.

B. When the child is registered as a result of a foster care placement as defined in § 63.2-100, the information required under this section shall be furnished by the local social services agency or licensed child-placing agency that made the foster care placement.

C. Any person making a materially false statement or affirmation shall be guilty upon conviction of a Class 3 misdemeanor.

§ 22.1-288.2. Receipt, dissemination and maintenance of records of certain law-enforcement information

A. A division superintendent shall disseminate the notice or information regarding an adjudication of delinquency or conviction for an offense listed in subsection G of § 16.1-260, contained in a notice received by him pursuant to § 16.1-305.1 to school personnel responsible for the management of student records and to other relevant school personnel, including, but not limited to, the principal of the school in which the student is enrolled. The principal shall further disseminate such information to licensed instructional personnel and other school personnel who (i) provide direct educational or support services to the student and (ii) have a legitimate educational interest in such information.

B. A parent, guardian or other person having control or charge of a student in a public school and, with consent of a parent or in compliance with a court order, the court in which the disposition was rendered,

shall be notified in writing of any disciplinary action taken with regard to any incident upon which the adjudication of delinquency or conviction for an offense listed in subsection G of § 16.1-260was based and the reasons therefor. The parent or guardian shall also be notified of his or her right to review, and to request an amendment of, the student's scholastic record, in accordance with regulations of the Board of Education governing the management of scholastic records.

Every notice of adjudication of delinquency or conviction for an offense listed in subsection G of § 16.1-260 received by a superintendent, and information contained in the notice, which is not a disciplinary record as defined in Board of Education regulations, shall be maintained by him and by any others to whom he disseminates it, separately from all other records concerning the student. However, if the school administrators or the school board takes disciplinary action against a student based upon an incident which formed the basis for the adjudication of delinquency or conviction for an offense listed in subsection G of§ 16.1-260, the notice shall become a part of the student's disciplinary record.

C. When a superintendent receives notice of the filing of a petition from the intake officer in accordance with § 16.1-260, or upon request of a court services unit for information made in conjunction with the preparation of a social history report pursuant to § 16.1-273, the superintendent shall provide information regarding the student's educational and attendance status to the intake officer or court services unit, as the case may be. Whenever a division superintendent receives notice of a student's commitment to the Department of Juvenile Justice, the superintendent or his designee shall participate in the development of a reenrollment plan as provided in § 16.1-293.

§ 22.1-289. Transfer and management of scholastic records; disclosure of information in court notices; penalty

A. As used in this section:

"Scholastic record" means those records that are directly related to a student and are maintained by an educational agency or institution or by a party acting for the agency or institution. These include, but are not limited to, documentation pertinent to the educational growth and development of students as they progress through school, student disciplinary records, achievement and test data, cumulative health records, reports of assessments for eligibility for special education services, and Individualized Education Programs. Such records may be recorded in any way, including, but not limited to, handwriting, print, computer media, video or audio tape, film, microfilm, and microfiche.

A notice of adjudication or conviction received by a superintendent relating to an incident which did not occur on school property or during a school-sponsored activity shall not be a part of a student's scholastic record.

The term "scholastic record" also shall not include records of instructional, supervisory, administrative, and ancillary educational personnel that are kept in the sole possession of the maker of the record and are not accessible or revealed to any other person except a temporary substitute for the maker of the record.

B. Whenever a pupil transfers from one school division to another, the scholastic record or a copy of the scholastic record shall be transferred to the school division to which the pupil transfers upon request from such school division. Permission of the parent, guardian, or other person having control or charge of the student shall not be required for transfer of such scholastic record to another school or school division within or outside the Commonwealth.

C. Any notice of disposition received pursuant to § 16.1-305.1 shall not be retained after the student has been awarded a diploma or a certificate as provided in § 22.1-253.13:4.

D. Every student's scholastic record shall be available to the student and his parent, guardian, or other person having control or charge of the student for inspection during the regular school day. Permission of the parent, guardian, or other person having control or charge of the student, or of a student who is 18

years of age or older, shall not be required for transfer of such scholastic record to another school or school division within or without this Commonwealth.

Consistent with federal law and regulation, each school shall annually notify parents of students currently enrolled and in attendance of their rights under the federal Family Educational Rights and Privacy Act (20 U.S.C. § 1232g) and related regulations.

A school responding to a request for the transfer of the scholastic record from another school division need not provide written notice of the transfer of the record, including the identity of the requester, to the parent, guardian, or other person having control or charge of the student, or to a student who is 18 years of age or older, if the school has previously included in the annual notice required by this subsection a statement that it forwards such records to such requesting school divisions.

E. Whenever the division superintendent is notified by the Department of Juvenile Justice, pursuant to § 16.1-287, or by a school division employee responsible for education programs in a local jail or a detention center, that a pupil who last attended a school within the school division is a pupil in a school of a juvenile correctional center of the Department of Juvenile Justice, or a pupil in an educational program in a local jail or detention center, the school division superintendent or his designee shall transfer the scholastic record of such pupil to the designated juvenile correctional center or local jail or a detention center, as the case may be, within five work days. The Department of Juvenile Justice shall transfer the scholastic record of a student who has been discharged from a juvenile correctional center to the relevant school division within five work days of the student's discharge.

The Board of Education shall adopt regulations concerning the transfer and management of scholastic records from one school division to another, to the learning centers of the Department of Juvenile Justice, and to educational programs in local jails and detention centers.

Upon receiving notice of a foster care placement of a student across jurisdictional lines, the sending school division and the receiving school division, as such school divisions are defined in subsection D of § 22.1-3.4, shall expedite the transfer of the scholastic record of the student.

F. The division superintendent or his designee shall notify the local police or sheriff's department for investigation as a possible missing child of any enrolled pupil whose scholastic record he is unable to obtain within 60 days or sooner, if the division superintendent or his designee has reason to suspect that the pupil is a missing child.

G. Superintendents and their designees shall be immune from any civil or criminal liability in connection with any notice to a police or sheriff's department of a pupil lacking a scholastic record or failure to give such notice as required by this section.

H. Except as provided in §§ 16.1-309 and 22.1-287 and this section, a superintendent or his designee, or other school personnel who unlawfully discloses information obtained pursuant to § 16.1-305.1 shall be guilty of a Class 3 misdemeanor.

ADMINISTRATIVE CODE

8 VAC 20-81-160. Discipline procedures

J. Information on disciplinary actions. (34 CFR 300.229)

1. The Virginia Department of Education requires that local educational agencies include in the records of a child with a disability a statement of any current or previous disciplinary action that has been taken against the child.
2. Local educational agencies are responsible for transmitting the statement to the Virginia Department of Education upon request to the same extent that the disciplinary information is included in, and transmitted with, the student records of nondisabled students.

3. The statement may include:

a. A description of any behavior engaged in by the child who required disciplinary action;

b. A description of the disciplinary action; and

c. Any other information that is relevant to the safety of the child and other individuals involved with the child.

4. If the child transfers from one school to another, the transmission of any of the child's records shall include the child's current IEP and any statement of current or previous disciplinary action that has been taken against the child.

Data collection, review, and reporting of disciplinary policies and actions

STATUTES

§ 22.1-279.6. Board of Education guidelines and model policies for codes of student conduct; school board regulations

B. School boards shall adopt and revise, as required by § 22.1-253.13:7 and in accordance with the requirements of this section, regulations on codes of student conduct that are consistent with, but may be more stringent than, the guidelines of the Board. School boards shall include, in the regulations on codes of student conduct, procedures for suspension, expulsion, and exclusion decisions and shall biennially review the model student conduct code to incorporate discipline options and alternatives to preserve a safe, nondisruptive environment for effective teaching and learning.

ADMINISTRATIVE CODE

8VAC20-560-10. Reportable incidents.

The principal of each public school shall collect and maintain information on the following events which occur on school property, on a school bus, or at a school-sponsored activity, and shall report the information semi-annually to the division superintendent on dates established by the superintendent. The division superintendent shall submit annually to the Department of Education, on forms provided by the department, an aggregate report of such incidents on or before the last day of October.

1. Incidences of crime and violence.

a. Physical battery.

(1) On school personnel by students.

(2) On students by students.

(3) On students by persons other than students.

b. Sexual battery.

(1) On school personnel by students.

(2) On students by students.

(3) On students by persons other than students.

c. Homicides.

(1) On school personnel by students.

(2) On students by students.

(3) On students by persons other than students.

d. Possession of weapons.

e. Possession of alcohol.

f. Possession of drugs.

g. Possession of tobacco products.

2. Students involved in incident of crime and violence.

a. Total number of students involved in physical assaults.

(1) Perpetrator (categorized by grade and gender).

(2) Victims (categorized by grade and gender).

b. Total number of students involved in sexual battery.

(1) Perpetrator (categorized by grade and gender).

(2) Victims (categorized by grade and gender).

c. Total number of students involved in homicides.

(1) Perpetrator (categorized by grade and gender).

(2) Victims (categorized by grade and gender).

d. Total number of students involved in possession of weapons (categorized by grade and gender).

e. Total number of students involved in possession of alcohol (categorized by grade and gender).

f. Total number of students referred (by self or others) for assistance with substance abuse problems (categorized by grade and gender).

g. Total number of students involved in possession of drugs (categorized by grade and gender).

School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers

Authority and power to implement school arrest

STATUTES

§ 9.1-101. Definitions

As used in this chapter or in Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, unless the context requires a different meaning:

[...] "School resource officer" means a certified law-enforcement officer hired by the local law-enforcement agency to provide law-enforcement and security services to Virginia public elementary and secondary schools.

"School security officer" means an individual who is employed by the local school board for the singular purpose of maintaining order and discipline, preventing crime, investigating violations of school board policies, and detaining students violating the law or school board policies on school property or at school-sponsored events and who is responsible solely for ensuring the safety, security, and welfare of all students, faculty, staff, and visitors in the assigned school.

§ 22.1-258. Appointment of attendance officers; notification when pupil fails to report to school

Every school board shall have power to appoint one or more attendance officers, who shall be charged with the enforcement of the provisions of this article. Where no attendance officer is appointed by the school board, the division superintendent or his designee shall act as attendance officer.

Whenever any pupil fails to report to school on a regularly scheduled school day and no indication has been received by school personnel that the pupil's parent is aware of and supports the pupil's absence, a reasonable effort to notify by telephone the parent to obtain an explanation for the pupil's absence shall be made by either the school principal or his designee, the attendance officer, other school personnel, or volunteers organized by the school administration for this purpose. Any such volunteers shall not be liable for any civil damages for any acts or omissions resulting from making such reasonable efforts to notify parents and obtain such explanation when such acts or omissions are taken in good faith, unless such acts or omissions were the result of gross negligence or willful misconduct. This subsection shall not be construed to limit, withdraw, or overturn any defense or immunity already existing in statutory or common law or to affect any claim occurring prior to the effective date of this law. School divisions are encouraged to use noninstructional personnel for this notice.

Whenever any pupil fails to report to school for a total of five scheduled school days for the school year and no indication has been received by school personnel that the pupil's parent is aware of and supports the pupil's absence, and a reasonable effort to notify the parent has failed, the school principal or his designee or the attendance officer shall make a reasonable effort to ensure that direct contact is made with the parent, either in person or through telephone conversation, to obtain an explanation for the pupil's absence and to explain to the parent the consequences of continued nonattendance. The school principal or his designee or the attendance officer, the pupil, and the pupil's parent shall jointly develop a plan to resolve the pupil's nonattendance. Such plan shall include documentation of the reasons for the pupil's nonattendance.

If the pupil is absent an additional day after direct contact with the pupil's parent and the attendance officer has received no indication that the pupil's parent is aware of and supports the pupil's absence, either the school principal or his designee or the attendance officer shall schedule a conference within 10

school days with the pupil, his parent, and school personnel, which conference may include other community service providers, to resolve issues related to the pupil's nonattendance. The conference shall be held no later than 15 school days after the sixth absence. Upon the next absence by such pupil without indication to the attendance officer that the pupil's parent is aware of and supports the pupil's absence, the school principal or his designee shall notify the attendance officer or the division superintendent or his designee, as the case may be, who shall enforce the provisions of this article by either or both of the following: (i) filing a complaint with the juvenile and domestic relations court alleging the pupil is a child in need of supervision as defined in § 16.1-228 or (ii) instituting proceedings against the parent pursuant to § 18.2-371 or § 22.1-262. In filing a complaint against the student, the attendance officer shall provide written documentation of the efforts to comply with the provisions of this section. In the event that both parents have been awarded joint physical custody pursuant to § 20-124.2and the school has received notice of such order, both parents shall be notified at the last known addresses of the parents.

Nothing in this section shall be construed to limit in any way the authority of any attendance officer or division superintendent to seek immediate compliance with the compulsory school attendance law as set forth in this article. Attendance officers, other school personnel or volunteers organized by the school administration for this purpose shall be immune from any civil or criminal liability in connection with the notice to parents of a pupil's absence or failure to give such notice as required by this section.

§ 22.1-261. Attendance officer to make list of children not enrolled; duties of attendance officer

The attendance officer or the division superintendent or his designee shall check the reports submitted pursuant to subsection A of § 22.1-260 with reports from the State Registrar of Vital Records and Health Statistics. From these reports and from any other reliable source the attendance officer or the division superintendent or his designee shall, within five days after receiving all reports submitted pursuant to subsection A of § 22.1-260, make a list of the names of children who are not enrolled in any school and who are not exempt from school attendance. It shall be the duty of the attendance officer, on behalf of the local school board, to investigate all cases of nonenrollment and, when no valid reason is found therefor, to notify the parent, guardian or other person having control of the child to require the attendance of such child at the school within three days from the date of such notice.

§ 22.1-266. Law-enforcement officers and truant children

A. Notwithstanding the provisions of § 16.1-246, any law-enforcement officer as defined in § 9.1-101 or any attendance officer may pick up any child who (i) is reported to be truant from a public school by a school principal or division superintendent or (ii) the law-enforcement officer or attendance officer reasonably determines to be a public school student and by reason of the child's age and circumstances is either truant from public school or has been expelled from school and has been required to attend an alternative education program pursuant to § 22.1-254 or § 22.1-277.2:1, and may deliver such child to the appropriate public school, alternative education program, or truancy center and personnel thereof without charging the parent or guardian of such child with a violation of any provision of law.

B. Any such law-enforcement officer or attendance officer shall not be liable for any civil damages for any acts or omissions resulting from picking up or delivering a public school child as provided in subsection A when such acts or omissions are within the scope of the employment of such law-enforcement officer or attendance officer and are taken in good faith, unless such acts or omissions were the result of gross negligence or willful misconduct. This subsection shall not be construed to limit, withdraw or overturn any defense or immunity already existing in statutory or common law or to affect any claim occurring prior to the effective date of this law.

C. For the purposes of this section, "truancy center" means a facility or site operated by a school division, sometimes jointly with the local law-enforcement agency, and designated for receiving children who have been retrieved by a law-enforcement officer or attendance officer for truancy from school.

§ 22.1-280.2:1. Employment of school safety personnel

Local school boards may employ school security officers, as defined in § 9.1-101 for the purposes set forth therein.

Certification or training

STATUTES

§ 9.1-184. Virginia Center for School Safety created; duties.

A. From such funds as may be appropriated, the Virginia Center for School Safety (the Center) is hereby established within the Department. The Center shall:

8. Provide training for and certification of school security officers, as defined in § 9.1-101 and consistent with § 9.1-110;

MOUs, authorization and/or funding

STATUTES

§ 9.1-110. School Resource Officer Grants Program and Fund

A. From the funds appropriated for such purpose and from the gifts, donations, grants, bequests, and other funds received on its behalf, there is established (i) the School Resource Officer Grants Program, to be administered by the Board, in consultation with the Board of Education, and (ii) a special nonreverting fund within the state treasury known as the School Resource Officer Incentive Grants Fund, hereinafter known as the "Fund." The Fund shall be established on the books of the Comptroller, and any moneys remaining in the Fund at the end of the biennium shall not revert to the general fund but shall remain in the Fund. Interest earned on such funds shall remain in the Fund and be credited to it.

Subject to the authority of the Board to provide for its disbursement, the Fund shall be disbursed to award matching grants to local law-enforcement agencies and local school boards that have established a collaborative agreement to employ uniformed school resource officers, as defined in § 9.1-101, in middle and high schools within the relevant school division. The Board may disburse annually up to five percent of the Fund for the training of the school resource officers. School resource officers shall be certified law-enforcement officers and shall be employed to help ensure safety, to prevent truancy and violence in schools, and to enforce school board rules and codes of student conduct.

B. The Board shall establish criteria for making grants from the Fund, including procedures for determining the amount of a grant and the required local match. Any grant of general funds shall be matched by the locality on the basis of the composite index of local ability to pay. The Board may adopt guidelines governing the Program and the employment and duties of the school resource officers as it deems necessary and appropriate.

§ 9.1-184. Virginia Center for School Safety created; duties.

A. From such funds as may be appropriated, the Virginia Center for School Safety (the Center) is hereby established within the Department. The Center shall:

7. Develop a memorandum of understanding between the Director of the Department of Criminal Justice Services and the Superintendent of Public Instruction to ensure collaboration and coordination

of roles and responsibilities in areas of mutual concern, such as school safety audits and crime prevention;

State Education Agency Support

State model policies and implementation support

STATUTES

§ 22.1-279.6. Board of Education guidelines and model policies for codes of student conduct; school board regulations

A. The Board of Education shall establish guidelines and develop model policies for codes of student conduct to aid local school boards in the implementation of such policies. The guidelines and model policies shall include, but not be limited to, (i) criteria for the removal of a student from a class, the use of suspension, expulsion, and exclusion as disciplinary measures, the grounds for suspension and expulsion and exclusion, and the procedures to be followed in such cases, including proceedings for such suspension, expulsion, and exclusion decisions and all applicable appeals processes; (ii) standards, consistent with state, federal and case laws, for school board policies on alcohol and drugs, gang-related activity, hazing, vandalism, trespassing, threats, search and seizure, disciplining of students with disabilities, intentional injury of others, self-defense, bullying, the use of electronic means for purposes of bullying, harassment, and intimidation, and dissemination of such policies to students, their parents, and school personnel; and (iii) standards for in-service training of school personnel in and examples of the appropriate management of student conduct and student offenses in violation of school board policies.

In accordance with the most recent enunciation of constitutional principles by the Supreme Court of the United States of America, the Board's standards for school board policies on alcohol and drugs and search and seizure shall include guidance for procedures relating to voluntary and mandatory drug testing in schools, including, but not limited to, which groups may be tested, use of test results, confidentiality of test information, privacy considerations, consent to the testing, need to know, and release of the test results to the appropriate school authority.

In the case of suspension and expulsion, the procedures set forth in this article shall be the minimum procedures that the school board may prescribe.

B. School boards shall adopt and revise, as required by § 22.1-253.13:7 and in accordance with the requirements of this section, regulations on codes of student conduct that are consistent with, but may be more stringent than, the guidelines of the Board. School boards shall include, in the regulations on codes of student conduct, procedures for suspension, expulsion, and exclusion decisions and shall biennially review the model student conduct code to incorporate discipline options and alternatives to preserve a safe, nondisruptive environment for effective teaching and learning.

C. Each school board shall include, in its code of student conduct, prohibitions against bullying, hazing, and profane or obscene language or conduct. School boards shall also cite, in their codes of student conduct, the provisions of § 18.2-56, which defines and prohibits hazing and imposes a Class 1 misdemeanor penalty for violations, i.e. that is, confinement in jail for not more than 12 months and a fine of not more than $2,500, either or both.

D. Each school board shall include in its code of student conduct, by July 1, 2014, policies and procedures that include a prohibition against bullying. Such policies and procedures shall be consistent with the standards for school board policies on bullying and the use of electronic means for purposes of bullying developed by the Board pursuant to subsection A.

Such policies and procedures shall not be interpreted to infringe upon the First Amendment rights of students and are not intended to prohibit expression of religious, philosophical, or political views, provided that such expression does not cause an actual, material disruption of the work of the school.

E. A school board may regulate the use or possession of beepers or other portable communications devices and laser pointers by students on school property or attending school functions or activities and establish disciplinary procedures pursuant to this article to which students violating such regulations will be subject.

F. Nothing herein in this section shall be construed to require any school board to adopt policies requiring or encouraging any drug testing in schools. However, a school board may, in its discretion, require or encourage drug testing in accordance with the Board of Education's guidelines and model student conduct policies required by subsection A and the Board's guidelines for student searches required by § 22.1-279.7.

G. The Board of Education shall establish standards to ensure compliance with the federal Improving America's Schools Act of 1994 (Part F-Gun-Free Schools Act of 1994), as amended, in accordance with § 22.1-277.07.

This subsection shall not be construed to diminish the authority of the Board of Education or to diminish the Governor's authority to coordinate and provide policy direction on official communications between the Commonwealth and the United States government.

§ 22.1-291.4. Bullying prohibited

Each school board shall implement, by July 1, 2014, policies and procedures to educate school board employees about bullying, as defined in § 22.1-276.01, and the need to create a bully-free environment.

[...]2. That the Board of Education shall develop, by January 1, 2014, model policies and procedures for use by each school board to educate school board employees about bullying, as defined in § 22.1-276.01, and the need to create a bully-free environment.

Funding appropriations

STATUTES

§ 22.1-209.1:2. Regional alternative education programs for certain students

A. With such funds as may be appropriated for this purpose, the Board of Education shall establish a program consisting of regional alternative education options for elementary, middle, and high school students in compliance with subdivision D 7 of § 22.1-253.13:1 who (i) have committed an offense in violation of school board policies relating to weapons, alcohol or drugs, or intentional injury to another person, or against whom a petition or warrant has been filed alleging such acts or school board charges alleging such policy violations are pending; (ii) have been expelled from school attendance or have received one suspension for an entire semester, or have received two or more long-term suspensions within one school year; or (iii) have been released from a juvenile correctional center and have been identified by the Superintendent of the Department of Juvenile Justice's Division of Education and the relevant division superintendent as requiring a regional alternative education program. Based on available space, a student may also be administratively assigned to a regional alternative education program either at the request of the parent and with the consent of the division superintendent or by the division superintendent after written notice to the student and his parent. Such notice of the opportunity for the student and/or his parent to participate in a hearing conducted by the division superintendent or his designee regarding such placement shall be issued and the assignment shall be final unless altered by the school board, upon timely written petition, in accordance with regulations of the school board, by the student or his parent, for a review of the record by the school board. However, no child shall be assigned to any regional alternative education program described in this section for more than one school year without an annual assessment of the placement to determine the appropriateness of transitioning the child into the school division's regular program.

B. Applications for grants shall include the following components:

1. An agreement executed by two or more school divisions and approval of their respective governing bodies to offer a regional alternative education option as provided in subsection A, and a plan for the apportionment of responsibilities for the administration, management, and support of the program, including, but not limited to, the facilities and location for the program, daily operation and oversight, staffing, instructional materials and resources, transportation, funding and in-kind services, and the program of instruction.

2. A procedure for obtaining the participation in or support for the program, as may be determined, of the parents, guardian or other person having charge or control of a child placed in the program.

3. An interagency agreement for cooperation executed by the local departments of health and social services or welfare; the juvenile and domestic relations district court; law-enforcement agencies; institutions of higher education and other postsecondary training programs; professional and community organizations; the business and religious communities; dropout prevention and substance abuse prevention programs; community services boards located in the applicants' respective jurisdictions; and the Department of Juvenile Justice.

4. A curriculum developed for intensive, accelerated instruction designed to establish high standards and academic achievement for participating students.

5. An emphasis on building self-esteem and the promotion of personal and social responsibility.

6. A low pupil/teacher ratio to promote a high level of interaction between the students and the teacher.

7. An extended day program, where appropriate, to facilitate remediation; tutoring; counseling; organized, age-appropriate, developmental education for elementary and middle school children; and opportunities that enhance acculturation and permit students to improve their social and interpersonal relationship skills.

8. Community outreach to build strong school, business, and community partnerships, and to promote parental involvement in the educational process of participating children.

9. Specific, measurable goals and objectives and an evaluation component to determine the program's effectiveness in reducing acts of crime and violence by students, the dropout rate, the number of youth committed to juvenile correctional centers, and recidivism; and in increasing the academic achievement levels and rehabilitative success of participating students, admission to institutions of higher education and other postsecondary education and training programs, and improving staff retention rates.

10. The number of children who may be assigned to the regional alternative education program during the school year.

11. A plan for transitioning the enrolled students into the relevant school division's regular program.

12. A current program of staff development and training.

§ 22.1-277.07. Expulsion of students under certain circumstances; exceptions

B. The Board of Education is designated as the state education agency to carry out the provisions of the federal Improving America's Schools Act of 1994, and shall administer the funds to be appropriated to the Commonwealth under this act.

C. Each school board shall revise its standards of student conduct no later than three months after the date on which this act becomes effective. Local school boards requesting moneys apportioned to the Commonwealth through the federal Improving America's Schools Act of 1994 shall submit to the Department of Education an application requesting such assistance. Applications for assistance shall include:

1. Documentation that the local school board has adopted and implemented student conduct policies in compliance with this section; and

2. A description of the circumstances pertaining to expulsions imposed under this section, including (i) the schools from which students were expelled under this section, (ii) the number of students expelled from each such school in the school division during the school year, and (iii) the types of firearms involved in the expulsions.

Other/Uncategorized

Professional immunity or liability

STATUTES

§ 8.01-220.1:2. Civil immunity for teachers under certain circumstances.

A. Any teacher employed by a local school board in the Commonwealth shall not be liable for any civil damages for any acts or omissions resulting from the supervision, care or discipline of students when such acts or omissions are within such teacher's scope of employment and are taken in good faith in the course of supervision, care or discipline of students, unless such acts or omissions were the result of gross negligence or willful misconduct.

B. No school employee or school volunteer shall be liable for any civil damages arising from the prompt good faith reporting of alleged acts of bullying or crimes against others to the appropriate school official in compliance with §§ 22.1-279.6 and 22.1-291.4 and specified procedures.

C. This section shall not be construed to limit, withdraw, or overturn any defense or immunity already existing in statutory or common law, to affect any claim occurring prior to the effective date of this law, or to prohibit any person subject to bullying or a criminal act from seeking redress under any other provision of law.

§ 8.01-47. Immunity of school personnel investigating or reporting certain incidents

In addition to any other immunity he may have, any teacher, instructor, principal, school administrator, school coordinator, guidance counselor or any other professional, administrative or clerical staff member or other personnel of any elementary or secondary school, or institution of higher learning who, in good faith with reasonable cause and without malice, acts to report, investigate or cause any investigation to be made into the activities of any student or students or any other person or persons as they relate to conduct involving bomb threats, firebombs, explosive materials or other similar devices as described in clauses (vi) and (vii) of § 22.1-279.3:1 A, or alcohol or drug use or abuse in or related to the school or institution or in connection with any school or institution activity, shall be immune from all civil liability that might otherwise be incurred or imposed as the result of the making of such a report, investigation or disclosure.

§ 16.1-309. Penalty

A. Except as provided in §§ 16.1-299, 16.1-300, 16.1-301, 16.1-305 and 16.1-307, any person who (i) files a petition, (ii) receives a petition or has access to court records in an official capacity, (iii) participates in the investigation of allegations which form the basis of a petition, (iv) is interviewed concerning such allegations and whose information is derived solely from such interview or (v) is present during any court proceeding, who discloses or makes use of or knowingly permits the use of identifying information not otherwise available to the public concerning a juvenile who is suspected of being or is the subject of a proceeding within the jurisdiction of the juvenile court pursuant to subdivisions 1 through 5 of subsection A of § 16.1-241 or who is in the custody of the State Department of Juvenile Justice, which information is directly or indirectly derived from the records or files of a law-enforcement agency, court or the Department of Juvenile Justice or acquired in the course of official duties, shall be guilty of a Class 3 misdemeanor.

B. The provisions of this section shall not apply to any law-enforcement officer or school employee who discloses to school personnel identifying information concerning a juvenile who is suspected of

committing or has committed a delinquent act that has met applicable criteria of § 16.1-260 and is committed or alleged to have been committed on school property during a school-sponsored activity or on the way to or from such activity, if the disclosure is made solely for the purpose of enabling school personnel to take appropriate disciplinary action within the school setting against the juvenile. Further, the provisions of this section shall not apply to school personnel who disclose information obtained pursuant to §§ 16.1-305.1 and 22.1-288.2, if the disclosure is made in compliance with those sections.

§ 22.1-266. Law-enforcement officers and truant children

A. Notwithstanding the provisions of § 16.1-246, any law-enforcement officer as defined in § 9.1-101 or any attendance officer may pick up any child who (i) is reported to be truant from a public school by a school principal or division superintendent or (ii) the law-enforcement officer or attendance officer reasonably determines to be a public school student and by reason of the child's age and circumstances is either truant from public school or has been expelled from school and has been required to attend an alternative education program pursuant to § 22.1-254 or § 22.1-277.2:1, and may deliver such child to the appropriate public school, alternative education program, or truancy center and personnel thereof without charging the parent or guardian of such child with a violation of any provision of law.

B. Any such law-enforcement officer or attendance officer shall not be liable for any civil damages for any acts or omissions resulting from picking up or delivering a public school child as provided in subsection A when such acts or omissions are within the scope of the employment of such law-enforcement officer or attendance officer and are taken in good faith, unless such acts or omissions were the result of gross negligence or willful misconduct. This subsection shall not be construed to limit, withdraw or overturn any defense or immunity already existing in statutory or common law or to affect any claim occurring prior to the effective date of this law.

C. For the purposes of this section, "truancy center" means a facility or site operated by a school division, sometimes jointly with the local law-enforcement agency, and designated for receiving children who have been retrieved by a law-enforcement officer or attendance officer for truancy from school.

§ 22.1-279.3. Parental responsibility and involvement requirements

G. Upon the failure of a parent to comply with the provisions of this section, the school board may, by petition to the juvenile and domestic relations court, proceed against such parent for willful and unreasonable refusal to participate in efforts to improve the student's behavior or school attendance, as follows

Community input or involvement

STATUTES

§ 22.1-209.1:2. Regional alternative education programs for certain students

B. Applications for grants shall include the following components:

1. An agreement executed by two or more school divisions and approval of their respective governing bodies to offer a regional alternative education option as provided in subsection A, and a plan for the apportionment of responsibilities for the administration, management, and support of the program, including, but not limited to, the facilities and location for the program, daily operation and oversight, staffing, instructional materials and resources, transportation, funding and in-kind services, and the program of instruction.
2. A procedure for obtaining the participation in or support for the program, as may be determined, of the parents, guardian or other person having charge or control of a child placed in the program.

3. An interagency agreement for cooperation executed by the local departments of health and social services or welfare; the juvenile and domestic relations district court; law-enforcement agencies; institutions of higher education and other postsecondary training programs; professional and community organizations; the business and religious communities; dropout prevention and substance abuse prevention programs; community services boards located in the applicants' respective jurisdictions; and the Department of Juvenile Justice.

4. A curriculum developed for intensive, accelerated instruction designed to establish high standards and academic achievement for participating students.

5. An emphasis on building self-esteem and the promotion of personal and social responsibility.

6. A low pupil/teacher ratio to promote a high level of interaction between the students and the teacher.

7. An extended day program, where appropriate, to facilitate remediation; tutoring; counseling; organized, age-appropriate, developmental education for elementary and middle school children; and opportunities that enhance acculturation and permit students to improve their social and interpersonal relationship skills.

8. Community outreach to build strong school, business, and community partnerships, and to promote parental involvement in the educational process of participating children.

9. Specific, measurable goals and objectives and an evaluation component to determine the program's effectiveness in reducing acts of crime and violence by students, the dropout rate, the number of youth committed to juvenile correctional centers, and recidivism; and in increasing the academic achievement levels and rehabilitative success of participating students, admission to institutions of higher education and other postsecondary education and training programs, and improving staff retention rates.

10. The number of children who may be assigned to the regional alternative education program during the school year.

11. A plan for transitioning the enrolled students into the relevant school division's regular program.

12. A current program of staff development and training.

§ 22.1-279.3. Parental responsibility and involvement requirements

A. Each parent of a student enrolled in a public school has a duty to assist the school in enforcing the standards of student conduct and compulsory school attendance in order that education may be conducted in an atmosphere free of disruption and threat to persons or property, and supportive of individual rights.

B. A school board shall provide opportunities for parental and community involvement in every school in the school division.

§ 22.1-280.2. School crime line defined; development of school crime lines authorized; local school boards' authority; Board of Education to promulgate regulations

A. As used in this section:

"School crime line" means a confidential, anonymous system providing inducements for students to report any unlawful act occurring in school buildings or on school grounds or during school-sponsored activities to local law-enforcement authorities which is established as a cooperative alliance between the local school board, news media, the community, and law-enforcement officials or through a separate, nonprofit corporation governed by a board of directors or as part of a local "Crime Stoppers" program.

B. In order to reduce crime and violence within the school divisions in the Commonwealth, any local school board may develop a school crime line program as a joint, self-sustaining, cooperative alliance with news media, the community, and law-enforcement authorities to receive, screen, and reward student reports of unlawful acts committed in school buildings or on school grounds or at school functions, when

such reports lead to arrests or recovery of contraband or stolen property. Police or other law-enforcement personnel shall staff every school crime line program, receive reported information from anonymous student callers, screen such information, and direct information for further investigation, as may be appropriate.

C. Such programs may be established (i) by a local school board as a joint, self-sustaining, cooperative alliance with news media, the community, and law-enforcement authorities; (ii) through a separate nonprofit corporation initiated jointly by the local school board, news media, the community, and law-enforcement authorities and governed by a board of directors; or (iii) as part of a local "Crime Stoppers" program.

The governing board of any separate nonprofit school crime line corporation shall include broad-based community representation and shall, through its bylaws, set the policy, coordinate fund raising, and formulate a system of rewards. Prior to implementation of any school crime line program and annually thereafter, the local school board shall review and approve, as complying with the Board of Education's regulations for implementation of school crime lines, its regulations or the bylaws of any nonprofit school crime line corporation or the bylaws of any nonprofit "Crime Stoppers" corporation operating a school crime line. No school crime line program shall be implemented or revised without first obtaining the local school board's approval. Every local school board developing a school crime line program shall also notify all students and their parents or other custodian of the procedures and policies governing the program prior to implementation and annually thereafter.

D. By July 1, 1994, the Board of Education shall promulgate regulations for the implementation of school crime lines, including, but not limited to, appropriate fund raising, and the appropriateness of and limitations on rewards. In developing the regulations, the Board shall, in consultation with the Office of the Attorney General, address issues relating to civil rights, privacy, and any other question of law, including the civic duty to report crime without compensation.

E. Local school boards may establish, as a separate account, a school crime line fund, consisting of private contributions, local appropriations specifically designated for such purposes, and such funds as may be appropriated for this purpose by the Commonwealth pursuant to the appropriation act. No state or local funds appropriated for educational purposes shall be used to implement a school crime line.

Other/uncategorized

No relevant statutes found.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by Virginia provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
Website		
VDOE Student Conduct and Discipline	VDOE webpage with links to resources	http://www.doe.virginia.gov/support/student_conduct/index.shtml
Prevention Strategies and Programs: Bullying Prevention	Department of Education bullying prevention webpage, containing links to additional resources	http://www.doe.virginia.gov/support/prevention/bullying/index.shtml *A draft bullying prevention model policy will be posted here by May 2013.
School and Student Safety: Internet Safety	Department of Education internet safety webpage, containing links to additional resources	http://www.doe.virginia.gov/support/safety_crisis_management/internet_safety/index.shtml
Safety and Crisis Management: Gun Safety	Department of Education gun safety webpage, containing links to additional resources	http://www.doe.virginia.gov/support/safety_crisis_management/gun_safety/index.shtml
Response to Intervention	Department of Education webpage on response to intervention	http://www.doe.virginia.gov/instruction/response_intervention/
Documents		
Student Conduct Policy Guidelines	Student conduct policy guidelines	http://www.doe.virginia.gov/boe/guidance/safety/student_conduct.pdf
Guidelines for the Development of Policies and Procedures for Managing Student Behaviors In Emergency Situations in Virginia Public Schools Focusing on Physical Restraint and Seclusion	Guide on physical restraint and seclusion in emergency situations	http://www.doe.virginia.gov/support/student_conduct/guidelines_managing_behaviors_emergency.pdf

Title	Description	Website address (if applicable)
Guide to Local Alternative Education Options for Suspended and Expelled Students in the Commonwealth	Guide on alternative education	http://www.doe.virginia.gov/support/student_conduct/guide_local_alternative_ed_options.pdf
Functional, Behavioral Assessment, Behavioral Intervention Plans, and Positive Intervention and Supports: An Essential Part of Effective Schoolwide Discipline in Virginia	Process guidance for functional behavioral assessment, behavioral intervention and academic and behavioral supports and appendices	http://www.doe.virginia.gov/support/student_conduct/functional_behavioral_assessment.pdf Appendices: http://www.doe.virginia.gov/support/student_conduct/appendices.pdf
Discipline of Children with Disabilities	Technical assistance resource document on discipline of children with disabilities	http://www.doe.virginia.gov/support/student_conduct/discipline_children_disabilities.pdf
A Parent's Guide to Understanding Student Discipline Policies and Practices in Virginia Schools	Parent's guide to discipline	http://www.doe.virginia.gov/support/student_conduct/parents_guide_student_discipline_policies.pdf
Guidance Document on Manifestation Determination	Guide for determination of disability manifestation	http://www.doe.virginia.gov/support/student_conduct/manifestation_determination.pdf
Study of the Nature and Effectiveness of Virginia School Divisions' Antibullying Policies	Presentation of findings of study on antibullying policies as presented to General Assembly	http://www.doe.virginia.gov/support/prevention/bullying/2011_legislative_study.pdf
Other Resources		
Student Assistance Programming: Creating Positive Conditionsfor Learning	Manual of guidelines for student assistance programming	http://www.governor.virginia.gov/SchoolAndCampusSafetyTaskforce/docs/1-17-13SAP.pdf

Washington Compilation of School Discipline Laws and Regulations

Prepared: August 12, 2013

Introduction

This compilation presents school discipline-related state statutes, school discipline-related regulations, and, where available, links to state-sponsored websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSLE). For example, one major category encompasses all state laws or regulations mandating specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of state legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in each state.

Discipline categories were not mutually exclusive. Statutes and regulations often appeared across multiple categories. For states with more extensive statutes covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. State laws, ordered by chapter and section number, appear first within each category followed by state regulations. All statutes and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists statutes by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to state-sponsored websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of May 2013, with the exception of the state laws related to seclusion and restraint, which are complete and current as of December 2012. Readers should also note that the information in this document was compiled from individual state sources that are created by each state and which are maintained and updated with varying frequencies. Readers should consult the source information provided for each state directly in order to check for updates to this state's laws and regulations or conduct further research.

For further information, including definitions of the different policy categories, please refer to the Discipline Laws and Regulations Compendium posted on the Center's website.

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Safe Supportive Learning
Engagement | Safety | Environment

Table of Contents

Washington State Codes Cited **1**

General Provisions **4**

Authority to develop and establish rules of conduct 4
Scope 6
Communication of policy 6

In-School Discipline **8**

Use of multi-tiered discipline approaches 8
Teacher authority to remove students from classrooms 8
Alternatives to suspension 9
Use of corporal punishment 9
Use of student and locker searches 10
Other in-school disciplinary approaches 11

Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements **12**

Grounds for possible suspension or expulsion 12
Grounds for mandatory suspension or expulsion 12
Limitations, conditions or exclusions for use of suspension and expulsion 13
Administrative procedures related to suspension and expulsion 14
In-school suspension 24
Return to school following removal 24
Use of restraint and seclusion 25
Alternative placements 26

Disciplinary Approaches Addressing Specific Infractions and Conditions **27**

Firearms (as required by the Guns-Free Schools Act) 27
Other weapons 27
Students with chronic disciplinary issues 28
Attendance and truancy 28
Substance use 29
Bullying, harassment, or hazing 29
Other special infractions or conditions 31

Prevention and Behavioral Interventions (Non-Punitive) **32**

Prevention 32
Behavioral interventions and student support services 34
Professional development 36

Monitoring and Accountability **37**

Formal incident reporting of conduct violations 37
Parental notification 37
Reporting and referrals between schools and law enforcement 39
Disclosure of school records 39
Data collection, review, and reporting of disciplinary policies and actions 40

School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers 42
Authority and power to implement school arrest 42
Certification or training 42
MOUs, authorization, and/or funding 42
State Education Agency Support 43
State model policies and implementation support 43
Funding appropriations 44
Other/Uncategorized 46
Professional immunity or liability 46
Community input or involvement 46
Other/Uncategorized 48
State-Sponsored, Publicly Available Websites or Other Resources on School Discipline 49

Washington State Codes Cited

Revised Code of Washington

Title 28A. Common School Provisions

28A.170.	Substance abuse awareness program
28A.170.050.	Advisory committee -- Members – Duties
28A.170.075.	Findings — Intent
28A.170.080.	Grants -- Substance abuse intervention
28A.170.090.	Selection of grant recipients -- Program rules
28A.300.	Superintendent of public instruction
28A.300.046.	"Student absence from school" -- Rules -- Collection of attendance and discipline data
28A.300.270.	Violence prevention training
28A.300.275.	Alternative school start-up grants -- School safety grants -- Report to legislative committees
28A.300.280.	Conflict resolution program
28A.300.285.	Harassment, intimidation, and bullying prevention policies and procedures -- Model policy and procedure -- Training materials -- Posting on web site -- Rules -- Advisory committee
28A.300.2851.	School bullying and harassment -- Work group
28A.300.490.	Task force on gangs in schools – Reports
28A.300.801.	Legislative youth advisory council
28A.320.	Provisions applicable to all districts

District Powers and Duties

28A.320.128.	Notice and disclosure policies -- Threats of violence -- Student conduct -- Immunity for good faith notice -- Penalty
28A.320.130.	Weapons incidents – Reporting
28A.400.	Employees

Principals

28A.400.110.	Principal to assure appropriate student discipline -- Building discipline standards -- Classes to improve classroom management skills
28A.600.	Students
28A.600.010.	Enforcement of rules of conduct -- Due process guarantees -- Computation of days for short-term and long-term suspensions
28A.600.015.	Rules incorporating due process guarantees of pupils -- Informal due process procedures for short-term suspension of students
28A.600.020.	Exclusion of student from classroom -- Written disciplinary procedures -- Long-term suspension or expulsion
28A.600.030.	Grading policies -- Option to consider attendance
28A.600.040.	Pupils to comply with rules and regulations
28A.600.210.	School locker searches -- Findings
28A.600.220.	School locker searches -- No expectation of privacy
28A.600.230.	School locker searches -- Authorization -- Limitations
28A.600.240.	School locker searches -- Notice and reasonable suspicion requirements

28A.600.410.	Alternatives to suspension -- Encouraged
28A.600.420.	Firearms on school premises, transportation, or facilities -- Penalty -- Exemptions
28A.600.455.	Gang activity -- Suspension or expulsion
28A.600.460.	Classroom discipline -- Policies -- Classroom placement of student offenders -- Data on disciplinary actions
28A.600.475.	Exchange of information with law enforcement and juvenile court officials -- Notification of parents and students
28A.600.480.	Reporting of harassment, intimidation, or bullying -- Retaliation prohibited – Immunity
28A.605.	Parent Access
28A.605.010.	Removing child from school grounds during school hours

Washington Administrative Code

Title 392. Public Instruction, Superintendent of

Chapter 392-172A Rules for the provision of special education

392-172A-03120.	Aversive interventions definition and purpose
392-190.	Equal educational opportunity -- Unlawful discrimination prohibited
392-190-057.	Sexual harassment policy -- Adoption date -- Required criteria
392-190-058.	Sexual harassment -- Procedures
392-190-059.	Harassment, intimidation, and bullying prevention policy and procedure -- Adoption date
392-400.	Pupils
392-400-200.	Purpose and application
392-400-205.	Definitions
392-400-210.	Student responsibilities and duties
392-400-215.	Student rights
392-400-220.	Student disciplinary boards -- Establishment at option of school district -- Functions
392-400-225.	School district rules defining misconduct -- Distribution of rules
392-400-226.	School district rules defining harassment, intimidation and bullying prevention policies and procedures -- Distribution of rules
392-400-230.	Persons authorized to impose discipline, suspension, expulsion, or emergency removal upon students

Discipline

392-400-235.	Discipline -- Conditions and limitations
392-400-240.	Discipline -- Grievance procedure

Short-Term Suspension

392-400-245.	Short-term suspension -- Conditions and limitations
392-400-250.	Short-term suspension -- Prior conference required -- Notice to parent
392-400-255.	Short-term suspension -- Grievance procedure

Long-Term Suspension

392-400-260.	Long-term suspension -- Conditions and limitations
392-400-265.	Long-term suspension -- Notice of hearing -- Waiver of hearing
392-400-270.	Long-term suspension -- Prehearing and hearing process

Expulsion

392-400-275. Expulsion -- Conditions and limitations
392-400-280. Expulsion -- Notice of hearing -- Waiver of hearing
392-400-285. Expulsion -- Prehearing and hearing process

Emergency Actions

392-400-290. Emergency removal from a class, subject, or activity
392-400-295. Emergency expulsion -- Limitations
392-400-300. Emergency expulsion -- Notice of hearing -- Waiver of hearing right
392-400-305. Emergency expulsion -- Prehearing and hearing process

Appeals

392-400-310. Appeals -- Long-term suspension and expulsion
392-400-315. Appeals -- Hearing before school board or disciplinary appeal council -- Procedures
392-400-317. Appeals -- Discipline and short-term suspension grievances
392-400-320. School board or disciplinary appeal council decisions
392-400-325. Statewide definition of excused and unexcused daily absences

General Provisions

Authority to develop and establish rules of conduct

STATUTES

28A.320.128. Notice and disclosure policies -- Threats of violence -- Student conduct -- Immunity for good faith notice -- Penalty

(1) By September 1, 2003, each school district board of directors shall adopt a policy that addresses the following issues:

(a) Procedures for providing notice of threats of violence or harm to the student or school employee who is the subject of the threat. The policy shall define "threats of violence or harm";

(b) Procedures for disclosing information that is provided to the school administrators about a student's conduct, including but not limited to the student's prior disciplinary records, official juvenile court records, and history of violence, to classroom teachers, school staff, and school security who, in the judgment of the principal, should be notified; and

(c) Procedures for determining whether or not any threats or conduct established in the policy may be grounds for suspension or expulsion of the student.

(2) The superintendent of public instruction, in consultation with educators and representatives of law enforcement, classified staff, and organizations with expertise in violence prevention and intervention, shall adopt a model policy that includes the issues listed in subsection (1) of this section by January 1, 2003. The model policy shall be posted on the superintendent of public instruction's web site. The school districts, in drafting their own policies, shall review the model policy.

(3) School districts, school district boards of directors, school officials, and school employees providing notice in good faith as required and consistent with the board's policies adopted under this section are immune from any liability arising out of such notification.

(4) A person who intentionally and in bad faith or maliciously, knowingly makes a false notification of a threat under this section is guilty of a misdemeanor punishable under RCW 9A.20.021.

28A.600.010. Enforcement of rules of conduct -- Due process guarantees -- Computation of days for short-term and long-term suspensions

Every board of directors, unless otherwise specifically provided by law, shall:

(1) Enforce the rules prescribed by the superintendent of public instruction for the government of schools, pupils, and certificated employees.

(2) Adopt and make available to each pupil, teacher and parent in the district reasonable written rules regarding pupil conduct, discipline, and rights, including but not limited to short-term suspensions as referred to in RCW 28A.600.015 and suspensions in excess of ten consecutive days. Such rules shall not be inconsistent with any of the following: Federal statutes and regulations, state statutes, common law, and the rules of the superintendent of public instruction. The board's rules shall include such substantive and procedural due process guarantees as prescribed by the superintendent of public instruction under RCW 28A.600.015. When such rules are made available to each pupil, teacher, and parent, they shall be accompanied by a detailed description of rights, responsibilities, and authority of teachers and principals with respect to the discipline of pupils as prescribed by state statutory law, the superintendent of public instruction, and the rules of the school district.

For the purposes of this subsection, computation of days included in "short-term" and "long-term" suspensions shall be determined on the basis of consecutive school days.

(3) Suspend, expel, or discipline pupils in accordance with RCW 28A.600.015.

28A.600.460. Classroom discipline -- Policies -- Classroom placement of student offenders -- Data on disciplinary actions

(1) School district boards of directors shall adopt policies that restore discipline to the classroom. Such policies must provide for at least the following: Allowing each teacher to take disciplinary action to correct a student who disrupts normal classroom activities, abuses or insults a teacher as prohibited by RCW 28A.635.010, willfully disobeys a teacher, uses abusive or foul language directed at a school district employee, school volunteer, or another student, violates school rules, or who interferes with an orderly education process. Disciplinary action may include but is not limited to: Oral or written reprimands; written notification to parents of disruptive behavior, a copy of which must be provided to the principal.

(2) A student committing an offense under chapter 9A.36, 9A.40, 9A.46, or 9A.48 RCW when the activity is directed toward the teacher, shall not be assigned to that teacher's classroom for the duration of the student's attendance at that school or any other school where the teacher is assigned.

(3) A student who commits an offense under chapter 9A.36, 9A.40, 9A.46, or 9A.48 RCW, when directed toward another student, may be removed from the classroom of the victim for the duration of the student's attendance at that school or any other school where the victim is enrolled. A student who commits an offense under one of the chapters enumerated in this section against a student or another school employee, may be expelled or suspended.

(4) Nothing in this section is intended to limit the authority of a school under existing law and rules to expel or suspend a student for misconduct or criminal behavior.

(5) All school districts must collect data on disciplinary actions taken in each school. The information shall be made available to the public upon request. This collection of data shall not include personally identifiable information including, but not limited to, a student's social security number, name, or address.

ADMINISTRATIVE CODE

WAC 392-190-059. Harassment, intimidation, and bullying prevention policy and procedure -- Adoption date.

(1) By August 1, 2011, each school district must adopt or amend if necessary a harassment, intimidation, and bullying prevention policy and procedure as provided for in RCW 28A.300.285.

(2) When monitoring school districts' compliance with this chapter pursuant to WAC 392-190-076, the office of superintendent of public instruction will review such policies and procedures to ensure that they provide that students will not be harassed, intimidated, or bullied because of their sex, race, creed, religion, color, national origin, sexual orientation including gender expression or identity, the presence of any sensory, mental, or physical disability, or the use of a trained dog guide or service animal.

(3) This section is not intended to limit the scope of RCW 28A.300.285.

WAC 392-400-200 Purpose and application.

The purpose of this chapter is to implement RCW 28A.600.015 by prescribing the substantive and procedural due process rights of students served by any program or activity conducted by or in behalf of a common school district […] The procedures and standards set forth in this chapter and those adopted by a school district in conformance with this chapter shall govern the imposition of corrective action or punishment (i.e., discipline, suspension, and expulsion) upon any student by a school district and its agents.

The provisions of this chapter are intended to establish the minimum procedural and substantive due process rights of students. School districts are free to establish additional due process requirements and limitations and shall do so as necessary to accommodate the constitutional rights of students as now or hereafter established.

For rules regarding student conduct which supplement this chapter see chapter 392-145 WAC governing the operation of school buses, particularly WAC 392-145-015(4) regarding the responsibility of bus drivers and certificated staff members who accompany students for the behavior of students, and WAC 392-145-035 regarding the duty to adopt and post rules, including rules of conduct, governing school bus passengers.

WAC 392-400-220 Student disciplinary boards—Establishment at option of school district—Functions.

The board of directors of any school district may authorize the establishment of one or more student disciplinary boards composed of students, teachers, administrators, or parents, or any combination thereof. Disciplinary boards may be authorized to prescribe reasonable discipline and may recommend, but not prescribe, suspension or expulsion to the appropriate school authority. Such school authority shall be granted the power to set aside or modify any such prescription or recommendation. In addition, disciplinary boards may be authorized to periodically review rules of the school district defining the types of misconduct for which corrective action or punishment may be imposed and to recommend amendments thereto to the board of directors.

Scope

No relevant statutes found.

Communication of policy

STATUTES

28A.600.010. Enforcement of rules of conduct -- Due process guarantees -- Computation of days for short-term and long-term suspensions

Every board of directors, unless otherwise specifically provided by law, shall:

(2) Adopt and make available to each pupil, teacher and parent in the district reasonable written rules regarding pupil conduct, discipline, and rights, including but not limited to short-term suspensions as referred to in RCW 28A.600.015 and suspensions in excess of ten consecutive days. Such rules shall not be inconsistent with any of the following: Federal statutes and regulations, state statutes, common law, and the rules of the superintendent of public instruction. The board's rules shall include such substantive and procedural due process guarantees as prescribed by the superintendent of public instruction under RCW 28A.600.015. When such rules are made available to each pupil, teacher, and parent, they shall be accompanied by a detailed description of rights, responsibilities, and authority of teachers and principals with respect to the discipline of pupils as prescribed by state statutory law, the superintendent of public instruction, and the rules of the school district.

For the purposes of this subsection, computation of days included in "short-term" and "long-term" suspensions shall be determined on the basis of consecutive school days.

(3) Suspend, expel, or discipline pupils in accordance with RCW 28A.600.015.

ADMINISTRATIVE CODE

WAC 392-190-058. Sexual harassment -- Procedures.

(1) […] The superintendent of public instruction must supply upon request sample sexual harassment policies to school districts.

(2) The school district's sexual harassment policy must be easily understood and conspicuously posted throughout each school building, and provided to each employee, volunteer and student.

(3) Reasonable efforts must be made to inform all students and their parents about the district's sexual harassment policy and procedures.

(4) A copy of the policy must appear in any publication of the school or school district setting forth the rules, regulations, procedures, and standards of conduct for the school or school district.

WAC 392-400-225 School district rules defining misconduct—Distribution of rules.

(1) It shall be the responsibility and duty of each school district to adopt, publish, and make available to all students and parents written rules which state with reasonable clarity the types of misconduct for which discipline, suspension, and expulsion may be imposed. In addition, written procedures for administering corrective action shall be developed and reviewed periodically as follows:

(a) Each school district shall provide for the development with parent and community participation of written procedures for administering corrective action at each school as required by RCW 28A.600.020(3).

(3) The rules set forth in this chapter, the rules of a school district that establish types of misconduct pursuant to subsection (1) above, and the written procedures of a district for administering corrective action adopted pursuant to subsection (1)(a) above, shall be published and made available to all students and parents on an annual basis. If a school district chooses not to distribute such rules to all students and parents, then notice which describes the contents of such rules and specifies the person(s) to contact for a copy thereof shall be provided to students and parents on an annual basis in a manner reasonably calculated to come to their attention.

WAC 392-400-226 School district rules defining harassment, intimidation and bullying prevention policies and procedures—Distribution of rules.

A district's harassment, intimidation and bullying policy and procedure shall be published and made available to all parents or guardians, students, employees, and volunteers on an annual basis. The district will publish, at a minimum, the following materials: Policy and procedure, an incident reporting form and current contact information for the district's harassment, intimidation and bullying compliance officer. If a school district chooses not to distribute such rules to all parents or guardians, students, employees, and volunteers, then notice which describes the contents of such rules and specifies the person(s) to contact for a copy shall be provided to students and parents on an annual basis in a manner reasonably calculated to come to their attention.

In-School Discipline

Use of multi-tiered discipline approaches

No relevant statutes found.

Teacher authority to remove students from classrooms

STATUTES

28A.600.020. Exclusion of student from classroom -- Written disciplinary procedures -- Long-term suspension or expulsion

(2) Any student who creates a disruption of the educational process in violation of the building disciplinary standards while under a teacher's immediate supervision may be excluded by the teacher from his or her individual classroom and instructional or activity area for all or any portion of the balance of the school day, or up to the following two days, or until the principal or designee and teacher have conferred, whichever occurs first. Except in emergency circumstances, the teacher first must attempt one or more alternative forms of corrective action. In no event without the consent of the teacher may an excluded student return to the class during the balance of that class or activity period or up to the following two days, or until the principal or his or her designee and the teacher have conferred.

ADMINISTRATIVE CODE

WAC 392-400-230 Persons authorized to impose discipline, suspension, expulsion, or emergency removal upon students.

(1) Each certificated teacher, each school administrator, each school bus driver, and any other school employee designated by the board of directors of a school district shall possess the authority to impose discipline upon a student for misconduct which violates rules of the school district established pursuant to WAC 392-400-225 and to impose an emergency removal from a class, subject, or activity upon a student pursuant to WAC 392-400-290.

(4) Notwithstanding any provision of this section to the contrary, each teacher is empowered to exclude any student who creates a disruption of the educational process in violation of the building disciplinary standards while under the teacher's immediate supervision from his or her individual classroom and instructional or activity area for all or any portion of the balance of the school day or until the principal or designee and teacher have conferred, whichever occurs first:

Provided, That except in emergency circumstances as provided for in WAC 392-400-290, the teacher shall have first attempted one or more alternative forms of corrective action: Provided further, That in no event without the consent of the teacher shall an excluded student be returned during the balance of the particular class or activity period from which the student was initially excluded.

WAC 392-400-290. Emergency removal from a class, subject, or activity.

(1) Notwithstanding any other provision of this chapter, a student may be removed immediately from a class, subject, or activity by a certificated teacher or an administrator and sent to the building principal or a designated school authority: Provided, That the teacher or administrator has good and sufficient reason to believe that the student's presence poses an immediate and continuing danger to the student, other students, or school personnel or an immediate and continuing threat of substantial disruption of the class, subject, activity, or educational process of the student's school. The removal from classes, subjects, or activities shall continue only until:

(a) The danger or threat ceases, or

(b) The principal or designated school authority acts to impose discipline, impose a short-term suspension, initiate a long-term suspension or an expulsion, or impose an emergency expulsion, pursuant to this chapter.

(2) The principal or school authority shall meet with the student as soon as reasonably possible following the student's removal and take or initiate appropriate corrective action or punishment. In no case shall the student's opportunity for such meeting be delayed beyond the commencement of the next school day. Prior to or at the time any such student is returned to the class(es), subject(s), or activity(ies), the principal or school authority shall notify the teacher or administrator who removed the student therefrom of the action which has been taken or initiated.

Alternatives to suspension

STATUTES

28A.600.410. Alternatives to suspension -- Encouraged

School districts are encouraged to find alternatives to suspension including reducing the length of a student's suspension conditioned by the commencement of counseling or other treatment services. Consistent with current law, the conditioning of a student's suspension does not obligate the school district to pay for the counseling or other treatment services except for those stipulated and agreed to by the district at the inception of the suspension.

Use of corporal punishment

ADMINISTRATIVE CODE

WAC 392-400-235 Discipline—Conditions and limitations.

Discipline may be imposed upon any student for violation of the rules of the school district that have been established pursuant to WAC 180-400-225, subject to the following limitations and conditions and the grievance procedure set forth in WAC 392-400-240[:..]

(3) Corporal punishment which is defined as any act which willfully inflicts or willfully causes the infliction of physical pain on a student is prohibited.

Corporal punishment does not include:

(a) The use of reasonable physical force by a school administrator, teacher, school employee or volunteer as necessary to maintain order or to prevent a student from harming him/herself, other students and school staff or property;

(b) Physical pain or discomfort resulting from or caused by training for or participation in athletic competition or recreational activity voluntarily engaged in by a student;

(c) Physical exertion shared by all students in a teacher directed class activity, which may include, but is not limited to, physical education exercises, field trips or vocational education projects; or

(d) Physical restraint or the use of aversive therapy as part of a behavior management program in a student's individual education program which has been signed by the parent and is carried out according to district procedures in compliance with WAC 392-171-800, et seq.

Use of student and locker searches

STATUTES

28A.600.210. School locker searches – Findings

The legislature finds that illegal drug activity and weapons in schools threaten the safety and welfare of school children and pose a severe threat to the state educational system. School officials need authority to maintain order and discipline in schools and to protect students from exposure to illegal drugs, weapons, and contraband. Searches of school-issued lockers and the contents of those lockers is a reasonable and necessary tool to protect the interests of the students of the state as a whole.

28A.600.220. School locker searches -- No expectation of privacy

No right nor expectation of privacy exists for any student as to the use of any locker issued or assigned to a student by a school and the locker shall be subject to search for illegal drugs, weapons, and contraband as provided in RCW 28A.600.210 through 28A.600.240.

28A.600.230. School locker searches -- Authorization – Limitations

(1) A school principal, vice principal, or principal's designee may search a student, the student's possessions, and the student's locker, if the principal, vice principal, or principal's designee has reasonable grounds to suspect that the search will yield evidence of the student's violation of the law or school rules. A search is mandatory if there are reasonable grounds to suspect a student has illegally possessed a firearm in violation of RCW 9.41.280.

(2) Except as provided in subsection (3) of this section, the scope of the search is proper if the search is conducted as follows:

(a) The methods used are reasonably related to the objectives of the search; and

(b) Is not excessively intrusive in light of the age and sex of the student and the nature of the suspected infraction.

(3) A principal or vice principal or anyone acting under their direction may not subject a student to a strip search or body cavity search as those terms are defined in RCW 10.79.070.

28A.600.240. School locker searches -- Notice and reasonable suspicion requirements

(1) In addition to the provisions in RCW 28A.600.230, the school principal, vice principal, or principal's designee may search all student lockers at any time without prior notice and without a reasonable suspicion that the search will yield evidence of any particular student's violation of the law or school rule.

(2) If the school principal, vice principal, or principal's designee, as a result of the search, develops a reasonable suspicion that a certain container or containers in any student locker contain evidence of a student's violation of the law or school rule, the principal, vice principal, or principal's designee may search the container or containers according to the provisions of RCW 28A.600.230(2).

ADMINISTRATIVE CODE

WAC 392-400-215 Student rights

In addition to other rights established by law, each student served by or in behalf of a common school district shall possess the following substantive rights, and no school district shall limit these rights except for good and sufficient cause:

(3) All students possess the constitutional right to be secure in their persons, papers, and effects against unreasonable searches and seizures.

Other in-school disciplinary approaches

No relevant statutes found.

Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements

Grounds for possible suspension or expulsion

STATUTES

28A.600.455. Gang activity -- Suspension or expulsion

(1) A student who is enrolled in a public school or an alternative school may be suspended or expelled if the student is a member of a gang and knowingly engages in gang activity on school grounds.

(2) "Gang" means a group which: (a) Consists of three or more persons; (b) has identifiable leadership; and (c) on an ongoing basis, regularly conspires and acts in concert mainly for criminal purposes.

28A.600.460. Classroom discipline -- Policies -- Classroom placement of student offenders -- Data on disciplinary actions

(4) Nothing in this section is intended to limit the authority of a school under existing law and rules to expel or suspend a student for misconduct or criminal behavior.

(3) A student who commits an offense under chapter 9A.36, 9A.40, 9A.46, or 9A.48 RCW, when directed toward another student, may be removed from the classroom of the victim for the duration of the student's attendance at that school or any other school where the victim is enrolled. A student who commits an offense under one of the chapters enumerated in this section against a student or another school employee, may be expelled or suspended.

ADMINISTRATIVE CODE

WAC 392-400-295. Emergency expulsion -- Limitations.

Notwithstanding any other provision of this chapter, a student may be expelled immediately by a school district superintendent or a designee of the superintendent in emergency situations: Provided, That the superintendent or designee has good and sufficient reason to believe that the student's presence poses an immediate and continuing danger to the student, other students, or school personnel or an immediate and continuing threat of substantial disruption of the educational process. An emergency expulsion shall continue until rescinded by the superintendent or his or her designee, or until modified or reversed pursuant to the hearing provisions set forth in WAC 392-400-305 or the appeal provisions set forth in WAC 392-400-315.

Grounds for mandatory suspension or expulsion

STATUTES

§ 28A.600.420. Firearms on school premises, transportation, or facilities -- Penalty -- Exemptions

(1) Any elementary or secondary school student who is determined to have carried a firearm onto, or to have possessed a firearm on, public elementary or secondary school premises, public school-provided transportation, or areas of facilities while being used exclusively by public schools, shall be expelled from school for not less than one year under RCW 28A.600.010. The superintendent of the school district, educational service district, or state school for the blind, or the director of the Washington state center for childhood deafness and hearing loss, or the director's designee, may modify the expulsion of a student on a case-by-case basis.

Limitations, conditions or exclusions for use of suspension and expulsion

ADMINISTRATIVE CODE

WAC 392-400-245 Short-term suspension—Conditions and limitations.

A short-term suspension may be imposed upon a student for violation of school district rules adopted pursuant to WAC 392-400-225, subject to the following limitations or conditions, the prior informal conference procedures set forth in WAC 392-400-250, and the grievance procedures set forth in WAC 392-400-255:

(2) As a general rule, no student shall be suspended for a short term unless another form of corrective action or punishment reasonably calculated to modify his or her conduct has previously been imposed upon the student as a consequence of misconduct of the same nature. A school district may, however, elect to adopt rules providing for the immediate resort to short-term suspension in cases involving exceptional misconduct as long as disciplinarians and hearing officers may grant exceptions in cases involving extenuating and/or exceptional circumstances, notwithstanding the fact prior alternative corrective action or punishment has not been imposed upon the student(s) involved […]

(4) Kindergarten through grade four—No student in grades kindergarten through four shall be subject to shortterm suspensions for more than a total of ten school days during any single semester or trimester as the case may be, and no loss of academic grades or credit shall be imposed by reason of the suspension of such a student.

(5) Grade five and above program—No student in the grade five and above program shall be subjected to shortterm suspensions for more than a total of fifteen school days during any single semester or ten school days during any single trimester, as the case may be.

(6) Any student subject to a short-term suspension shall be provided the opportunity upon his or her return to make up assignments and tests missed by reason of the short-term suspension if:

(a) Such assignments or tests have a substantial effect upon the student's semester or trimester grade or grades, or

(b) Failure to complete such assignments or tests would preclude the student from receiving credit for the course or courses.

(7) Any student who has been suspended shall be allowed to make application for readmission at any time. Each school district board of directors shall adopt written rules which provide for such an application for readmission and set forth the procedures to be followed.

WAC 392-400-260 Long-term suspension—Conditions and limitations

A long-term suspension may be imposed upon a student for violation of school district rules adopted pursuant to WAC 392-400-225, subject to the following limitations or conditions and the notice requirements set forth in WAC 392-400-265 and the hearing requirements set forth in WAC 392-400-270:

(2) As a general rule, no student shall be suspended for a long term unless another form of corrective action or punishment reasonably calculated to modify his or her conduct has previously been imposed upon the student as a consequence of misconduct of the same nature […]

(4) Kindergarten through grade four—No student in grades kindergarten through four shall be subject to longterm suspension during any single semester or trimester, as the case may be, and no loss of academic grades or credit shall be imposed by reason of the suspension of such a student.

(5) Grade five and above program—No single long-term suspension shall be imposed upon a student in the grade five and above program in a manner which causes the student to lose academic grades or credit for in excess of one semester or trimester, as the case may be, during the same school year.

(6) Any student who has been suspended shall be allowed to make application for readmission at any time. Each school district board of directors shall adopt written rules which provide for such an application for readmission and set forth the procedures to be followed.

(7) All long-term suspensions and the reasons therefor shall be reported in writing to the superintendent of the school district or his or her designee within twenty-four hours after the imposition of the suspension.

Administrative procedures related to suspension and expulsion

STATUTES

§ 28A.600.015. Rules incorporating due process guarantees of pupils -- Informal due process procedures for short-term suspension of students

(1) The superintendent of public instruction shall adopt and distribute to all school districts lawful and reasonable rules prescribing the substantive and procedural due process guarantees of pupils in the common schools. Such rules shall authorize a school district to use informal due process procedures in connection with the short-term suspension of students to the extent constitutionally permissible: PROVIDED, That the superintendent of public instruction deems the interest of students to be adequately protected. When a student suspension or expulsion is appealed, the rules shall authorize a school district to impose the suspension or expulsion temporarily after an initial hearing for no more than ten consecutive school days or until the appeal is decided, whichever is earlier. Any days that the student is temporarily suspended or expelled before the appeal is decided shall be applied to the term of the student suspension or expulsion and shall not limit or extend the term of the student suspension or expulsion.

(2) Short-term suspension procedures may be used for suspensions of students up to and including, ten consecutive school days.

§ 28A.600.020. Exclusion of student from classroom -- Written disciplinary procedures -- Long-term suspension or expulsion

(3) In order to preserve a beneficial learning environment for all students and to maintain good order and discipline in each classroom, every school district board of directors shall provide that written procedures are developed for administering discipline at each school within the district. Such procedures shall be developed with the participation of parents and the community, and shall provide that the teacher, principal or designee, and other authorities designated by the board of directors, make every reasonable attempt to involve the parent or guardian and the student in the resolution of student discipline problems. Such procedures shall provide that students may be excluded from their individual classes or activities for periods of time in excess of that provided in subsection (2) of this section if such students have repeatedly disrupted the learning of other students. The procedures must be consistent with the rules of the superintendent of public instruction and must provide for early involvement of parents in attempts to improve the student's behavior.

(5) A principal shall consider imposing long-term suspension or expulsion as a sanction when deciding the appropriate disciplinary action for a student who, after July 27, 1997:

(a) Engages in two or more violations within a three-year period of RCW 9A.46.120, 28A.320.135, 28A.600.455, 28A.600.460, 28A.635.020,28A.600.020, 28A.635.060, 9.41.280, or 28A.320.140; or

(b) Engages in one or more of the offenses listed in RCW 13.04.155.

The principal shall communicate the disciplinary action taken by the principal to the school personnel who referred the student to the principal for disciplinary action.

ADMINISTRATIVE CODE

WAC 392-400-205

[...](2) "Suspension" shall mean a denial of attendance (other than for the balance of the immediate class period for "discipline" purposes) at any single subject or class, or at any full schedule of subjects or classes for a stated period of time. A suspension also may include a denial of admission to or entry upon real and personal property that is owned, leased, rented, or controlled by the school district.

(3) "Short-term suspension" shall mean a suspension for any portion of a calendar day up to and not exceeding ten consecutive school days. (4) "Long-term suspension" shall mean a suspension which exceeds a "short-term suspension" as defined in subsection (3) of this section.

(5) "Expulsion" shall mean a denial of attendance at any single subject or class or at any full schedule of subjects or392-400-210 Pupils [Ch. 392-400 WAC—p. 2] (8/9/12) classes for an indefinite period of time. An expulsion also may include a denial of admission to or entry upon real and personal property that is owned, leased, rented, or controlled by the school district.

WAC 392-400-245 Short-term suspension—Conditions and limitations.

A short-term suspension may be imposed upon a student for violation of school district rules adopted pursuant to WAC 392-400-225, subject to the following limitations or conditions, the prior informal conference procedures set forth in WAC 392-400-250, and the grievance procedures set forth in WAC 392-400-255:

(1) The nature and circumstances of the violation must be considered and must reasonably warrant a short-term suspension and the length of the suspension imposed. This requirement does not preclude school districts (that is, the boards of directors of school districts) from establishing the nature and extent of the corrective actions and/or punishments which, as a general rule, must be imposed as a consequence of proscribed misconduct. Such advance notice to students is advisable, and the imposition of such preestablished corrective action and/or punishment is permissible as long as (a) disciplinarians and hearing officers are allowed to grant exceptions in cases involving extenuating and/or exceptional circumstances, and (b) short-term suspension is not established as the corrective action or punishment for a student's first time offense other than for offenses involving exceptional misconduct as defined in subsection (2) of this section.

(2) As a general rule, no student shall be suspended for a short term unless another form of corrective action or punishment reasonably calculated to modify his or her conduct has previously been imposed upon the student as a consequence of misconduct of the same nature. A school district may, however, elect to adopt rules providing for the immediate resort to short-term suspension in cases involving exceptional misconduct as long as disciplinarians and hearing officers may grant exceptions in cases involving extenuating and/or exceptional circumstances, notwithstanding the fact prior alternative corrective action or punishment has not been imposed upon the student(s) involved. For the purpose of this rule, "exceptional misconduct" means misconduct other than absenteeism which a school district has judged following consultation with an ad hoc citizens committee to (a) be of such frequent occurrence, notwithstanding past attempts of district personnel to control such misconduct through the use of other forms of corrective action and/or punishment, as to warrant an immediate resort to short-term suspension, and/or (b) be so serious in nature and/or so serious in terms of the disruptive effect upon the operation of the school(s) as to warrant an immediate resort to short-term suspension (for example, misconduct judged by a school district to be the same or of the same nature as a violation of the state's drug or controlled substances laws). The ad hoc citizens committee required by this section shall be composed of three or more persons chosen by the school district or the administrative designee(s) of the district, and shall be constituted with the intent and purpose of representing various socioeconomic, minority and majority populations of the school district to the extent deemed practical.

(3) No student subject to compulsory attendance pursuant to chapter 28A.225 RCW, as now or hereafter amended, shall be suspended by reason, in whole or part, of one or more unexcused absences unless the school district has first imposed an alternative corrective action or punishment reasonably calculated to modify his or her conduct and, in addition:

(a) Provided notice to the student's parent(s) or guardian(s) or custodial parent(s) in writing in English or, if different, the primary language of the parent(s), guardian(s) or custodial parent(s) that the student has failed to attend school without valid justification, and by other means reasonably necessary to achieve notice of such fact;

(b) Scheduled a conference or conferences with the parent(s) or guardian(s) or custodial parent(s) and the student at a time and place reasonably convenient to all persons included to analyze the causes for the student's absence, the analysis to determine by appropriate means whether the student should be made a focus of concern for placement in a special education or other special program designed for his/her educational success; and

(c) Taken steps to reduce the student's absence which include, where appropriate in the judgment of local school officials and where possible, discussed with the student, parent(s), guardian(s) or custodial parent(s), adjustments of the student's school program or school or course assignment or assisting the student or parent to obtain supplementary services that might ameliorate the cause(s) for the student's absence from school.

(4) Kindergarten through grade four—No student in grades kindergarten through four shall be subject to shortterm suspensions for more than a total of ten school days during any single semester or trimester as the case may be, and no loss of academic grades or credit shall be imposed by reason of the suspension of such a student.

(5) Grade five and above program—No student in the grade five and above program shall be subjected to shortterm suspensions for more than a total of fifteen school days during any single semester or ten school days during any single trimester, as the case may be.

(6) Any student subject to a short-term suspension shall be provided the opportunity upon his or her return to make up assignments and tests missed by reason of the short-term suspension if:

(a) Such assignments or tests have a substantial effect upon the student's semester or trimester grade or grades, or

(b) Failure to complete such assignments or tests would preclude the student from receiving credit for the course or courses.

(7) Any student who has been suspended shall be allowed to make application for readmission at any time. Each school district board of directors shall adopt written rules which provide for such an application for readmission and set forth the procedures to be followed.

WAC 392-400-250 Short-term suspension—Prior conference required—Notice to parent.

(1) Prior to the short-term suspension of any student a conference shall be conducted with the student as follows:

(a) An oral or written notice of the alleged misconduct and violation(s) of school district rules shall be provided to the student,

(b) An oral or written explanation of the evidence in support of the allegation(s) shall be provided to the student,

(c) An oral or written explanation of the corrective action or punishment which may be imposed shall be provided to the student, and

(d) The student shall be provided the opportunity to present his/her explanation.

(2) In the event a short-term suspension is to exceed one calendar day the parent(s) or guardian(s) of the student shall be notified of the reason for the student's suspension and the duration of the suspension orally and/or by letter deposited in the United States mail as soon as reasonably possible. The notice shall also inform the parent or guardian of the right to an informal conference pursuant to WAC 392-400-255 and that the suspension may possibly be reduced as a result of such conference.

(3) All short-term suspensions and the reasons therefor shall be reported in writing to the superintendent of the school district or his or her designee within twenty-four hours after the imposition of the suspension.

WAC 392-400-260 Long-term suspension—Conditions and limitations

A long-term suspension may be imposed upon a student for violation of school district rules adopted pursuant to WAC 392-400-225, subject to the following limitations or conditions and the notice requirements set forth in WAC 392-400-265 and the hearing requirements set forth in WAC 392-400-270:

(1) The nature and circumstances of the violation must be considered and must reasonably warrant a long-term suspension and the length of the suspension imposed. This requirement does not preclude school districts (that is, the boards of directors of school districts) from establishing the nature and extent of the corrective actions and/or punishments which, as a general rule, must be imposed as a consequence of proscribed misconduct. Such advance notice to students is advisable, and the imposition of such preestablished corrective action and/or punishment is permissible as long as (a) disciplinarians and hearing officers are allowed to grant exceptions in cases involving extenuating and/or exceptional circumstances, and (b) long-term suspension is not established as the corrective action or punishment for a student's first time offense other than for offenses involving exceptional misconduct as defined in subsection (2) of this section.

(2) As a general rule, no student shall be suspended for a long term unless another form of corrective action or punishment reasonably calculated to modify his or her conduct has previously been imposed upon the student as a consequence of misconduct of the same nature. A school district may, however, elect to adopt rules providing for the immediate resort to long-term suspension in cases involving exceptional misconduct as long as disciplinarians and hearing officers are allowed to grant exceptions in cases involving extenuating and/or exceptional circumstances, notwithstanding the fact prior alternative corrective action or punishment has not been imposed upon the student(s) involved. For the purpose of this rule, "exceptional misconduct" means misconduct other than absenteeism which a school district has judged following consultation with an ad hoc citizens committee to:

(a) be of such frequent occurrence, notwithstanding past attempts of district personnel to control such misconduct through the use of other forms of corrective action and/or punishment, as to warrant an immediate resort to long-term suspension, and/or

(b) be so serious in nature and/or so serious in terms of the disruptive effect upon the operation of the school(s) as to warrant an immediate resort to long-term suspension (for example, misconduct judged by a school district to be the same or of the same nature as a violation of the state's drug or controlled substances laws). The ad hoc citizens committee required by this section shall be composed of three or more persons chosen by the school district or the administrative designee(s) of the district, and shall be constituted with the intent and purpose of representing various socioeconomic, minority and majority populations of the school district to the extent deemed practical.

(3) No student subject to compulsory attendance pursuant to chapter 28A.225 RCW, as now or hereafter amended, shall be suspended by reason, in whole or part, of one or more unexcused absences unless the school district has first imposed an alternative corrective action or punishment reasonably calculated to modify his or her conduct and, in addition:

(a) Provided notice to the student's parent(s) or guardian(s) or custodial parent(s) in writing in English or, if different, the primary language of the parent(s), guardian(s) or custodial parent(s) that the

student has failed to attend school without valid justification, and by other means reasonably necessary to achieve notice of such fact;

(b) Scheduled a conference or conferences with the parent(s) or guardian(s) or custodial parent(s) and the student at a time and place reasonably convenient to all persons included to analyze the causes for the student's absence, the analysis to determine by appropriate means whether the student should be made a focus of concern for placement in a special education or other special program designed for his/her educational success; and

(c) Taken steps to reduce the student's absence which include, where appropriate in the judgment of local school officials and, where possible, discussed with the student, parent(s), guardian(s) or custodial parent(s), adjustments of the student's school program or school or course assignment or assisting the student or parent to obtain supplementary services that might ameliorate the cause(s) for the student's absence from school.

(4) Kindergarten through grade four—No student in grades kindergarten through four shall be subject to longterm suspension during any single semester or trimester, as the case may be, and no loss of academic grades or credit shall be imposed by reason of the suspension of such a student.

(5) Grade five and above program—No single long-term suspension shall be imposed upon a student in the grade five and above program in a manner which causes the student to lose academic grades or credit for in excess of one semester or trimester, as the case may be, during the same school year.

(6) Any student who has been suspended shall be allowed to make application for readmission at any time. Each school district board of directors shall adopt written rules which provide for such an application for readmission and set forth the procedures to be followed.

(7) All long-term suspensions and the reasons therefor shall be reported in writing to the superintendent of the school district or his or her designee within twenty-four hours after the imposition of the suspension.

WAC 392-400-265. Long-term suspension -- Notice of hearing -- Waiver of hearing.

(1) Prior to the long-term suspension of a student, written notice of an opportunity for a hearing shall be delivered in person or by certified mail to the student and to his or her parent(s) or guardian(s). The notice shall:

(a) Be provided in the predominant language of a student and/or a parent(s) or guardian(s) who predominantly speak a language other than English, to the extent feasible,

(b) Specify the alleged misconduct and the school district rule(s) alleged to have been violated,

(c) Set forth the corrective action or punishment proposed,

(d) Set forth the right of the student and/or his or her parent(s) or guardian(s) to a hearing for the purpose of contesting the allegation(s), and

(e) Set forth the facts that:

(i) A written (or "oral" if provided for by school district policy) request for a hearing must be received by the school district employee designated, or by his or her office, on or before the expiration of the third school business day after receipt of the notice of opportunity for a hearing, and

(ii) If such a request is not received within the prescribed period of time, then the right to a hearing may be deemed to have been waived and the proposed long-term suspension may be imposed by the school district without any further opportunity for the student or his or her parent(s) or guardian(s) to contest the matter. A schedule of "school business days" potentially applicable to the exercise of such hearing right should be included with the notice.

(2) The student and/or his or her parent(s) or guardian(s) shall reply to the notice of opportunity for a hearing and request a hearing within three school business days after the date of receipt of notice. A request for a hearing shall be provided to the school district employee specified in the notice of opportunity for a hearing, or to his or her office. A request for a hearing shall be accepted if in writing and may be accepted orally if expressly provided for and allowed by rule of the school district.

(3) If a request for a hearing is not received within the required three school business day period, the school district may deem the student and his or her parent(s) or guardian(s) to have waived the right to a hearing and the proposed long-term suspension may be imposed.

WAC 392-400-270. Long-term suspension -- Prehearing and hearing process.

(1) If a request for a hearing is received pursuant to WAC 180-40-265 within the required three school business days, the school district shall schedule a hearing to commence within three school business days after the date upon which the request for a hearing was received.

(2) The student and his or her parent(s) or guardian(s) shall have the right to:

(a) Inspect in advance of the hearing any documentary and other physical evidence which the school district intends to introduce at the hearing,

(b) Be represented by legal counsel,

(c) Question and confront witnesses, unless a school district witness does not appear and the nonappearance of the witness is excused by the person(s) hearing the case based upon evidence of good reason for doing so submitted by the school district. The evidence submitted by the school district must at a minimum establish either:

(i) That the district made a reasonable effort to produce the witness and is unable to do so; or,

(ii) That it is not advisable for the student to appear due to an expectation and fear on the part of the responsible district official(s) or the student of retaliation against the student if he or she appears as a witness,

(d) Present his or her explanation of the alleged misconduct, and

(e) Make such relevant showings by way of witnesses and the introduction of documentary and other physical evidence as he or she desires.

(3) The designee(s) of the school district assigned to present the district's case shall have the right to inspect in advance of the hearing any documentary and other physical evidence which the student and his or her parent(s) or guardian(s) intend to introduce at the hearing.

(4) The person(s) hearing the case shall not be a witness and the guilt or innocence of the student shall be determined solely on the basis of the evidence presented at the hearing.

(5) Either a tape-recorded or verbatim record of the hearing shall be made.

(6) A written decision setting forth the findings of fact, conclusions, and the nature and duration of the long-term suspension or lesser form or corrective action or punishment to be imposed, if any, shall be provided to the student's legal counsel or, if none, to the student and his or her parent(s) or guardian(s).

WAC 392-400-280. Expulsion -- Notice of hearing -- Waiver of hearing.

(1) Prior to the expulsion of a student, written notice of an opportunity for a hearing shall be delivered in person or by certified mail to the student and to his or her parent(s) or guardian(s). The notice shall:

(a) Be provided in the predominant language of a student and/or a parent(s) or guardian(s) who predominantly speak a language other than English, to the extent feasible,

(b) Specify the alleged misconduct and the school district rule(s) or policy alleged to have been violated,

(c) Set forth the corrective action or punishment proposed,

(d) Set forth the right of the student and/or his or her parent(s) or guardian(s) to a hearing for the purpose of contesting the allegation(s), and

(e) Set forth the facts that:

(i) A written (or "oral" if provided for by school district policy) request for a hearing must be received by the school district employee designated, or by his or her office, on or before the expiration of the third school business day after receipt of the notice of opportunity for a hearing, and

(ii) If such a request is not received within the prescribed period of time, then the right to a hearing may be deemed to have been waived and the proposed expulsion may be imposed by the school district without any further opportunity for the student or his or her parent(s) or guardian(s) to contest the matter. A schedule of "school business days" potentially applicable to the exercise of such hearing right should be included with the notice.

(2) The student and/or his or her parent(s) or guardian(s) shall reply to the notice of opportunity for a hearing and request a hearing within three school business days after the date of receipt of the notice. A request for a hearing shall be provided to the school district employee specified in the notice of opportunity for a hearing, or to his or her office. A request for a hearing shall be accepted if in writing and may be accepted orally if expressly provided for and allowed by rule or policy of the school district.

(3) If a request for a hearing is not received within the required three school business day period, the school district may deem the student and his or her parent(s) or guardian(s) to have waived the right to a hearing and the proposed expulsion may be imposed.

WAC 392-400-285. Expulsion -- Prehearing and hearing process.

(1) If a request for a hearing is received pursuant to WAC 392-400-280 within the required three school business days, the school district shall schedule a hearing to commence within three school business days after the date upon which the request for a hearing was received.

(2) The student and his or her parent(s) or guardian(s) shall have the right to:

(a) Inspect in advance of the hearing any documentary and other physical evidence which the school district intends to introduce at the hearing,

(b) Be represented by legal counsel,

(c) Question and confront witnesses, unless a school district witness does not appear and the nonappearance of the witness is excused by the person(s) hearing the case based upon evidence of good reason for doing so submitted by the school district. The evidence submitted by the school district must at a minimum establish either:

(i) That the district made a reasonable effort to produce the witness and is unable to do so; or,

(ii) That it is not advisable for the student to appear due to an expectation and fear on the part of the responsible district official(s) or the student of retaliation against the student if he or she appears as a witness,

(d) Present his or her explanation of the alleged misconduct, and

(e) Make such relevant showings by way of witnesses and the introduction of documentary and other physical evidence as he or she desires.

(3) The designee(s) of the school district assigned to present the district's case shall have the right to inspect in advance of the hearing any documentary and other physical evidence which the student and his or her parent(s) or guardian(s) intend to introduce at the hearing.

(4) The person(s) hearing the case shall not be a witness and the guilt or innocence of the student shall be determined solely on the basis of the evidence presented at the hearing.

(5) Either a tape-recorded or verbatim record of the hearing shall be made.

(6) A written decision setting forth the findings of fact, conclusions, and the expulsion or lesser form of corrective action or punishment to be imposed, if any, shall be provided to the student's legal counsel or, if none, to the student and his or her parent(s) or guardian(s).

WAC 392-400-300. Emergency expulsion -- Notice of hearing -- Waiver of hearing right.

(1) The student and his or her parent(s) or guardian(s) shall be notified of the emergency expulsion of the student and of their opportunity for a hearing either (a) by hand delivering written notice to the student's parent(s) or guardian(s) within twenty-four hours of the expulsion and documenting delivery by obtaining his or her signature acknowledging receipt or the written certification of the person making the delivery, or (b) by certified letter(s) deposited in the United States mail, within twenty-four hours of the expulsion: Provided, That if the emergency expulsion is based upon a failure to comply with the state immunization law (see chapter 392-380 WAC), the notice must be received by the student's parent(s) or guardian(s) prior to the emergency expulsion of the student regardless of the method of delivery. In addition, if the notice is by certified letter, reasonable attempts shall be made to notify the student and his or her parent(s) or guardian(s) by telephone or in person as soon as reasonably possible. Such written and oral notice shall:

(a) Be provided in the predominant language of a student and/or a parent(s) or guardian(s) who predominantly speak a language other than English, to the extent feasible,

(b) Specify the alleged reason(s) for the emergency expulsion,

(c) Set forth the corrective action or punishment taken and proposed,

(d) Set forth the right of the student and/or his or her parent(s) or guardian(s) to a hearing for the purpose of contesting the allegation(s) as soon as reasonably possible, and

(e) Set forth the facts that:

(i) A written (or "oral" if provided for by school district policy) request for a hearing must be received by the school district employee designated, or by his or her office, on or before the expiration of the tenth school business day after receipt of the notice of opportunity for a hearing, and

(ii) If such a request is not received within the prescribed period of time, then the right to a hearing may be deemed to have been waived and the emergency expulsion may be continued as deemed necessary by the school district without any further opportunity for the student or his or her parent(s) or guardian(s) to contest the matter. A schedule of "school business days" potentially applicable to the exercise of such hearing right should be included with the notice.

(2) The student and/or his or her parent(s) or guardian(s) shall reply to the notice of opportunity for a hearing and request a hearing within ten school business days after the date of receipt of the notice. A request for a hearing shall be provided to the school district employee specified in the notice of opportunity for a hearing, or to his or her office. A request for a hearing shall be accepted if in writing and may be accepted orally if expressly provided for and allowed by rule of the school district.

(3) If a request for a hearing is not received within the required ten school business day period, the school district may deem the student and his or her parent(s) or guardian(s) to have waived the right to a hearing and the emergency expulsion may be continued as deemed necessary by the school district.

WAC 392-400-305. Emergency expulsion -- Prehearing and hearing process.

(1) If a request for a hearing within the required ten school business days is received pursuant to WAC 392-400-300, the school district shall immediately schedule and give notice of a hearing to commence as soon as reasonably possible and in no case later than the third school business day after receipt of the request for hearing.

(2) The student and his or her parent(s) or guardian(s) shall have the right to:

(a) Inspect in advance of the hearing any documentary and other physical evidence which the school district intends to introduce at the hearing,

(b) Be represented by legal counsel,

(c) Question and confront witnesses, unless a school district witness does not appear and the nonappearance of the witness is excused by the person(s) hearing the case based upon evidence of good reason for doing so submitted by the school district. The evidence submitted by the school district must at a minimum establish either:

(i) That the district made a reasonable effort to produce the witness and is unable to do so; or,

(ii) That it is not advisable for the student to appear due to an expectation and fear on the part of the responsible district official(s) or the student of retaliation against the student if he or she appears as a witness,

(d) Present his or her explanation of the alleged misconduct, and

(e) Make such relevant showings by way of witnesses and the introduction of documentary and other physical evidence as he or she desires.

(3) The designee(s) of the school district assigned to present the district's case shall have the right to inspect in advance of the hearing any documentary and other physical evidence that the student and his or her parent(s) or guardian(s) intend to introduce at the hearing.

(4) The person(s) hearing the case shall not be a witness and the guilt or innocence of the student shall be determined solely on the basis of the evidence presented at the hearing.

(5) Either a tape-recorded or verbatim record of the hearing shall be made.

(6) Within one school business day after the date upon which the hearing concludes, a decision as to whether or not the expulsion shall be continued shall be rendered, and the student's legal counsel or, if none, the student and his or her parent(s) or guardian(s) shall be notified thereof by depositing a certified letter in the United States mail. The decision shall set forth the findings of fact, the conclusions (including a conclusion as to whether or not the emergency situation giving rise to the emergency expulsion continues), and whether or not the emergency expulsion shall be continued or a lesser form of corrective action or punishment is to be imposed.

(7) An emergency expulsion may be continued following the hearing on the basis that the emergency situation continues and/or as corrective action or punishment for the action(s) giving rise to the emergency expulsion in the first instance.

WAC 392-400-310. Appeals -- Long-term suspension and expulsion.

Appeals from decisions rendered pursuant to WAC 392-400-270, 392-400-285 and 392-400-305 which impose either a long-term suspension or an expulsion upon a student shall be governed as follows:

(1) Any school district board of directors may delegate its authority to hear and decide long-term suspension and expulsion appeals to a school district disciplinary appeal council established by the board. School district disciplinary appeal councils shall be appointed by the school district board of directors for fixed terms and shall consist of not less than three persons.

(2) If the case was not heard and decided by the school district board of directors or school district disciplinary appeal council, the student and his or her parent(s) or guardian(s) shall have the right to appeal the decision to the board of directors or the disciplinary appeal council. Notice indicating that the student or his or her parent(s) or guardian(s) desire to appeal the decision shall be provided to either the office of the school district superintendent or to the office of the person who rendered the decision within three school business days after the date of receipt of the decision. The notice of appeal shall be accepted if in writing and may be accepted orally if expressly provided for and allowed by rule or policy of the district.

(3) If an appeal is not taken to the board of directors or disciplinary appeal council within the required three school business day period, the suspension or expulsion decided upon may be imposed as of the calendar day following expiration of the three school business day period.

(4) If a timely appeal is taken to the board of directors or disciplinary appeal council, the suspension or expulsion may be imposed during the appeal period subject to the following conditions and limitations:

(a) A long-term suspension or nonemergency expulsion may be imposed during the appeal period for no more than ten consecutive school days or until the appeal is decided, whichever is the shortest period;

(b) An emergency expulsion may be continued during the appeal period for so long as the student continues to pose an immediate and continuing danger to the student, other students, or school personnel or an immediate and continuing threat of substantial disruption of the educational process of the student's school;

(c) Any days that a student is temporarily suspended or expelled before the appeal is decided shall be applied to the term of the student's suspension or expulsion and shall not limit or extend the term of the student's suspension or expulsion; and

(d) Any student subjected to a temporary suspension who returns to school before the appeal is decided shall be provided the opportunity upon his or her return to make up assignments and tests missed by reason of the suspension if:

(i) Such assignments or tests have a substantial effect upon the student's semester or trimester grade or grades; or

(ii) Failure to complete such assignments or tests would preclude the student from receiving credit for the course or courses.

(5) An appeal from any decision of a school board or disciplinary appeal council to impose or to affirm the imposition of a long-term suspension or an expulsion shall be to the courts. Whether or not the decision of a school board or disciplinary appeal council shall be postponed pending an appeal to superior court shall be discretionary with the school board or disciplinary appeal council except as ordered otherwise by a court.

WAC 392-400-315. Appeals -- Hearing before school board or disciplinary appeal council -- Procedures.

(1) If a notice of appeal to the school board of directors or school district disciplinary appeal council is received pursuant to WAC 392-400-310(2) within the required three school business days, the board or council shall schedule and hold an informal conference to review the matter within ten school business days after the date of receipt of such appeal notice. The purpose of the meeting shall be to meet and confer with the parties in order to decide upon the most appropriate means of disposing of the appeal as provided for in this section. At that time the student or the student's parent(s) or guardian(s) or legal counsel shall be given the right to be heard and shall be granted the opportunity to present such witnesses and testimony as the board or council deems reasonable. The board or council shall agree to one of the following procedures prior to adjournment or recess:

(a) Study the hearing record or other material submitted and render its decision within ten school business days after the date of the informal conference, or

(b) Schedule and hold a meeting to hear further arguments based on the record before the board or council and render its decision within fifteen school business days after the date of the informal conference, or

(c) Schedule and hold a meeting within ten school business days after the date of the informal conference for the purpose of hearing the case de novo.

(2) In the event the school board of directors or school district disciplinary appeal council elects to hear the appeal de novo, the following rights and procedures shall govern the proceedings:

(a) The student and his or her parent(s) or guardian(s) shall have the right to:

(i) Inspect in advance of the hearing any documentary and other physical evidence which the school district intends to introduce at the hearing,

(ii) Question and confront witnesses, unless a school district witness does not appear and the nonappearance of the witness is excused by the person(s) hearing the case based upon evidence of good reason for doing so submitted by the school district. The evidence submitted by the school district must at a minimum establish either:

(A) That the district made a reasonable effort to produce the witness and is unable to do so; or,

(B) That it is not advisable for the student to appear due to an expectation and fear on the part of the responsible district official(s) or the student of retaliation against the student if he or she a ppears as a witness,

(iii) Present his or her explanation of the alleged misconduct, and

(iv) Make such relevant showings by way of witnesses and the introduction of documentary and other physical evidence as he or she desires,

(b) The designee(s) of the school district assigned to present the district's case shall have the right to inspect in advance of the hearing any documentary and other physical evidence that the student and his or her parent(s) or guardian(s) intend to introduce at the hearing, and

(c) Either a tape-recorded or verbatim record of the hearing shall be made.

WAC 392-400-317. Appeals -- Discipline and short-term suspension grievances.

Any school district board of directors may delegate its authority to hear and decide discipline and short-term suspension grievance appeals filed pursuant to WAC 392-400-240 and 392-400-253 to a school district disciplinary appeal council established pursuant to WAC 392-400-310(1).

WAC 392-400-320. School board or disciplinary appeal council decisions.

Any decision by a school board of directors or school district disciplinary appeal council pursuant to this chapter to impose or to affirm, reverse, or modify the imposition of discipline, suspension, or expulsion upon a student shall be made:

(1) Only by those board or council members who have heard or read the evidence.

(2) Only by those board or council members who have not acted as a witness in the matter.

(3) Only at a meeting at which a quorum of the board or council is present and by majority vote.

In-school suspension

No relevant statutes found.

Return to school following removal

ADMINISTRATIVE CODE

WAC 392-400-245 Short-term suspension—Conditions and limitations

(7) Any student who has been suspended shall be allowed to make application for readmission at any time. Each school district board of directors shall adopt written rules which provide for such an application for readmission and set forth the procedures to be followed.

WAC 392-400-260 Long-term suspension—Conditions and limitations

(6) Any student who has been suspended shall be allowed to make application for readmission at any time. Each school district board of directors shall adopt written rules which provide for such an application for readmission and set forth the procedures to be followed.

Use of restraint and seclusion

ADMINISTRATIVE CODE

WAC 392-172A-03120 Aversive interventions definition and purpose.

(1) The term "aversive interventions" means the systematic use of stimuli or other treatment which a student is known to find unpleasant for the purpose of discouraging undesirable behavior on the part of the student. The term does not include the use of reasonable force, restraint, or other treatment to control unpredicted spontaneous behavior which poses one of the following dangers:

(a) A clear and present danger of serious harm to the student or another person.

(b) A clear and present danger of serious harm to property.

(c) A clear and present danger of seriously disrupting the educational process.

(2) The purpose is to assure that students eligible for special education are safeguarded against the use and misuse of various forms of aversive interventions. Each school district shall take steps to assure that each employee, volunteer, contractor, and other agent of the district or other public agency responsible for the education, care, or custody of a special education student is aware of aversive intervention requirements and the conditions under which they may be used. No school district or other public agency and no educational service district shall authorize, permit, or condone the use of aversive interventions which violates WAC 392-172A-03120 through 392-172A-03135 by any employee, volunteer, contractor or other agent of the district or other public agency responsible for the education, care, or custody of a special education student. Aversive interventions, to the extent permitted, shall only be used as a last resort. Positive behavioral supports interventions shall be used by the school district and described in the individualized education program prior to the determination that the use of aversive intervention is a necessary part of the student's program.

WAC 392-400-235 Discipline—Conditions and limitations.

Discipline may be imposed upon any student for violation of the rules of the school district that have been established pursuant to WAC 180-400-225, subject to the following limitations and conditions and the grievance procedure set forth in WAC 392-400-240[:..]

(3) Corporal punishment which is defined as any act which willfully inflicts or willfully causes the infliction of physical pain on a student is prohibited.

Corporal punishment does not include:

(d) Physical restraint or the use of aversive therapy as part of a behavior management program in a student's individual education program which has been signed by the parent and is carried out according to district procedures in compliance with WAC 392-171-800, et seq.

Alternative placements

STATUTES

28A.300.360. Grants for programs and services -- Truant, at-risk, and expelled students

The superintendent of public instruction shall provide, to the extent funds are appropriated, start-up grants for alternative programs and services that provide instruction and learning for truant, at-risk, and expelled students. Each grant application shall contain proposed performance indicators and an evaluation plan to measure the success of the program and its impact on improved student learning. Applications shall contain the applicant's plan for maintaining the program and services after the grant period.

28A.600.420. Firearms on school premises, transportation, or facilities -- Penalty -- Exemptions

(4) Nothing in this section prevents a public school district, educational service district, the Washington state center for childhood deafness and hearing loss, or the state school for the blind if it has expelled a student from such student's regular school setting from providing educational services to the student in an alternative setting.

Disciplinary Approaches Addressing Specific Infractions and Conditions

Firearms (as required by the Guns-Free Schools Act)

STATUTES

28A.600.420. Firearms on school premises, transportation, or facilities -- Penalty -- Exemptions

(1) Any elementary or secondary school student who is determined to have carried a firearm onto, or to have possessed a firearm on, public elementary or secondary school premises, public school-provided transportation, or areas of facilities while being used exclusively by public schools, shall be expelled from school for not less than one year under RCW 28A.600.010. The superintendent of the school district, educational service district, or state school for the blind, or the director of the Washington state center for childhood deafness and hearing loss, or the director's designee, may modify the expulsion of a student on a case-by-case basis.

(2) For purposes of this section, "firearm" means a firearm as defined in 18 U.S.C. Sec. 921, and a "firearm" as defined in RCW 9.41.010.

(3) This section shall be construed in a manner consistent with the individuals with disabilities education act, 20 U.S.C. Sec. 1401 et seq.

(4) Nothing in this section prevents a public school district, educational service district, the Washington state center for childhood deafness and hearing loss, or the state school for the blind if it has expelled a student from such student's regular school setting from providing educational services to the student in an alternative setting.

(5) This section does not apply to:

(a) Any student while engaged in military education authorized by school authorities in which rifles are used but not other firearms; or

(b) Any student while involved in a convention, showing, demonstration, lecture, or firearms safety course authorized by school authorities in which the rifles of collectors or instructors are handled or displayed but not other firearms; or

(c) Any student while participating in a rifle competition authorized by school authorities.

(6) A school district may suspend or expel a student for up to one year subject to subsections (1), (3), (4), and (5) of this section, if the student acts with malice as defined under RCW 9A.04.110 and displays an instrument that appears to be a firearm, on public elementary or secondary school premises, public school-provided transportation, or areas of facilities while being used exclusively by public schools.

Other weapons

STATUTES

28A.320.130. Weapons incidents -- Reporting

Each school district and each private school approved under chapter 28A.195 RCW shall report to the superintendent of public instruction by January 31st of each year all known incidents involving the possession of weapons on school premises, on transportation systems, or in areas of facilities while being used exclusively by public or private schools, in violation of RCW 9.41.280 in the year preceding

the report. The superintendent shall compile the data and report it to the house of representatives, the senate, and the governor.

28A.600.210. School locker searches – Findings

The legislature finds that illegal drug activity and weapons in schools threaten the safety and welfare of school children and pose a severe threat to the state educational system. School officials need authority to maintain order and discipline in schools and to protect students from exposure to illegal drugs, weapons, and contraband. Searches of school-issued lockers and the contents of those lockers is a reasonable and necessary tool to protect the interests of the students of the state as a whole.

Students with chronic disciplinary issues

No relevant statutes found.

Attendance and truancy

STATUTES

28A.300.046. "Student absence from school" -- Rules -- Collection of attendance and discipline data

(1) (a) The superintendent of public instruction shall adopt rules establishing a standard definition of student absence from school. In adopting the definition, the superintendent shall review current practices in Washington school districts, definitions used in other states, and any national standards or definitions used by the national center for education statistics or other national groups. The superintendent shall also consult with the building bridges work group established under RCW 28A.175.075.

(b) Using the definition of student absence adopted under this section, the superintendent shall establish an indicator for measuring student attendance in high schools for purposes of the PASS program under RCW 28A.175.130.

(2) (a) The K-12 data governance group under RCW 28A.300.507 shall establish the parameters and an implementation schedule for statewide collection through the comprehensive education and data research system of: (i) Student attendance data using the definitions of student absence adopted under this section; and (ii) student discipline data with a focus on suspensions and expulsions from school.

(b) At a minimum, school districts must collect and submit student attendance data and student discipline data for high school students through the comprehensive education and data research system for purposes of the PASS program under RCW 28A.175.130 beginning in the 2012-13 school year.

ADMINISTRATIVE CODE

WAC 392-400-325 . Statewide definition of excused and unexcused daily absences.

Excused daily absences

The following are valid excuses for absences from school:

(1) Participation in a district or school approved activity or instructional program;

(2) Illness, health condition or medical appointment (including, but not limited to, medical, counseling, dental or optometry) for the student or person for who the student is legally responsible;

(3) Family emergency including, but not limited to, a death or illness in the family;

(4) Religious or cultural purpose including observance of a religious or cultural holiday or participation in religious or cultural instruction;

(5) Court, judicial proceeding, or serving on a jury;

(6) Post-secondary, technical school or apprenticeship program visitation, or scholarship interview;

(7) State-recognized search and rescue activities consistent with RCW 28A.225.055;

(8) Absence directly related to the student's homeless status;

(9) Absences related to deployment activities of a parent or legal guardian who is an active duty member consistent with RCW 28A.705.010;

(10) Absence resulting from a disciplinary/corrective action (e.g., short-term or long-term suspension, emergency expulsion); and

(11) Principal (or designee) and parent, guardian, or emancipated youth mutually agreed upon approved activity.

The school principal (or designee) has the authority to determine if an absence meets the above criteria for an excused absence.

Unexcused daily absences

Any absence from school is unexcused unless it meets one of the criteria above for an excused absence.

Substance use

No relevant statutes found.

Bullying, harassment, or hazing

STATUTES

28A.300.285. Harassment, intimidation, and bullying prevention policies and procedures -- Model policy and procedure -- Training materials -- Posting on web site -- Rules -- Advisory committee

(1) By August 1, 2011, each school district shall adopt or amend if necessary a policy and procedure that at a minimum incorporates the revised model policy and procedure provided under subsection (4) of this section that prohibits the harassment, intimidation, or bullying of any student. It is the responsibility of each school district to share this policy with parents or guardians, students, volunteers, and school employees in accordance with rules adopted by the superintendent of public instruction. Each school district shall designate one person in the district as the primary contact regarding the antiharassment, intimidation, or bullying policy. The primary contact shall receive copies of all formal and informal complaints, have responsibility for assuring the implementation of the policy and procedure, and serve as the primary contact on the policy and procedures between the school district, the office of the education ombudsman, and the office of the superintendent of public instruction.

(2) "Harassment, intimidation, or bullying" means any intentional electronic, written, verbal, or physical act, including but not limited to one shown to be motivated by any characteristic in RCW 9A.36.080(3), or other distinguishing characteristics, when the intentional electronic, written, verbal, or physical act:

(a) Physically harms a student or damages the student's property; or

(b) Has the effect of substantially interfering with a student's education; or

(c) Is so severe, persistent, or pervasive that it creates an intimidating or threatening educational environment; or

(d) Has the effect of substantially disrupting the orderly operation of the school.

Nothing in this section requires the affected student to actually possess a characteristic that is a basis for the harassment, intimidation, or bullying.

(6) As used in this section, "electronic" or "electronic means" means any communication where there is the transmission of information by wire, radio, optical cable, electromagnetic, or other similar means.

28A.600.480 Reporting of harassment, intimidation, or bullying — Retaliation prohibited — Immunity.

(1) No school employee, student, or volunteer may engage in reprisal, retaliation, or false accusation against a victim, witness, or one with reliable information about an act of harassment, intimidation, or bullying.

(2) A school employee, student, or volunteer who has witnessed, or has reliable information that a student has been subjected to, harassment, intimidation, or bullying, whether verbal or physical, is encouraged to report such incident to an appropriate school official.

(3) A school employee, student, or volunteer who promptly reports an incident of harassment, intimidation, or bullying to an appropriate school official, and who makes this report in compliance with the procedures in the district's policy prohibiting bullying, harassment, or intimidation, is immune from a cause of action for damages arising from any failure to remedy the reported incident.

ADMINISTRATIVE CODE

WAC 392-190-057. Sexual harassment policy -- Adoption date -- Required criteria.

(For definitions see WAC 392-190-056.)

In order to eliminate sexual harassment in connection with any responsibility, function or activity within the jurisdiction of a school district, a sexual harassment policy must be adopted and implemented by each district no later than June 30, 1995. This policy must apply to all school district employees, volunteers, parents, and students, including but not limited to, conduct between students. This policy must incorporate the following criteria:

(1) Definitions consistent with the categories in RCW 28A.640.020 (2)(f);

(2) District and staff responsibilities;

(3) Informal grievance procedures;

(4) Grievance procedures consistent with WAC 392-190-065 through 392-190-075 of this chapter;

(5) Investigative procedures and reasonable and prompt timelines;

(6) Remedies available to victims of sexual harassment;

(7) Disciplinary actions against violators which must conform with collective bargaining agreements and state and federal laws;

(8) Reprisal, retaliation and false accusations prohibition;

(9) Dissemination and implementation; and

(10) Internal review.

WAC 392-190-058. Sexual harassment -- Procedures.

(1) School district policies on sexual harassment must be reviewed by the superintendent of public instruction considering the criteria established under WAC 392-190-057 as part of the monitoring process established in RCW 28A.640.030. The superintendent of public instruction must supply upon request sample sexual harassment policies to school districts.

(2) The school district's sexual harassment policy must be easily understood and conspicuously posted throughout each school building, and provided to each employee, volunteer and student.

(3) Reasonable efforts must be made to inform all students and their parents about the district's sexual harassment policy and procedures.

(4) A copy of the policy must appear in any publication of the school or school district setting forth the rules, regulations, procedures, and standards of conduct for the school or school district.

(5) Each school must develop a process for discussing the district's sexual harassment policy. The process must ensure the discussion addresses the definition of sexual harassment and issues covered in the sexual harassment policy.

Other special infractions or conditions

28A.600.455. Gang activity -- Suspension or expulsion

(1) A student who is enrolled in a public school or an alternative school may be suspended or expelled if the student is a member of a gang and knowingly engages in gang activity on school grounds.

(2) "Gang" means a group which: (a) Consists of three or more persons; (b) has identifiable leadership; and (c) on an ongoing basis, regularly conspires and acts in concert mainly for criminal purposes.

Prevention and Behavioral Interventions (Non-Punitive)

Prevention

STATUTES

28A.170.075 Findings — Intent.

(1) The legislature finds that the provision of drug and alcohol counseling and related prevention and intervention services in schools will enhance the classroom environment for students and teachers, and better enable students to realize their academic and personal potentials.

(2) The legislature finds that it is essential that resources be made available to school districts to provide early drug and alcohol prevention and intervention services to students and their families; to assist in referrals to treatment providers; and to strengthen the transition back to school for students who have had problems of drug and alcohol abuse.

(3) Substance abuse awareness programs funded under this chapter do not fall within the definition of basic education for purposes of Article IX of the state Constitution and the state's funding duty thereunder.

(4) The legislature intends to provide grants for drug and alcohol abuse prevention and intervention in schools, targeted to those schools with the highest concentrations of students at risk.

28A.170.080 Grants — Substance abuse intervention.

(1) Grants provided under RCW 28A.170.090 may be used solely for services provided by a substance abuse intervention specialist or for dedicated staff time for counseling and intervention services provided by any school district certificated employee who has been trained by and has access to consultation with a substance abuse intervention specialist. Services shall be directed at assisting students in kindergarten through twelfth grade in overcoming problems of drug and alcohol abuse, and in preventing abuse and addiction to such substances, including nicotine. The grants shall require local matching funds so that the grant amounts support a maximum of eighty percent of the costs of the services funded. The services of a substance abuse intervention specialist may be obtained by means of a contract with a state or community services agency or a drug treatment center. Services provided by a substance abuse intervention specialist may include:

(a) Individual and family counseling, including preventive counseling;

(b) Assessment and referral for treatment;

(c) Referral to peer support groups;

(d) Aftercare;

(e) Development and supervision of student mentor programs;

(f) Staff training, including training in the identification of high-risk children and effective interaction with those children in the classroom; and

(g) Development and coordination of school drug and alcohol core teams, involving staff, students, parents, and community members.

(2) For the purposes of this section, "substance abuse intervention specialist" means any one of the following, except that diagnosis and assessment, counseling and aftercare specifically identified with treatment of chemical dependency shall be performed only by personnel who meet the same qualifications as are required of a qualified chemical dependency counselor employed by an alcoholism or drug treatment program approved by the department of social and health services.

(a) An educational staff associate employed by a school district or educational service district who holds certification as a school counselor, school psychologist, school nurse, or school social worker under Washington professional educator standards board rules adopted pursuant to RCW 28A.410.210;

(b) An individual who meets the definition of a qualified drug or alcohol counselor established by the bureau of alcohol and substance abuse;

(c) A qualified professional employed by the department of social and health services;

(d) A psychologist licensed under chapter 18.83 RCW; or

(e) A children's mental health specialist as defined in RCW 71.34.020.

28A.300.270. Violence prevention training

The superintendent of public instruction shall, to the extent funding is available, contract with school districts, educational service districts, and approved in-service providers to conduct training sessions for school certificated and classified employees in conflict resolution and other violence prevention topics. The training shall be developmentally and culturally appropriate for the school populations being served and be research based. The training shall not be based solely on providing materials, but also shall include techniques on imparting these skills to students. The training sessions shall be developed in coordination with school districts, the superintendent of public instruction, parents, law enforcement agencies, human services providers, and other interested parties. The training shall be offered to school districts and school staff requesting the training, and shall be made available at locations throughout the state.

28A.300.280. Conflict resolution program

The superintendent of public instruction and the office of the attorney general, in cooperation with the Washington state bar association, shall develop a volunteer-based conflict resolution and mediation program for use in community groups such as neighborhood organizations and the public schools. The program shall use lawyers to train students who in turn become trainers and mediators for their peers in conflict resolution.

28A.300.490. Task force on gangs in schools -- Reports

(1) A task force on gangs in schools is created to examine current adult and youth gang activities that are affecting school safety. The task force shall work under the guidance of the superintendent of public instruction school safety center, the school safety center advisory committee, and the Washington association of sheriffs and police chiefs.

(2) The task force shall be comprised of representatives, selected by the superintendent of public instruction, who possess expertise relevant to gang activity in schools. The task force shall outline methods for preventing new gangs, eliminating existing gangs, gathering intelligence, and sharing information about gang activities.

(3) Beginning December 1, 2007, the task force shall annually report its findings and recommendations to the education committees of the legislature.

28A.300.2851. School bullying and harassment -- Work group

(1) The office of the superintendent of public instruction and the office of the education ombudsman shall convene a work group on school bullying and harassment prevention to develop, recommend, and implement strategies to improve school climate and create respectful learning environments in all public schools in Washington. The superintendent of public instruction or a designee shall serve as the chair of the work group.

(2) The work group shall:

(a) Consider whether additional disaggregated data should be collected regarding incidents of bullying and harassment or disciplinary actions and make recommendations to the office of the superintendent of public instruction for collection of such data;

(b) Examine possible procedures for anonymous reporting of incidents of bullying and harassment;

(c) Identify curriculum and best practices for school districts to improve school climate, create respectful learning environments, and train staff and students in de-escalation and intervention techniques;

(d) Identify curriculum and best practices for incorporating instruction about mental health, youth suicide prevention, and prevention of bullying and harassment;

(e) Recommend best practices for informing parents about the harassment, intimidation, and bullying prevention policy and procedure under RCW 28A.300.285 and involving parents in improving school climate;

(f) Recommend training for district personnel who are designated as the primary contact regarding the policy and procedure and for school resource officers and other school security personnel;

(g) Recommend educator preparation and certification requirements in harassment, intimidation, and bullying prevention and de-escalation and intervention techniques for teachers, educational staff associates, and school administrators;

(h) Examine and recommend policies for discipline of students and staff who harass, intimidate, or bully; and

(i) In collaboration with the state board for community and technical colleges, examine and recommend policies to protect K-12 students attending community and technical colleges from harassment, intimidation, and bullying.

(3) The work group must include representatives from the state board of education, the Washington state parent teacher association, the Washington state association of school psychologists, school directors, school administrators, principals, teachers, school counselors, classified school staff, youth, community organizations, and parents.

(4) The work group shall submit a biennial progress and status report to the governor and the education committees of the legislature, beginning December 1, 2011, with additional reports by December 1, 2013, and December 1, 2015.

(5) The work group is terminated effective January 1, 2016.

28A.600.020. Exclusion of student from classroom -- Written disciplinary procedures -- Long-term suspension or expulsion

(1) The rules adopted pursuant to RCW 28A.600.010 shall be interpreted to ensure that the optimum learning atmosphere of the classroom is maintained, and that the highest consideration is given to the judgment of qualified certificated educators regarding conditions necessary to maintain the optimum learning atmosphere

(4) The procedures shall assure, pursuant to RCW28A.400.110, that all staff work cooperatively toward consistent enforcement of proper student behavior throughout each school as well as within each classroom.

Behavioral interventions and student support services

STATUTES

28A.170.075 Findings — Intent.

(1) The legislature finds that the provision of drug and alcohol counseling and related prevention and intervention services in schools will enhance the classroom environment for students and teachers, and better enable students to realize their academic and personal potentials.

(2) The legislature finds that it is essential that resources be made available to school districts to provide early drug and alcohol prevention and intervention services to students and their families; to assist in referrals to treatment providers; and to strengthen the transition back to school for students who have had problems of drug and alcohol abuse.

(3) Substance abuse awareness programs funded under this chapter do not fall within the definition of basic education for purposes of Article IX of the state Constitution and the state's funding duty thereunder.

(4) The legislature intends to provide grants for drug and alcohol abuse prevention and intervention in schools, targeted to those schools with the highest concentrations of students at risk.

28A.170.080. Grants -- Substance abuse intervention

(1) Grants provided under RCW 28A.170.090 may be used solely for services provided by a substance abuse intervention specialist or for dedicated staff time for counseling and intervention services provided by any school district certificated employee who has been trained by and has access to consultation with a substance abuse intervention specialist. Services shall be directed at assisting students in kindergarten through twelfth grade in overcoming problems of drug and alcohol abuse, and in preventing abuse and addiction to such substances, including nicotine. The grants shall require local matching funds so that the grant amounts support a maximum of eighty percent of the costs of the services funded. The services of a substance abuse intervention specialist may be obtained by means of a contract with a state or community services agency or a drug treatment center. Services provided by a substance abuse intervention specialist may include:

(a) Individual and family counseling, including preventive counseling;

(b) Assessment and referral for treatment;

(c) Referral to peer support groups;

(d) Aftercare;

(e) Development and supervision of student mentor programs;

(f) Staff training, including training in the identification of high-risk children and effective interaction with those children in the classroom; and

(g) Development and coordination of school drug and alcohol core teams, involving staff, students, parents, and community members.

(2) For the purposes of this section, "substance abuse intervention specialist" means any one of the following, except that diagnosis and assessment, counseling and aftercare specifically identified with treatment of chemical dependency shall be performed only by personnel who meet the same qualifications as are required of a qualified chemical dependency counselor employed by an alcoholism or drug treatment program approved by the department of social and health services.

(a) An educational staff associate employed by a school district or educational service district who holds certification as a school counselor, school psychologist, school nurse, or school social worker under Washington professional educator standards board rules adopted pursuant to RCW 28A.410.210;

(b) An individual who meets the definition of a qualified drug or alcohol counselor established by the bureau of alcohol and substance abuse;

(c) A qualified professional employed by the department of social and health services;

(d) A psychologist licensed under chapter 18.83 RCW; or

(e) A children's mental health specialist as defined in RCW 71.34.020.

28A.300.280. Conflict resolution program

The superintendent of public instruction and the office of the attorney general, in cooperation with the Washington state bar association, shall develop a volunteer-based conflict resolution and mediation program for use in community groups such as neighborhood organizations and the public schools. The program shall use lawyers to train students who in turn become trainers and mediators for their peers in conflict resolution.

ADMINISTRATIVE CODE

WAC 392-172A-03120 Aversive interventions definition and purpose.

[…] Aversive interventions, to the extent permitted, shall only be used as a last resort. Positive behavioral supports interventions shall be used by the school district and described in the individualized education program prior to the determination that the use of aversive intervention is a necessary part of the student's program.

Professional development

28A.300.270. Violence prevention training

The superintendent of public instruction shall, to the extent funding is available, contract with school districts, educational service districts, and approved in-service providers to conduct training sessions for school certificated and classified employees in conflict resolution and other violence prevention topics. The training shall be developmentally and culturally appropriate for the school populations being served and be research based. The training shall not be based solely on providing materials, but also shall include techniques on imparting these skills to students. The training sessions shall be developed in coordination with school districts, the superintendent of public instruction, parents, law enforcement agencies, human services providers, and other interested parties. The training shall be offered to school districts and school staff requesting the training, and shall be made available at locations throughout the state.

Monitoring and Accountability

Formal incident reporting of conduct violations

STATUTES

28A.600.460. Classroom discipline -- Policies -- Classroom placement of student offenders -- Data on disciplinary actions

(1) School district boards of directors shall adopt policies that restore discipline to the classroom. Such policies must provide for at least the following: Allowing each teacher to take disciplinary action to correct a student who disrupts normal classroom activities, abuses or insults a teacher as prohibited by RCW 28A.635.010, willfully disobeys a teacher, uses abusive or foul language directed at a school district employee, school volunteer, or another student, violates school rules, or who interferes with an orderly education process. Disciplinary action may include but is not limited to: Oral or written reprimands; written notification to parents of disruptive behavior, a copy of which must be provided to the principal.

ADMINISTRATIVE CODE

WAC 392-400-250 Short-term suspension—Prior conference required—Notice to parent

(3) All short-term suspensions and the reasons therefor shall be reported in writing to the superintendent of the school district or his or her designee within twenty-four hours after the imposition of the suspension.

Parental notification

ADMINISTRATIVE CODE

WAC 392-400-250 Short-term suspension—Prior conference required—Notice to parent

(1) Prior to the short-term suspension of any student a conference shall be conducted with the student as follows:

(2) In the event a short-term suspension is to exceed one calendar day the parent(s) or guardian(s) of the student shall be notified of the reason for the student's suspension and the duration of the suspension orally and/or by letter deposited in the United States mail as soon as reasonably possible. The notice shall also inform the parent or guardian of the right to an informal conference pursuant to WAC 392-400-255 and that the suspension may possibly be reduced as a result of such conference.

WAC 392-400-265. Long-term suspension -- Notice of hearing -- Waiver of hearing.

(1) Prior to the long-term suspension of a student, written notice of an opportunity for a hearing shall be delivered in person or by certified mail to the student and to his or her parent(s) or guardian(s). The notice shall:

(a) Be provided in the predominant language of a student and/or a parent(s) or guardian(s) who predominantly speak a language other than English, to the extent feasible,

(b) Specify the alleged misconduct and the school district rule(s) alleged to have been violated,

(c) Set forth the corrective action or punishment proposed,

(d) Set forth the right of the student and/or his or her parent(s) or guardian(s) to a hearing for the purpose of contesting the allegation(s), and

(e) Set forth the facts that:

(i) A written (or "oral" if provided for by school district policy) request for a hearing must be received by the school district employee designated, or by his or her office, on or before the expiration of the third school business day after receipt of the notice of opportunity for a hearing, and

(ii) If such a request is not received within the prescribed period of time, then the right to a hearing may be deemed to have been waived and the proposed long-term suspension may be imposed by the school district without any further opportunity for the student or his or her parent(s) or guardian(s) to contest the matter. A schedule of "school business days" potentially applicable to the exercise of such hearing right should be included with the notice.

WAC 392-400-280. Expulsion -- Notice of hearing -- Waiver of hearing.

(1) Prior to the expulsion of a student, written notice of an opportunity for a hearing shall be delivered in person or by certified mail to the student and to his or her parent(s) or guardian(s). The notice shall:

(a) Be provided in the predominant language of a student and/or a parent(s) or guardian(s) who predominantly speak a language other than English, to the extent feasible,

(b) Specify the alleged misconduct and the school district rule(s) or policy alleged to have been violated,

(c) Set forth the corrective action or punishment proposed,

(d) Set forth the right of the student and/or his or her parent(s) or guardian(s) to a hearing for the purpose of contesting the allegation(s), and

(e) Set forth the facts that:

(i) A written (or "oral" if provided for by school district policy) request for a hearing must be received by the school district employee designated, or by his or her office, on or before the expiration of the third school business day after receipt of the notice of opportunity for a hearing, and

(ii) If such a request is not received within the prescribed period of time, then the right to a hearing may be deemed to have been waived and the proposed expulsion may be imposed by the school district without any further opportunity for the student or his or her parent(s) or guardian(s) to contest the matter. A schedule of "school business days" potentially applicable to the exercise of such hearing right should be included with the notice.

WAC 392-400-300. Emergency expulsion -- Notice of hearing -- Waiver of hearing right.

(1) The student and his or her parent(s) or guardian(s) shall be notified of the emergency expulsion of the student and of their opportunity for a hearing either (a) by hand delivering written notice to the student's parent(s) or guardian(s) within twenty-four hours of the expulsion and documenting delivery by obtaining his or her signature acknowledging receipt or the written certification of the person making the delivery, or (b) by certified letter(s) deposited in the United States mail, within twenty-four hours of the expulsion: Provided, That if the emergency expulsion is based upon a failure to comply with the state immunization law (see chapter 392-380 WAC), the notice must be received by the student's parent(s) or guardian(s) prior to the emergency expulsion of the student regardless of the method of delivery. In addition, if the notice is by certified letter, reasonable attempts shall be made to notify the student and his or her parent(s) or guardian(s) by telephone or in person as soon as reasonably possible. Such written and oral notice shall:

(a) Be provided in the predominant language of a student and/or a parent(s) or guardian(s) who predominantly speak a language other than English, to the extent feasible,

(b) Specify the alleged reason(s) for the emergency expulsion,

(c) Set forth the corrective action or punishment taken and proposed,

(d) Set forth the right of the student and/or his or her parent(s) or guardian(s) to a hearing for the purpose of contesting the allegation(s) as soon as reasonably possible […]

Reporting and referrals between schools and law enforcement

STATUTES

28A.320.130. Weapons incidents -- Reporting

Each school district and each private school approved under chapter 28A.195 RCW shall report to the superintendent of public instruction by January 31st of each year all known incidents involving the possession of weapons on school premises, on transportation systems, or in areas of facilities while being used exclusively by public or private schools, in violation of RCW 9.41.280 in the year preceding the report. The superintendent shall compile the data and report it to the house of representatives, the senate, and the governor.

28A.600.475. Exchange of information with law enforcement and juvenile court officials -- Notification of parents and students

School districts may participate in the exchange of information with law enforcement and juvenile court officials to the extent permitted by the family educational and privacy rights act of 1974, 20 U.S.C. Sec. 1232g. When directed by court order or pursuant to any lawfully issued subpoena, a school district shall make student records and information available to law enforcement officials, probation officers, court personnel, and others legally entitled to the information. Except as provided in RCW 13.40.480, parents and students shall be notified by the school district of all such orders or subpoenas in advance of compliance with them.

Disclosure of school records

STATUTES

28A.300.046. "Student absence from school" -- Rules -- Collection of attendance and discipline data

(2) (a) The K-12 data governance group under RCW 28A.300.507 shall establish the parameters and an implementation schedule for statewide collection through the comprehensive education and data research system of: (i) Student attendance data using the definitions of student absence adopted under this section; and (ii) student discipline data with a focus on suspensions and expulsions from school.

(b) At a minimum, school districts must collect and submit student attendance data and student discipline data for high school students through the comprehensive education and data research system for purposes of the PASS program under RCW 28A.175.130 beginning in the 2012-13 school year.

28A.320.128 Notice and disclosure policies — Threats of violence — Student conduct — Immunity for good faith notice — Penalty.

(1) By September 1, 2003, each school district board of directors shall adopt a policy that addresses the following issues:

(b) Procedures for disclosing information that is provided to the school administrators about a student's conduct, including but not limited to the student's prior disciplinary records, official juvenile court records, and history of violence, to classroom teachers, school staff, and school security who, in the judgment of the principal, should be notified; and

28A.600.460 Classroom discipline — Policies — Classroom placement of student offenders — Data on disciplinary actions.

(5) All school districts must collect data on disciplinary actions taken in each school. The information shall be made available to the public upon request. This collection of data shall not include personally identifiable information including, but not limited to, a student's social security number, name, or address.

Data collection, review, and reporting of disciplinary policies and actions

STATUTES

28A.170.090. Selection of grant recipients -- Program rules

(4) School districts receiving grants under this section shall be required to perform biennial evaluations of their drug and alcohol abuse prevention and intervention programs, and to report on the results of these evaluations to the superintendent of public instruction.

28A.300.046. "Student absence from school" -- Rules -- Collection of attendance and discipline data

(2) (a) The K-12 data governance group under RCW 28A.300.507 shall establish the parameters and an implementation schedule for statewide collection through the comprehensive education and data research system of: (i) Student attendance data using the definitions of student absence adopted under this section; and (ii) student discipline data with a focus on suspensions and expulsions from school.

(b) At a minimum, school districts must collect and submit student attendance data and student discipline data for high school students through the comprehensive education and data research system for purposes of the PASS program under RCW 28A.175.130 beginning in the 2012-13 school year.

28A.300.490. Task force on gangs in schools -- Reports

(3) Beginning December 1, 2007, the task force shall annually report its findings and recommendations to the education committees of the legislature.

28A.400.110. Principal to assure appropriate student discipline -- Building discipline standards -- Classes to improve classroom management skills

Within each school the school principal shall determine that appropriate student discipline is established and enforced. In order to assist the principal in carrying out the intent of this section, the principal and the certificated employees in a school building shall confer at least annually in order to develop and/or review building disciplinary standards and uniform enforcement of those standards. Such building standards shall be consistent with the provisions of RCW 28A.600.020(3).

School principals and certificated employees shall also confer annually, to establish criteria for determining when certificated employees must complete classes to improve classroom management skills.

28A.600.460. Classroom discipline -- Policies -- Classroom placement of student offenders -- Data on disciplinary actions

(5) All school districts must collect data on disciplinary actions taken in each school. The information shall be made available to the public upon request. This collection of data shall not include personally identifiable information including, but not limited to, a student's social security number, name, or address.

ADMINISTRATIVE CODE

WAC 392-190-059. Harassment, intimidation, and bullying prevention policy and procedure -- Adoption date.

(2) When monitoring school districts' compliance with this chapter pursuant to WAC 392-190-076, the office of superintendent of public instruction will review such policies and procedures to ensure that they provide that students will not be harassed, intimidated, or bullied because of their sex, race, creed, religion, color, national origin, sexual orientation including gender expression or identity, the presence of any sensory, mental, or physical disability, or the use of a trained dog guide or service animal.

WAC 392-400-325 . Statewide definition of excused and unexcused daily absences.

(2) (a) The K-12 data governance group under RCW 28A.300.507 shall establish the parameters and an implementation schedule for statewide collection through the comprehensive education and data research system of: (i) Student attendance data using the definitions of student absence adopted under this section; and (ii) student discipline data with a focus on suspensions and expulsions from school.

(b) At a minimum, school districts must collect and submit student attendance data and student discipline data for high school students through the comprehensive education and data research system for purposes of the PASS program under RCW 28A.175.130 beginning in the 2012-13 school year.

School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers

Authority and power to implement school arrest

STATUTES

28A.605.010. Removing child from school grounds during school hours

[…] School security personnel may remove a student from school grounds without parental authorization for disciplinary reasons.

Certification or training

No relevant statutes found.

MOUs, authorization, and/or funding

No relevant statutes found.

State Education Agency Support

State model policies and implementation support

STATUTES

28A.300.285. Harassment, intimidation, and bullying prevention policies and procedures -- Model policy and procedure -- Training materials -- Posting on web site -- Rules -- Advisory committee

(1) By August 1, 2011, each school district shall adopt or amend if necessary a policy and procedure that at a minimum incorporates the revised model policy and procedure provided under subsection (4) of this section that prohibits the harassment, intimidation, or bullying of any student. It is the responsibility of each school district to share this policy with parents or guardians, students, volunteers, and school employees in accordance with rules adopted by the superintendent of public instruction. Each school district shall designate one person in the district as the primary contact regarding the antiharassment, intimidation, or bullying policy. The primary contact shall receive copies of all formal and informal complaints, have responsibility for assuring the implementation of the policy and procedure, and serve as the primary contact on the policy and procedures between the school district, the office of the education ombudsman, and the office of the superintendent of public instruction.

(2) "Harassment, intimidation, or bullying" means any intentional electronic, written, verbal, or physical act, including but not limited to one shown to be motivated by any characteristic in RCW 9A.36.080(3), or other distinguishing characteristics, when the intentional electronic, written, verbal, or physical act:

(a) Physically harms a student or damages the student's property; or

(b) Has the effect of substantially interfering with a student's education; or

(c) Is so severe, persistent, or pervasive that it creates an intimidating or threatening educational environment; or

(d) Has the effect of substantially disrupting the orderly operation of the school.

Nothing in this section requires the affected student to actually possess a characteristic that is a basis for the harassment, intimidation, or bullying.

(3) The policy and procedure should be adopted or amended through a process that includes representation of parents or guardians, school employees, volunteers, students, administrators, and community representatives. It is recommended that each such policy emphasize positive character traits and values, including the importance of civil and respectful speech and conduct, and the responsibility of students to comply with the district's policy prohibiting harassment, intimidation, or bullying.

(4) (a) By August 1, 2010, the superintendent of public instruction, in consultation with representatives of parents, school personnel, the office of the education ombudsman, the Washington state school directors' association, and other interested parties, shall provide to the education committees of the legislature a revised and updated model harassment, intimidation, and bullying prevention policy and procedure. The superintendent of public instruction shall publish on its web site, with a link to the safety center web page, the revised and updated model harassment, intimidation, and bullying prevention policy and procedure, along with training and instructional materials on the components that shall be included in any district policy and procedure. The superintendent shall adopt rules regarding school districts' communication of the policy and procedure to parents, students, employees, and volunteers.

(b) The office of the superintendent of public instruction has the authority to update with new technologies access to this information in the safety center, to the extent resources are made available.

(c) Each school district shall by August 15, 2011, provide to the superintendent of public instruction a brief summary of its policies, procedures, programs, partnerships, vendors, and instructional and training materials to be posted on the school safety center web site, and shall also provide the superintendent with a link to the school district's web site for further information. The district's primary contact for bullying and harassment issues shall annually by August 15th verify posted information and links and notify the school safety center of any updates or changes.

(5) The Washington state school directors' association, with the assistance of the office of the superintendent of public instruction, shall convene an advisory committee to develop a model policy prohibiting acts of harassment, intimidation, or bullying that are conducted via electronic means by a student while on school grounds and during the school day. The policy shall include a requirement that materials meant to educate parents and students about the seriousness of cyberbullying be disseminated to parents or made available on the school district's web site. The school directors' association and the advisory committee shall develop sample materials for school districts to disseminate, which shall also include information on responsible and safe internet use as well as what options are available if a student is being bullied via electronic means, including but not limited to, reporting threats to local police and when to involve school officials, the internet service provider, or phone service provider. The school directors' association shall submit the model policy and sample materials, along with a recommendation for local adoption, to the governor and the legislature and shall post the model policy and sample materials on its web site by January 1, 2008. Each school district board of directors shall establish its own policy by August 1, 2008.

(6) As used in this section, "electronic" or "electronic means" means any communication where there is the transmission of information by wire, radio, optical cable, electromagnetic, or other similar means.

28A.320.128. Notice and disclosure policies -- Threats of violence -- Student conduct -- Immunity for good faith notice -- Penalty

(2) The superintendent of public instruction, in consultation with educators and representatives of law enforcement, classified staff, and organizations with expertise in violence prevention and intervention, shall adopt a model policy that includes the issues listed in subsection (1) of this section by January 1, 2003. The model policy shall be posted on the superintendent of public instruction's web site. The school districts, in drafting their own policies, shall review the model policy.

Funding appropriations

STATUTES

28A.170.080 Grants — Substance abuse intervention.

(1) Grants provided under RCW 28A.170.090 may be used solely for services provided by a substance abuse intervention specialist or for dedicated staff time for counseling and intervention services provided by any school district certificated employee who has been trained by and has access to consultation with a substance abuse intervention specialist. Services shall be directed at assisting students in kindergarten through twelfth grade in overcoming problems of drug and alcohol abuse, and in preventing abuse and addiction to such substances, including nicotine. The grants shall require local matching funds so that the grant amounts support a maximum of eighty percent of the costs of the services funded. The services of a substance abuse intervention specialist may be obtained by means of a contract with a state or community services agency or a drug treatment center […]

28A.170.090. Selection of grant recipients -- Program rules

(1) The superintendent of public instruction shall select school districts and cooperatives of school districts to receive grants for drug and alcohol abuse prevention and intervention programs for students in

kindergarten through twelfth grade, from funds appropriated by the legislature for this purpose. The minimum annual grant amount per district or cooperative of districts shall be twenty thousand dollars. Factors to be used in selecting proposals for funding and in determining grant awards shall be developed in consultation with the substance abuse advisory committee appointed under RCW 28A.170.050, with the intent of targeting funding to districts with high-risk populations […]

(2) […] School districts should allocate resources giving emphasis to drug and alcohol abuse intervention services for students in grades five through nine. Grants may be used to provide services for students who are enrolled in approved private schools.

(3) School districts receiving grants under this section shall be required to establish a means of accessing formal assessment services for determining treatment needs of students with drug and alcohol problems. The grant applications submitted by districts shall identify the districts' plan for meeting this requirement.

(4) School districts receiving grants under this section shall be required to perform biennial evaluations of their drug and alcohol abuse prevention and intervention programs, and to report on the results of these evaluations to the superintendent of public instruction.

28A.300.275. Alternative school start-up grants -- School safety grants -- Report to legislative committees

The sum of four million dollars, or as much thereof as may be necessary, is appropriated from the general fund to the superintendent of public instruction for the biennium ending June 30, 2001, for:

(1) Alternative school start-up grants which are in addition to the grants funded in the two million dollars alternative school start-up appropriation contained in section 501(2)(l), chapter 309, Laws of 1999, and these grants shall be awarded in the same manner and for the same purposes;

(2) School safety programs for prevention and intervention. School districts may apply for and administer these grants independently or jointly with other school districts or educational service districts. The funds may be expended for proven-effective programs to improve safety in schools, including: Security assessments of school facilities; violence prevention and reporting training for staff as appropriate to the particular duties and responsibilities of the specific staff, including administrators; nonviolence and leadership training for staff and students; and school safety plans. The educational service districts and school districts may contract for any services under this subsection.

(3) The superintendent of public instruction shall report to the education committees of the house of representatives and senate on the number and types of programs administered through these grants by February 15, 2001, and February 15th of every two years thereafter.

28A.300.360. Grants for programs and services -- Truant, at-risk, and expelled students

The superintendent of public instruction shall provide, to the extent funds are appropriated, start-up grants for alternative programs and services that provide instruction and learning for truant, at-risk, and expelled students. Each grant application shall contain proposed performance indicators and an evaluation plan to measure the success of the program and its impact on improved student learning. Applications shall contain the applicant's plan for maintaining the program and services after the grant period.

Other/Uncategorized

Professional immunity or liability

STATUTES

28A.320.128. Notice and disclosure policies -- Threats of violence -- Student conduct -- Immunity for good faith notice -- Penalty

(3) School districts, school district boards of directors, school officials, and school employees providing notice in good faith as required and consistent with the board's policies adopted under this section are immune from any liability arising out of such notification.

(4) A person who intentionally and in bad faith or maliciously, knowingly makes a false notification of a threat under this section is guilty of a misdemeanor punishable under RCW 9A.20.021.

28A.600.480 Reporting of harassment, intimidation, or bullying — Retaliation prohibited — Immunity.

(1) No school employee, student, or volunteer may engage in reprisal, retaliation, or false accusation against a victim, witness, or one with reliable information about an act of harassment, intimidation, or bullying.

(2) A school employee, student, or volunteer who has witnessed, or has reliable information that a student has been subjected to, harassment, intimidation, or bullying, whether verbal or physical, is encouraged to report such incident to an appropriate school official.

(3) A school employee, student, or volunteer who promptly reports an incident of harassment, intimidation, or bullying to an appropriate school official, and who makes this report in compliance with the procedures in the district's policy prohibiting bullying, harassment, or intimidation, is immune from a cause of action for damages arising from any failure to remedy the reported incident.

Community input or involvement

STATUTES

28A.170.050. Advisory committee -- Members -- Duties

The superintendent of public instruction shall appoint a substance abuse advisory committee comprised of: Representatives of certificated and classified staff; administrators; parents; students; school directors; the bureau of alcohol and substance abuse within the department of social and health services; the traffic safety commission; and county coordinators of alcohol and drug treatment. The committee shall advise the superintendent on matters of local program development, coordination, and evaluation.

28A.300.285. Harassment, intimidation, and bullying prevention policies and procedures -- Model policy and procedure -- Training materials -- Posting on web site -- Rules -- Advisory committee

(3) The policy and procedure should be adopted or amended through a process that includes representation of parents or guardians, school employees, volunteers, students, administrators, and community representatives. It is recommended that each such policy emphasize positive character traits and values, including the importance of civil and respectful speech and conduct, and the responsibility of students to comply with the district's policy prohibiting harassment, intimidation, or bullying.

(4) (a) By August 1, 2010, the superintendent of public instruction, in consultation with representatives of parents, school personnel, the office of the education ombudsman, the Washington state school directors' association, and other interested parties, shall provide to the education committees of the legislature a revised and updated model harassment, intimidation, and bullying prevention policy and procedure. The superintendent of public instruction shall publish on its web site, with a link to the safety center web page, the revised and updated model harassment, intimidation, and bullying prevention policy and procedure, along with training and instructional materials on the components that shall be included in any district policy and procedure. The superintendent shall adopt rules regarding school districts' communication of the policy and procedure to parents, students, employees, and volunteers.

28A.300.801. Legislative youth advisory council

(1) The legislative youth advisory council is established to examine issues of importance to youth, including but not limited to education, employment, strategies to increase youth participation in state and municipal government, safe environments for youth, substance abuse, emotional and physical health, foster care, poverty, homelessness, and youth access to services on a statewide and municipal basis.

(2) The council consists of twenty-two members as provided in this subsection who, at the time of appointment, are aged fourteen to eighteen. The council shall select a chair from among its members.

(3) Except for initial members, members shall serve two-year terms, and if eligible, may be reappointed for subsequent two-year terms. One-half of the initial members shall be appointed to one-year terms, and these appointments shall be made in such a way as to preserve overall representation on the committee.

(4) (a) By July 2, 2007, and annually thereafter, students may apply to be considered for participation in the program by completing an online application form and submitting the application to the legislative youth advisory council. The council may develop selection criteria and an application review process. The council shall recommend candidates whose names will be submitted to the office of the lieutenant governor for final selection. Beginning May 7, 2009, the office of the lieutenant governor shall notify all applicants of the final selections using existing staff and resources.

(b) Within existing staff and resources, the office of the lieutenant governor shall make the application available on the lieutenant governor's web site.

(5) If the council has sufficient funds from any source, then the council shall have the following duties:

(a) Advising the legislature on proposed and pending legislation, including state budget expenditures and policy matters relating to youth;

(b) Advising the standing committees of the legislature and study commissions, committees, and task forces regarding issues relating to youth;

(c) Conducting periodic seminars for its members regarding leadership, government, and the legislature;

28A.300.2851. School bullying and harassment -- Work group

(3) The work group must include representatives from the state board of education, the Washington state parent teacher association, the Washington state association of school psychologists, school directors, school administrators, principals, teachers, school counselors, classified school staff, youth, community organizations, and parents.

28A.600.020. Exclusion of student from classroom -- Written disciplinary procedures -- Long-term suspension or expulsion

(3) In order to preserve a beneficial learning environment for all students and to maintain good order and discipline in each classroom, every school district board of directors shall provide that written procedures are developed for administering discipline at each school within the district. Such procedures shall be

developed with the participation of parents and the community, and shall provide that the teacher, principal or designee, and other authorities designated by the board of directors, make every reasonable attempt to involve the parent or guardian and the student in the resolution of student discipline problems. Such procedures shall provide that students may be excluded from their individual classes or activities for periods of time in excess of that provided in subsection (2) of this section if such students have repeatedly disrupted the learning of other students. The procedures must be consistent with the rules of the superintendent of public instruction and must provide for early involvement of parents in attempts to improve the student's behavior.

Other/Uncategorized

STATUTES

WAC 392-400-210 Student responsibilities and duties.

The mission of the common school system is to provide learning experience which will assist all students to develop skills, competencies, and attitudes that are fundamental to an individual's achievement as a responsible, contributing citizen. In order to maintain and advance this mission, it shall be the responsibility and duty of each student to pursue his/her course of studies, comply with written rules of a common school district which are adopted pursuant to and in compliance with WAC 392-400-225 and RCW 28A.600.010, and submit to reasonable corrective action or punishment imposed by a school district and its agents for violation(s) of such rules. The provisions of this chapter do not lessen the foregoing responsibilities and duties of each student. This chapter is intended to assure that corrective action or punishment.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by Washington provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
Website		
School Safety Center	Website with links to resources on variety of school safety topics	http://www.k12.wa.us/SafetyCenter/default.aspx
2013 Common School Manual	Compilation of school-related laws	http://www.k12.wa.us/ProfPractices/AdminResources/CSM.aspx
Documents		
No relevant resources found		
Other Resources		
No relevant resources found		

Washington, D.C. Compilation of School Discipline Laws and Regulations

Prepared: August 12, 2013

Introduction

This compilation presents school discipline-related state statutes, school discipline-related regulations, and, where available, links to state-sponsored websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSLE). For example, one major category encompasses all state laws or regulations mandating specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of state legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in each state.

Discipline categories were not mutually exclusive. Statutes and regulations often appeared across multiple categories. For states with more extensive statutes covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. State laws, ordered by chapter and section number, appear first within each category followed by state regulations. All statutes and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists statutes by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to state-sponsored websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of May 2013, with the exception of the state laws related to seclusion and restraint, which are complete and current as of December 2012. Readers should also note that the information in this document was compiled from individual state sources that are created by each state and which are maintained and updated with varying frequencies. Readers should consult the source information provided for each state directly in order to check for updates to this state's laws and regulations or conduct further research.

For further information, including definitions of the different policy categories, please refer to the Discipline Laws and Regulations Compendium posted on the Center's website.

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Safe Supportive Learning
Engagement | Safety | Environment

Table of Contents

Washington, D.C. Codes Cited **1**

General Provisions **3**

Authority to develop and establish rules of conduct 3
Scope 4
Communication of policy 5

In-School Discipline **6**

Use of multi-tiered discipline approaches 6
Teacher authority to remove students from classrooms 8
Alternatives to suspension 9
Use of corporal punishment 9
Use of student and locker searches 10
Other in-school disciplinary approaches 10

Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements **12**

Grounds for possible suspension or expulsion 12
Grounds for mandatory suspension or expulsion 13
Limitations, conditions or exclusions for use of suspension and expulsion 16
Administrative procedures related to suspension and expulsion 17
In-school suspension 20
Return to school following removal 21
Use of restraint and seclusion 21
Alternative placements 21

Disciplinary Approaches Addressing Specific Infractions and Conditions **23**

Firearms (as required by the Guns-Free Schools Act) 23
Other weapons 24
Students with chronic disciplinary issues 26
Attendance and truancy 27
Substance use 30
Bullying, harassment, or hazing 30
Other special infractions or conditions 35

Prevention and Behavioral Interventions (Non-Punitive) **38**

Prevention 38
Behavioral interventions and student support services 40
Professional development 41

Monitoring and Accountability **42**

Formal incident reporting of conduct violations 42
Parental notification 42
Reporting and referrals between schools and law enforcement 44
Disclosure of school records 44
Data collection, review, and reporting of disciplinary policies and actions 44

School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers 47
Authority and power to implement school arrest 47
Certification or training 47
MOUs, authorization, and/or funding 47
State Education Agency Support 48
State model policies and implementation support 48
Funding appropriations 48
Other/Uncategorized 49
Professional immunity or liability 49
Community input or involvement 49
Other/Uncategorized 50
State-Sponsored, Publicly Available Websites or Other Resources on School Discipline 51

Washington, D.C. Codes Cited

Washington, D.C. Revised Statutes

Title 2. Government Administration

Chapter 15. Youth Affairs

Subchapter II-C. Youth Bullying Prevention

2-1535.01. Definitions
2-1535.02. Bullying prevention task force
2-1535.03. Bullying prevention policy
2-1535.04. Secondary investigation appeal
2-1535.05. Retaliation
2-1535.06. Bullying prevention programs
2-1535.07. Reporting requirement
2-1535.08. Availability of other remedies
2-1535.09. Rules

Title 38. Educational Institutions

Subtitle 1. Public Education – Primary and Secondary

Chapter 1A. District of Columbia Public Schools

38-172. Mayor's authority; rulemaking
38-174. Chancellor; appointment; duties

Chapter 2. Compulsory School Attendance and Expulsion

Subchapter I. School Attendance

38-202. Establishment of school attendance requirements
38-203. Enforcement; penalties

Subchapter II. Expulsion of Students

38-231. Expulsion of students who bring weapons into public schools
38-232. Reference to criminal justice or juvenile delinquency system
38-233. Alternative educational programs
38-234. Definitions

Subchapter III. Truancy and Dropout Prevention

38-251. Authority of police over truant child
38-252. Truancy and dropout prevention program

Washington, D.C. Administrative Code

District of Columbia Municipal Regulations

Title 5 Education

Title 5-B District of Columbia Public Schools

Chapter B24 Student Rights and Responsibilities

B2408. Dress codes/uniforms

Chapter B25 Student Discipline

B2500. General policy
B2501. Applicability
B2502. Grounds for disciplinary action
B2503. Policy for disciplinary actions
B2504. Policy for suspensions and expulsions
B2505. Procedures for suspensions and expulsions
B2506. Procedures for disciplinary hearings
B2507. Hearing officer recommendations
B2508. Review by the chancellor
B2509. Re-entry following expulsion
B2510. Proposed discipline of a student with disability
B2599. Definitions

Title 5-E Original Title 5

Chapter 5-E24 Student Rights and Responsibilities

E2402. Code of student responsibilities and conduct
E2403. Corporal punishment

General Provisions

Authority to develop and establish rules of conduct

STATUTES

2-1535.09. Rules

The Mayor, pursuant to subchapter I of Chapter 5 of Title 2 [§ 2-501 et seq.], may issue rules to implement the provisions of this subchapter.

38-172. Mayor's authority; rulemaking.

(a) The Mayor shall govern the public schools in the District of Columbia. The Mayor shall have authority over all curricula, operations, functions, budget, personnel, labor negotiations and collective bargaining agreements, facilities, and other education-related matters, but shall endeavor to keep teachers in place after the start of the school year and transfer teachers, if necessary, during summer break.

(b) The Mayor may delegate any of his authority to a designee as he or she determines is warranted for efficient and sound administration and to further the purpose of DCPS to educate all students enrolled within its schools or learning centers consistent with District-wide standards of academic achievement.

(c) (1) In accordance with Chapter 5 of Title 2, the Mayor shall promulgate rules and regulations governing DCPS, including rules governing the process by which the Mayor and DCPS will seek and utilize public comment in the development of policy.

(2) Proposed rules shall be submitted to the Council for a 45-day period of review. If the Council does not approve or disapprove the proposed rules, by resolution, within the 45-day review period, the proposed rules shall be deemed approved.

38-174. Chancellor; appointment; duties.

(c) The duties of the Chancellor shall include to:

(5) Promulgate and implement rules and regulations necessary and appropriate to accomplish his or her duties and functions in accordance with § 38-172 and Chapter 5 of Title 2;

38-202. Establishment of school attendance requirements.

(d) The Board shall, pursuant to subchapter I of Chapter 5 of Title 2, issue rules to establish requirements to govern acceptable credit for studies completed at independent or private schools and private instruction, to govern the validity of applications for permission to be absent from school, to govern the selection and appointment of appropriate staff members to carry out the provisions of this chapter under the direction of the Superintendent of Schools, pursuant to Chapter 6 of Title 1, and in respect to other matters within the scope of authority of the Board that relates to this subchapter.

38-203. Enforcement; penalties.

(j) By August 1, 2012, the Mayor shall develop, through rulemaking, appropriate enforcement mechanisms to ensure that each school, principal, and teacher is in full compliance with the requirements of this subchapter and any regulations issued pursuant to this subchapter.

ADMINISTRATIVE CODE

B2408. Review by the chancellor.

5. The Chancellor shall develop policies, standards, and appropriate procedures for the implementation of this section.

Scope

STATUTES

2-1535.03. Bullying prevention policy

(a) Within 365 days of September 14, 2012, in coordination with the task force established pursuant to § 2-1535.02, each agency, educational institution, and grantee shall adopt a bullying prevention policy to be enforced:

(1) On its property, including electronic communication on, or with, its property;

(2) At sponsored functions;

(3) On its transportation, or transportation sponsored by it; and

(4) Through electronic communication to the extent that it is directed at a youth and it substantially interferes with the youth's ability to participate in or benefit from the services, activities, or privileges provided by the agency, education institution, or grantee.

(b) Each agency, educational institution, and grantee shall control the content of its policy; provided, that each policy includes:

(3) A statement that the policy applies to participation in functions sponsored by the agency, educational institution, or grantee;

ADMINISTRATIVE CODE

B2501. Applicability.

1. The provisions of this chapter shall be enforceable by school authorities, as follows:

(a) When the student is on school grounds;

(b) When the student is on or off school grounds participating in or attending any function or activity, including field trips, class trips, extracurricular activities, or athletic contests, that are sponsored by or are under the auspices of DCPS;

(c) When the student is off school grounds and traveling on transportation provided by DCPS and the activity involves any conduct prohibited by this chapter;

(d) When the student commits a prohibited offense that occurs during before-school or after-school programs; and

(e) When a student has committed a prohibited offense off school grounds or outside regular school hours that results in a significant disruption to the school environment.

Communication of policy

STATUTES

2-1535.03. Bullying prevention policy

(f) Each agency, educational institution, and grantee shall develop a plan for how the policy is to be publicized, including the plan for:

(1) Discussing its bullying policy with youth; and

(2) Publicizing that the policy applies to participation in functions sponsored by an agency, educational institution, or grantee.

ADMINISTRATIVE CODE

B2500. General policy.

15. A copy of the DCPS policies and rules regarding student discipline shall be distributed or made available to students and parents within thirty (30) days after the start of each school year or upon initial enrollment, whichever occurs later.

16. A copy of the DCPS policies and rules regarding student discipline shall be distributed or made available to school staff within thirty (30) days after the start of each school year, or upon initial employment, whichever occurs later.

In-School Discipline

Use of multi-tiered discipline approaches

STATUTES

2-1535.03. Bullying prevention policy

(b) Each agency, educational institution, and grantee shall control the content of its policy; provided, that each policy includes:

(5) A list of the consequences that can result from an identified incident of bullying, which are designed to;

(D) Be flexible so that in application they can be unique to the individual incident and varied in method and severity based on the:

(i) Nature of the incident;

(ii) Developmental age of the person bullying; and

(iii) Any history of problem behavior from the person bullying;

ADMINISTRATIVE CODE

B2408. Review by the chancellor.

13. With the exception of the disciplinary action described in section B2408.16, students violating the mandatory uniform policy shall be subject to progressive corrective measures and disciplinary action.

B2500. General policy.

2. DCPS is committed to helping students learn the expectations and rules for appropriate school behavior and the range of disciplinary responses for inappropriate or disruptive behavior. DCPS will recognize and encourage students who exhibit appropriate, non-disruptive behavior. DCPS will encourage prevention and intervention strategies to prevent inappropriate behavior. To that end all available resources, subject to budgetary limitations, shall be utilized, including preventive and responsive interventions that support students' needs.

3. When a student's behavior disrupts the school community's safe learning environment, DCPS will use a range of disciplinary responses intended to change and manage inappropriate behavior. In administering disciplinary responses, DCPS will work with students to correct inappropriate behavior. Students will be enabled and encouraged to reflect on their actions, to learn from mistakes, and to restore any relationships that have been negatively impacted.

4. Whenever possible, prevention, intervention, and remediation strategies shall be used in addition to disciplinary responses at all stages of the disciplinary process, including students transitioning from Suspension or Expulsion.

11. Staff shall implement disciplinary responses in a progression, beginning with the least severe appropriate response, within the range of permissible disciplinary responses as enumerated in § B2502.

12. Disciplinary responses shall include, but not be limited to, the following strategies:

(a) Verbal redirection/reprimand;

(b) Teacher/student conference;

(c) Parental contact (written or by phone);

(d) Parent conference;

(e) Temporary Removal of Student from Classroom;

(f) In-School Disciplinary Action;

(g) Behavior contract;

(h) Grade reduction for Academic Dishonesty only;

(i) On-site Short-Term Suspension (one (1) – five (5) school days for Secondary students or one (1) – three (3) school days for Elementary students);

(j) Off-site Short-Term Suspension, except in response to unexcused tardiness or absence;

(k) Off-site Medium-Term Suspension (six (6) – ten (10) school days), except in response to unexcused tardiness or absence;

(l) Off-site Long-Term Suspension (eleven (11) - ninety (90) school days), except in response to unexcused tardiness or absence; and

(m) Expulsion (off-site Suspension for one calendar year).

B2502. Grounds for disciplinary action.

1. Tier I behaviors are those behaviors that are insubordinate or cause minor disruptions to the academic environment but do not involve damage to school property or harm to self or others. Tier I behaviors result in classroom-level disciplinary responses that may be elevated to administrative response if they are not successfully abated by the teacher or the appropriate school-level committee.

(b) Disciplinary responses for Tier I behaviors shall include:

(1) Verbal redirection or reprimand;

(2) Teacher/student conference;

(3) Parental contact in writing or by phone;

(4) Teacher/parent conference;

(5) Temporary Removal of Student from Classroom;

(6) In-School Disciplinary Action;

(7) Behavior contract; and

(8) Other school-based consequences as approved by a person designated by the Chancellor.

2. Tier II behaviors are those behaviors not specifically enumerated in any other tier in this chapter that cause disruption to the academic environment, involve damage to school property, or may cause minor harm to self or others. Tier II behaviors result in school-based and administrative disciplinary responses.

(b) Disciplinary responses for Tier II behaviors shall include:

(1) Verbal redirection or reprimand;

(2) Teacher/student or administrator/student conference;

(3) Parental contact in writing or by phone;

(4) Administrator/parent conference;

(5) Temporary Removal of Student from Classroom;

(6) In-School Disciplinary Action;

(7) Behavior contract;

(8) Other school-based consequences as approved by a person designated by the Chancellor; and

(9) In the case of non-compliance with an approved dress code or uniform policy, disciplinary actions described in section 2408.16 of this title.

3. Tier III behaviors are those behaviors not specifically enumerated in any other tier in this chapter that cause significant disruption to the academic environment or cause harm to self or others. In addition to lesser consequences, Tier III behaviors may result in either on-site or off-site Suspension.

(b) Disciplinary responses for Tier III behaviors shall include:

(1) Verbal redirection/reprimand;

(2) Teacher/student conference or administrator/student conference;

(3) Parental contact (written or by phone);

(4) Parent conference;

(5) Temporary Removal of Student from Classroom;

(6) Behavior contract;

(7) In-School Disciplinary Action;

(8) Grade reduction for Academic Dishonesty;

(9) On-site Short-Term Suspension with provision of appropriate intervention services;

(10) Off-site Short-Term Suspension, except in response to unexcused tardiness or absence; and

(11) Off-site Medium-Term Suspension, except in response to unexcused tardiness or absence.

4. Tier IV behaviors are those behaviors not specifically enumerated in any other tier in this chapter that cause disruption to the school operation, destroy school property, or cause significant harm to self or others. Tier IV behaviors result in off-site Suspension.

(b) Disciplinary responses for Tier IV behaviors include:

(1) Off-site Short-Term Suspension, except in response to unexcused tardiness or absence;

(2) Off-site Medium-Term Suspension, except in response to unexcused tardiness or absence; and

(3) Off-site Long-Term Suspension, except in response to unexcused tardiness or absence.

5. Tier V behaviors are those behaviors not specifically enumerated in any other tier in this chapter that are illegal, cause significant disruption to the school operation, or cause substantial harm to self or others. Tier V behaviors result in off-site Suspension or Expulsion.

(b) Disciplinary responses for Tier V behaviors include:

(1) Off-site Long-Term Suspension, except in response to unexcused tardiness or absence; and

(2) Expulsion.

Teacher authority to remove students from classrooms

ADMINISTRATIVE CODE

B2500. General policy.

12. Disciplinary responses shall include, but not be limited to, the following strategies:

(e) Temporary Removal of Student from Classroom.

B2502. Grounds for disciplinary action.

1. Tier I behaviors are those behaviors that are insubordinate or cause minor disruptions to the academic environment but do not involve damage to school property or harm to self or others. Tier I behaviors result in classroom-level disciplinary responses that may be elevated to administrative response if they are not successfully abated by the teacher or the appropriate school-level committee.

(b) Disciplinary responses for Tier I behaviors shall include:

(5) Temporary Removal of Student from Classroom;

2. Tier II behaviors are those behaviors not specifically enumerated in any other tier in this chapter that cause disruption to the academic environment, involve damage to school property, or may cause minor harm to self or others. Tier II behaviors result in school-based and administrative disciplinary responses.

(b) Disciplinary responses for Tier II behaviors shall include:

(5) Temporary Removal of Student from Classroom;

3. Tier III behaviors are those behaviors not specifically enumerated in any other tier in this chapter that cause significant disruption to the academic environment or cause harm to self or others. In addition to lesser consequences, Tier III behaviors may result in either on-site or off-site Suspension.

(b) Disciplinary responses for Tier III behaviors shall include:

(5) Temporary Removal of Student from Classroom;

Alternatives to suspension

ADMINISTRATIVE CODE

B2502. Grounds for disciplinary action.

3. Tier III behaviors are those behaviors not specifically enumerated in any other tier in this chapter that cause significant disruption to the academic environment or cause harm to self or others. In addition to lesser consequences, Tier III behaviors may result in either on-site or off-site Suspension.

(b) Disciplinary responses for Tier III behaviors shall include:

(1) Verbal redirection/reprimand;

(2) Teacher/student conference or administrator/student conference;

(3) Parental contact (written or by phone);

(4) Parent conference;

(5) Temporary Removal of Student from Classroom;

(6) Behavior contract;

(7) In-School Disciplinary Action;

(8) Grade reduction for Academic Dishonesty;

(9) On-site Short-Term Suspension with provision of appropriate intervention services;

(10) Off-site Short-Term Suspension, except in response to unexcused tardiness or absence; and

(11) Off-site Medium-Term Suspension, except in response to unexcused tardiness or absence.

Use of corporal punishment

ADMINISTRATIVE CODE

E2403. Corporal punishment.

1. For purposes of this section, “corporal punishment” is defined as the use, or attempted use, of physical force upon, or against, a student, either intentionally or with reckless disregard for the student’s safety, as a punishment, or discipline.

2. The use of corporal punishment in any form is strictly prohibited in and during all aspects of the public school environment or school activities. No student shall be subject to the infliction of corporal punishment by any teacher, other student administrator, or other school personnel.

3. No teacher, administrator, student or other person shall subject a student to corporal punishment or condone the use of corporal punishment by any person under his or her supervision or control.

4. Permission to administer corporal punishment shall not be sought or accepted from any parent, guardian, or school official.

5. Conduct prohibited by this section include actual or attempted use or physical force against a student in accordance with § 2403.1, provided that the conduct is not prompted by reasonable efforts at self defense or the defense of others; is necessary to maintain or regain order; or is necessary for the safety of the educational environment. Examples of prohibited conduct include, but are not limited to, the following:

(a) Shoving;

(b) Striking;

(c) Grabbing;

(d) Shaking;

(e) Hitting;

(f) Throwing of objects; and

(g) Unreasonable restraint.

(h) Directing others to inflict any of the above on a student.

6. The nature and the amount of physical contact reasonably necessary for self- defense, defense of others, protection of the educational environment, or to regain or maintain order shall be dependent upon the factual circumstances of each case. When reviewing those circumstances, the following shall be considered.

(a) If the action was taken in self-defense or the defense of others, whether the action taken against the student was (1) proportionate to student's conduct, and (2) the least intrusive means of controlling the situation.

(b) If the action was taken against a student for the protection of the educational environment or regain or to maintain order, whether the action taken against the student was (1) taken as a last resort after all other reasonable means had been exhausted, and (2) the least intrusive means of controlling the situation.

7. All allegation of the use of corporal punishment shall be promptly investigated. Discipline shall be administered against any employee who violates this section. Students shall be permitted, but not required, to testify at any proceeding relating to the allegation of corporal punishment.

8. Employees found to have violated this provision will be subject to discipline in accordance with § 1401 these Board Rules, 5 DCMR 1401, and the appropriate collective bargaining agreement, if applicable.

Use of student and locker searches

No relevant statutes found.

Other in-school disciplinary approaches

ADMINISTRATIVE CODE

B2500. Grounds for disciplinary action.

3. Tier III behaviors are those behaviors not specifically enumerated in any other tier in this chapter that cause significant disruption to the academic environment or cause harm to self or others. In addition to lesser consequences, Tier III behaviors may result in either on-site or off-site Suspension.

(b) Disciplinary responses for Tier III behaviors shall include:

(8) Grade reduction for Academic Dishonesty;

Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements

Grounds for possible suspension or expulsion

ADMINISTRATIVE CODE

B2408. Review by the chancellor.

15. A fourth offense of a mandatory uniform policy may subject a student, at the principal's discretion, to on-site suspension.

B2502. Grounds for disciplinary action.

3. Tier III behaviors are those behaviors not specifically enumerated in any other tier in this chapter that cause significant disruption to the academic environment or cause harm to self or others. In addition to lesser consequences, Tier III behaviors may result in either on-site or off-site Suspension.

(a) The following behaviors shall be considered Tier III behaviors:

(1) Inappropriate Use of DCPS Computer or Network (restricted websites, offensive emails);

(2) Sale or Distribution of any item without authorization;

(3) Possession or Distribution of obscene or pornographic material on school premises;

(4) Possession or Use of tobacco;

(5) Use of alcohol;

(6) Use of marijuana, controlled dangerous substances, imitation controlled substances, inhalants, other intoxicants, or drug paraphernalia;

(7) Unauthorized Possession, Use, or Distribution of over-the-counter medication;

(8) Verbal, written, or physical Threat to person or property (including intimidating postures);

(9) Obscene, seriously offensive, or abusive language or gestures;

(10) Causing disruption on school property or at any DCPS-sponsored or supervised activity;

(11) Gambling;

(12) Communicating slurs based on actual or perceived race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, status as a victim of an intrafamily offense, or place of residence or business, including derogatory sexual language;

(13) Engaging in Sexual Acts on school premises or at school-related functions;

(14) Leaving school without permission;

(15) Academic Dishonesty;

(16) Forgery;

(17) Lying to or giving misleading information to school staff;

(18) Posting or distributing material or literature that is disrespectful, demeaning, humiliating, or damaging to students and/or staff. This includes posting material on internet or sending material electronically (via email or cell phone);

(19) Engaging in behavior that demonstrates Gang/neighborhood crew affiliation (displaying clothing or gestures associated with Gangs);

(20) Hazing;

(21) Bullying, or using humiliating, or intimidating language or behavior, including Internet Bullying;

(22) Possession of tools or instruments which school administrators deem could be used as weapons;

(23) Engaging in reckless behavior that may cause harm to self or others;

(24) Extortion;

25) Fighting where there is no injury and no weapon;

(26) Trespassing;

(27) Any behavior or other conduct not specifically enumerated in any other tier in this chapter that causes significant disruption to the academic environment or causes harm to self or others;

(28) Documented Pattern of Persistent Tier II Behavior

(b) Disciplinary responses for Tier III behaviors shall include:

(1) Verbal redirection/reprimand;

(2) Teacher/student conference or administrator/student conference;

(3) Parental contact (written or by phone);

(4) Parent conference;

(5) Temporary Removal of Student from Classroom;

(6) Behavior contract;

(7) In-School Disciplinary Action;

(8) Grade reduction for Academic Dishonesty;

(9) On-site Short-Term Suspension with provision of appropriate intervention services;

(10) Off-site Short-Term Suspension, except in response to unexcused tardiness or absence; and

(11) Off-site Medium-Term Suspension, except in response to unexcused tardiness or absence.

B2504. Policy for suspensions and expulsions.

4. A student may be suspended prior to a conference pursuant to § B2505 if he or she is contributing to an emergency situation in a school. An emergency situation may exist either because of general conditions in the school (e.g., a series of fires or False Alarms; a manifestly high level of student tension; an increasing number of fights or physical attacks; a large number of abuses of property) or because the behavior of an individual student is so disruptive or dangerous that he/she poses a very real and immediate threat to the health and safety of other members of the school community, or to the ability of the school community or the school or portion thereof to continue normal operations.

5. A student may be expelled from DCPS only for the commission of an infraction as set forth in § B2502.5.

Grounds for mandatory suspension or expulsion

STATUTES

38-231. Expulsion of students who bring weapons into public schools.

Absent extenuating circumstances, as determined on a case-by-case basis by the Superintendent of Schools, and consistent with the Individuals With Disabilities Education Act, approved October 30, 1990

(104 Stat. 1141; 20 U.S.C. 1400 et seq.), any student who brings a weapon into a District of Columbia Public School shall be expelled for not less than one year.

38-232. Reference to criminal justice or juvenile delinquency system.

Pursuant to the Gun-Free Schools Act of 1994, approved October 20, 1994 (108 Stat. 3908; 20 U.S.C. 8921 et seq.) [repealed, see now 20 U.S.C. § 7151] the Superintendent of Schools shall refer to the criminal justice or juvenile delinquency system, simultaneous with expulsion, any student who is expelled for bringing a weapon into a District of Columbia Public School.

38-234. Definitions.

(a) For the purposes of this subchapter, the term "weapon" means a firearm and includes:

(1) Any weapon, including a starter gun, which will or is designed to or may be readily converted to expel a projectile by the action of an explosive:

(2) The frame or receiver of any weapon described in this subsection;

(3) Any firearm muffler or firearm silencer; or

(4) Any destructive device; the term "destructive device" means:

(A) Any explosive, incendiary, or poison gas;

(B) Bomb;

(C) Grenade;

(D) Rocket having a propellant charge of more than 4 ounces;

(E) Missile having an explosive or incendiary charge of more than a 1/4 ounce;

(F) Mine; or

(G) Any similar device.

(5) Any type of weapon which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, and which has any barrel with a bore of more than 1/2 an inch in diameter; and

(6) Any combination of parts either designed or intended for use in converting any device into any destructive device described in subparagraphs (e) and (f) of this paragraph and from which a destructive device may be readily assembled.

(b) The term "weapon" shall not include:

(1) An antique firearm;

(2) Any device which is neither designed nor redesigned for use as a weapon; or

(3) Any device, although originally designed for use as a weapon, which is redesigned for use as a signaling, pyrotechnic, line throwing, safety, or similar device.

ADMINISTRATIVE CODE

B2502. Grounds for disciplinary action.

4. Tier IV behaviors are those behaviors not specifically enumerated in any other tier in this chapter that cause disruption to the school operation, destroy school property, or cause significant harm to self or others. Tier IV behaviors result in off-site Suspension.

(a) The following behaviors shall be considered Tier IV behaviors:

(1) Acts of vandalism, destruction of property, or graffiti (tagging);

(2) Documented theft of school or personal property without force;

(3) Interfering with school authorities or participating in a major disruption of the school's operation.

(4) Tampering with, changing, or altering an official record or document of a school;

(5) Persistent Harassment based on actual or perceived race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, status as a victim of an intrafamily offense, or place of residence or business;

(6) Lewd or indecent public behavior or sexual misconduct;

(7) Sexual Harassment;

(8) Retaliation for reporting Harassment and Sexual Harassment;

(9) Fighting which creates substantial risk of or results in minor injury;

(10) Inciting others to violence or disruption;

(11) Activating False Alarm;

(12) Contaminating food;

(13) Possession of a weapon or replica or imitation of a weapon (including water guns), other than weapons subject to the requirements of the Gun-Free Schools Act;

(14) Using an article that is not normally considered a weapon to intimidate or threaten another individual;

(15) Any behavior or other conduct not specifically enumerated in any other tier in this chapter that causes disruption to the school operation, destroys school property, or causes significant harm to self or others; and

(16) Documented Pattern of Persistent Tier III Behavior enumerated at 2502.3(a)(1) through (27).

(b) Disciplinary responses for Tier IV behaviors include:

(1) Off-site Short-Term Suspension, except in response to unexcused tardiness or absence;

(2) Off-site Medium-Term Suspension, except in response to unexcused tardiness or absence; and

(3) Off-site Long-Term Suspension, except in response to unexcused tardiness or absence.

5. Tier V behaviors are those behaviors not specifically enumerated in any other tier in this chapter that are illegal, cause significant disruption to the school operation, or cause substantial harm to self or others. Tier V behaviors result in off-site Suspension or Expulsion.

(a) The following behaviors shall be considered Tier V behaviors:

(1) Acts of Exceptional Misconduct at other schools;

(2) Vandalism/destruction of property over $500;

(3) Selling or Distribution of marijuana, prescription drugs, controlled dangerous substances, imitation controlled substances, inhalants, other intoxicants, controlled or drug paraphernalia;

(4) The Possession or Distribution of alcohol;

(5) The Possession of drug paraphernalia or controlled substance, irrespective of the amount or type, pursuant to the criminal statutes of the District of Columbia, codified at D.C. Official Code § 48-1101 et seq. (2001)

(6) Causing serious disruption or damage to school's computer systems, electronic files, or network;

(7) Possession of fireworks or explosives;

(8) Theft or attempted theft using force, coercion, intimidation, or Threat of violence;

(9) Assault or physical attack on student or staff;

(10) Fighting which results in a serious physical injury;

(11) Participating in group fight which has been planned, causes major disruption to school day or results in substantial bodily injury;

(12) Using an article that is not normally considered a weapon to injure another individual;

(13) Use, threatened use, or transfer of any weapon;

(14) Use, Possession, or bringing to school a loaded or unloaded firearm, as defined in 18 U.S.C. § 921 (2000), including but not limited to pistols, blank pistols, starter pistols, revolvers, rifles, and shotguns.

(15) Any behavior that violates the Gun-Free Schools Act;

(16) Deliberate acts that cause severe physical injury to another person (s).

(17) Assault with a weapon;

(18) Commission or attempted commission of any act of sexual assault or sexual aggression;

(19) Arson;

(20) Biohazard;

(21) Bomb threat;

(22) Any other intentional use of violence, force, coercion, Threats, intimidation, or other comparable conduct which causes or attempts to cause severe physical injury, substantial disruption, or obstruction of any lawful mission, process, or function of the D.C. Public Schools;

(23) Any behavior or other conduct not specifically enumerated in any other tier in this chapter that is illegal, causes significant disruption to the school operation, or causes substantial harm to self or others; and

(24) Documented Pattern of Persistent Tier IV Behavior.

(b) Disciplinary responses for Tier V behaviors include:

(1) Off-site Long-Term Suspension, except in response to unexcused tardiness or absence; and

(2) Expulsion.

Limitations, conditions or exclusions for use of suspension and expulsion

STATUTES

38-231. Expulsion of students who bring weapons into public schools.

Absent extenuating circumstances, as determined on a case-by-case basis by the Superintendent of Schools, and consistent with the Individuals With Disabilities Education Act, approved October 30, 1990 (104 Stat. 1141; 20 U.S.C. 1400 et seq.), any student who brings a weapon into a District of Columbia Public School shall be expelled for not less than one year.

ADMINISTRATIVE CODE

B2408. Review by the chancellor.

14. Under no circumstance shall a student who fails to abide by a mandatory uniform policy be given out-of-school suspension or otherwise be barred from attending school.

B2500. General policy.

13. Except for those corrective and disciplinary measures permitted pursuant to § B2408 of this title, involuntary transfers pursuant to Chapter 21 shall not be used as a disciplinary response.

B2502. Grounds for disciplinary action.

3. Tier III behaviors are those behaviors not specifically enumerated in any other tier in this chapter that cause significant disruption to the academic environment or cause harm to self or others. In addition to lesser consequences, Tier III behaviors may result in either on-site or off-site Suspension.

(b) Disciplinary responses for Tier III behaviors shall include:

(10) Off-site Short-Term Suspension, except in response to unexcused tardiness or absence;

(11) Off-site Medium-Term Suspension, except in response to unexcused tardiness or absence.

4. Tier IV behaviors are those behaviors not specifically enumerated in any other tier in this chapter that cause disruption to the school operation, destroy school property, or cause significant harm to self or others. Tier IV behaviors result in off-site Suspension.

(b) Disciplinary responses for Tier IV behaviors include:

(1) Off-site Short-Term Suspension, except in response to unexcused tardiness or absence;

(2) Off-site Medium-Term Suspension, except in response to unexcused tardiness or absence;

(3) Off-site Long-Term Suspension, except in response to unexcused tardiness or absence.

5. Tier V behaviors are those behaviors not specifically enumerated in any other tier in this chapter that are illegal, cause significant disruption to the school operation, or cause substantial harm to self or others. Tier V behaviors result in off-site Suspension or Expulsion.

(b) Disciplinary responses for Tier V behaviors include:

(1) Off-site Long-Term Suspension, except in response to unexcused tardiness or absence; and

B2504. Policy for suspensions and expulsions.

2. Off-site Suspension and Expulsion shall not be used in response to unexcused tardiness or absence.

3. Principals shall consider all extenuating circumstances before recommending Expulsion.

5. A student may be expelled from DCPS only for the commission of an infraction as set forth in § B2502.5.

Administrative procedures related to suspension and expulsion

ADMINISTRATIVE CODE

B2504. Policy for suspensions and expulsions.

7. Any Suspension, including on-site Suspension, in excess of two (2) in a single semester must be approved by a person designated by the Chancellor.

12. If a student's Suspension or Expulsion is for a period exceeding the number of school days remaining in the school year, any remaining part of the term of the Suspension or Expulsion may be applied to the succeeding school year.

13. Students younger than the age of fourteen (14) who have been suspended or expelled shall not be allowed to leave school grounds during school hours unless accompanied by a parent or guardian, or his or her designee. Students older than fourteen (14) who have been suspended or expelled shall not be allowed to leave school grounds during school hours until a parent or guardian, or his or her designee, has been contacted by phone or in person and given a reasonable opportunity to arrange for proper supervision of the student. If the parent or guardian of a suspended student cannot be notified by phone or in person, the student must remain at school until the end of the school day.

14. If the parent or guardian of a student who has been suspended cannot be contacted by phone or in person before the next school day, and the student arrives at school, he or she must remain in the

building until a parent or guardian can be contacted and given a reasonable opportunity to arrange for proper supervision of the student or until the end of the school day. The student may be segregated and must be appropriately supervised during this time. Any such day will count toward fulfilling the term of the student's Suspension.

16. For students seeking to enroll in DCPS and who have been suspended or expelled from their current school, or who have withdrawn while disciplinary action is pending, a person designated by the Chancellor shall review the facts and circumstances regarding the student's Suspension, Expulsion, or withdrawal pending Expulsion, if the infraction for which the student was disciplined is one for which the student could have been disciplined within DCPS. The purpose of this review is to determine the appropriate placement within DCPS.

B2505. Procedures for suspensions and expulsions.

1. Authority to impose Suspensions and Expulsions is as follows:

(a) On-site Short-Term Suspension may only be authorized by the principal or a person designated by the Chancellor.

(b) Off-site Short-Term Suspension may only be authorized by the principal or a person designated by the Chancellor.

(c) Off-site Medium-Term Suspension may be proposed by the principal and may be authorized only by a person designated by the Chancellor. A person designated by the Chancellor may modify the proposed action including rescission.

(d) Off-site Long-Term Suspension may be proposed by the principal and may be authorized only by a person designated by the Chancellor. A person designated by the Chancellor may modify the proposed action including rescission.

(e) Expulsion, except Expulsions for violations relating to the Gun-Free Schools Act, may be proposed in writing by the principal to a person designated by the Chancellor and may be authorized only by the head of the Office of Youth Engagement pursuant to the recommendation of a person designated by the Chancellor.

2. Expulsions for violations of the Gun-Free School Act may be modified only by the Chancellor.

3. Any student who is to be suspended or expelled shall be given a conference with the school official responsible for proposing the disciplinary action, prior to the Suspension or Expulsion. In the event that a student is suspended pursuant to § 2504.4 due to emergency conditions, the conference shall be held no more than three (3) school days after the Suspension is initiated.

4. The conference shall include a discussion of the following:

(a) The grounds for disciplinary action as referred to in this chapter including a citation of the rule(s) upon which the action is based, and a description, in reasonable detail, of the facts and events upon which the disciplinary action is proposed;

(b) An explanation of the evidence or facts upon which the school official has determined that the student has committed an infraction, as defined in this chapter, including a summary of the recommended disciplinary action;

(c) An opportunity for the student to present the student's version of the facts or to explain the events or action upon which the alleged infraction is based;

(d) The decision regarding the infraction and the recommended disciplinary action to be provided after the student has had an opportunity to present his or her version of the facts and/or to explain the events or actions upon which the alleged infraction is based;

(e) A statement informing the adult student, or minor student's parent or guardian, of the right to examine the student's records and any official report of the incident prior to the imposition of the proposed discipline; and

(f) The student's rights to an appeal pursuant to § B2505.13 or to a hearing pursuant to § B2505.14.

(g) If the principal is recommending Long-Term Suspension or Expulsion, the principal shall report his or her findings and recommendations from the conference in writing to the student and parent or guardian and a person designated by the Chancellor. The principal shall also inform the student and parent or guardian in writing of disciplinary hearing procedures, appeal rights, the intervention supports available to the student, and the requirements for readmission.

5. The conference may include the parent or guardian, witnesses, and/or legal representative, but participation by such party(ies) shall not be required.

7. A principal authorizing Short-Term Suspension shall submit the authorization to a person designated by the Chancellor within one (1) school day.

8. A principal or school official proposing Medium- or Long-Term Suspension must immediately submit the proposal to a person designated by the Chancellor. A person designated by the Chancellor may authorize the proposed Suspension or modify it to reduce the number of days suspended.

9. A principal or school official proposing Expulsion shall make a written recommendation for Expulsion to a person designated by the Chancellor no more than one (1) school day after the Expulsion conference. The principal's recommendation may be made based upon an initial recommendation from a teacher or other school official. The recommendation to expel shall be supported by sufficient written documentation to enable a person designated by the Chancellor to make an independent decision regarding Expulsion. A copy of this recommendation and any attendant documentation shall also be provided to the parent or guardian of the student involved.

10. No more than five (5) school days after receiving the principal's findings, a person designated by the Chancellor shall either concur with or modify the recommended action. If a principal recommends Expulsion for bringing a weapon as defined in 18 U.S.C. § 921 into DCPS in violation of the Gun-Free Schools Act, only the Chancellor may modify the Expulsion recommendation.

11. In determining whether to propose an Expulsion, a person designated by the Chancellor shall consider the factors enumerated in § B2500.

12. If a person designated by the Chancellor does not concur with the recommended Expulsion, he or she may propose other disciplinary action.

13. If a person designated by the Chancellor concurs with the recommended Expulsion, he or she shall immediately forward a written proposal for Expulsion to the head of the Office of Youth Engagement.

14. A student who has been suspended for fewer than eleven (11) days may appeal the Suspension as follows:

(a) A Short-Term Suspension may be appealed to the principal.

(b) A Medium-Term Suspension may be appealed to a person designated by a Chancellor.

(c) All appeals must be made by the student's parent or guardian or the adult student, either orally or in writing to the principal or person designated by the Chancellor, as appropriate, no later than two (2) school days after receiving the notice of Suspension, and may be made prior to receiving formal written notice of the Suspension. An appeal made orally shall be put in writing by the person receiving the request.

(d) All appeals will be heard by the principal (for Short-Term Suspensions) or a person designated by the Chancellor (for Medium-Term Suspensions) no later than one (1) school day after the appeal is requested. Upon request of the adult student or minor student's parent or guardian, the time for the

appeal may be extended up to three (3) school days. The appeal may be held by telephone upon request of the parent or guardian if necessary due to health, work, or childcare.

(e) The student and his or her parent or guardian may present evidence and ask witnesses to speak.

(f) At the conclusion of the conference, the principal or a person designated by the Chancellor, as appropriate, shall render a final decision.

(g) No more than one (1) school day after the conference, the principal or a person designated by the Chancellor, as appropriate, shall give the student and his or her parent or guardian, a person designated by the Chancellor, and the head of the Office of Youth Engagement a written summary of the conference proceedings, including the final decision.

15. Except in cases of immediate emergency Suspensions pursuant to § B2504.4, students shall remain in their regular assigned classroom or education setting until the final determination of the Suspension has been made.

15. A student who has been suspended for eleven (11) days or more or who has been expelled shall have a disciplinary hearing pursuant to the procedures in § 2506.

16. No more than one (1) school day after authorization or modification of a Long-Term Suspension or Expulsion, the person designated by the Chancellor shall forward the recommended Suspension or Expulsion to the hearing office for immediate scheduling and shall provide notice of the intent to schedule a hearing to the parent or guardian or adult student.

17. Once a hearing is scheduled by the hearing office, the student shall be placed on Suspension, or in another appropriate placement until the conclusion of the hearing and appeals processes.

In-school suspension

ADMINISTRATIVE CODE

B2502. Grounds for disciplinary action.

1. Tier I behaviors are those behaviors that are insubordinate or cause minor disruptions to the academic environment but do not involve damage to school property or harm to self or others. Tier I behaviors result in classroom-level disciplinary responses that may be elevated to administrative response if they are not successfully abated by the teacher or the appropriate school-level committee.

(b) Disciplinary responses for Tier I behaviors shall include:

(6) In-School Disciplinary Action;

(8) Other school-based consequences as approved by a person designated by the Chancellor.

2. Tier II behaviors are those behaviors not specifically enumerated in any other tier in this chapter that cause disruption to the academic environment, involve damage to school property, or may cause minor harm to self or others. Tier II behaviors result in school-based and administrative disciplinary responses.

(b) Disciplinary responses for Tier II behaviors shall include:

(6) In-School Disciplinary Action;

(8) Other school-based consequences as approved by a person designated by the Chancellor;

3. Tier III behaviors are those behaviors not specifically enumerated in any other tier in this chapter that cause significant disruption to the academic environment or cause harm to self or others. In addition to lesser consequences, Tier III behaviors may result in either on-site or off-site Suspension.

(b) Disciplinary responses for Tier III behaviors shall include:

(7) In-School Disciplinary Action;

(9) On-site Short-Term Suspension with provision of appropriate intervention services;

Return to school following removal

ADMINISTRATIVE CODE

B2509. Re-entry following expulsion.

1. Prior to the conclusion of an Expulsion, a person designated by the Chancellor shall hold a conference with the student and the student's parent or guardian to determine appropriate school placement for the student.

2. The conference shall be held according to guidelines in § B2505, and shall include discussion of the following topics:

(a) The student's activities while under disciplinary action;

(b) The steps the student will take to avoid a subsequent disciplinary action;

(c) Support required by the student to avoid subsequent disciplinary action; and (d) Any other pertinent circumstances.

3. Effort shall be made to return the student to his or her previous school, unless a person designated by the Chancellor reasonably concludes based on the conference that another school is a more appropriate setting.

4. The student and his or her parent or guardian shall be informed of the school placement no more than one school day after the conference, and the registration/enrollment process shall be facilitated as smoothly and quickly as possible thereafter.

5. The principal of the receiving school shall ensure the returning student receives an appropriate academic program, as well as services to ensure a smooth transition back into the general school population (e.g., SST meeting, counseling, etc.).

Use of restraint and seclusion

No relevant statutes found.

Alternative placements

STATUTES

38-233. Alternative educational programs.

The Board of Education shall provide to any student who is expelled from school in accordance with this subchapter an alternative educational program at the D.C. Street Academy, at another existing alternative educational program, or at any alternative educational program that may be established in the future. Not later than 90 days after the effective date of this subchapter:

(1) The Mayor and the Board of Education shall submit a report to the Council delineating a comprehensive plan for providing alternative educational services to a student who has been expelled from a District of Columbia Public School setting.

(2) The comprehensive plan shall include a description of the alternative education services to be provided to an expelled student, each location where the alternative education services shall be provided, and the estimated annual cost of providing the alternative education services.

ADMINISTRATIVE CODE

B2500. General policy.

4. Whenever possible, prevention, intervention, and remediation strategies shall be used in addition to disciplinary responses at all stages of the disciplinary process, including students transitioning from Suspension or Expulsion.

10. Disciplinary responses, as defined in § B2502 of this chapter, shall be aimed, to the extent practicable under the circumstances, to enable students to continue their instructional program.

B2504. Policy for suspensions and expulsions.

9. The principal or other school official may establish, or make a referral to, a special class or other supervised program for students who are suspended, subject to the approval of a person designated by the Chancellor. This special class or other supervised program may be located within a student's home school or at another appropriate DCPS site.

B2408. Review by the chancellor.

16. If a student fails to abide by a mandatory uniform policy more than four times, a behavioral contract may be written in which the consequences for not fulfilling the terms of the contract may include a referral to a placement team to determine a more appropriate setting. Any transfer to an alternative setting must be approved by the Chancellor.

Disciplinary Approaches Addressing Specific Infractions and Conditions

Firearms (as required by the Guns-Free Schools Act)

STATUTES

38-231. Expulsion of students who bring weapons into public schools.

Absent extenuating circumstances, as determined on a case-by-case basis by the Superintendent of Schools, and consistent with the Individuals With Disabilities Education Act, approved October 30, 1990 (104 Stat. 1141; 20 U.S.C. 1400 et seq.), any student who brings a weapon into a District of Columbia Public School shall be expelled for not less than one year.

38-232. Reference to criminal justice or juvenile delinquency system.

Pursuant to the Gun-Free Schools Act of 1994, approved October 20, 1994 (108 Stat. 3908; 20 U.S.C. 8921 et seq.) [repealed, see now 20 U.S.C. § 7151] the Superintendent of Schools shall refer to the criminal justice or juvenile delinquency system, simultaneous with expulsion, any student who is expelled for bringing a weapon into a District of Columbia Public School.

38-234. Definitions.

(a) For the purposes of this subchapter, the term "weapon" means a firearm and includes:

(1) Any weapon, including a starter gun, which will or is designed to or may be readily converted to expel a projectile by the action of an explosive:

(2) The frame or receiver of any weapon described in this subsection;

(3) Any firearm muffler or firearm silencer; or

(5) Any type of weapon which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, and which has any barrel with a bore of more than 1/2 an inch in diameter; and

(b) The term "weapon" shall not include:

(1) An antique firearm;

ADMINISTRATIVE CODE

B2502. Grounds for disciplinary action.

5. Tier V behaviors are those behaviors not specifically enumerated in any other tier in this chapter that are illegal, cause significant disruption to the school operation, or cause substantial harm to self or others. Tier V behaviors result in off-site Suspension or Expulsion.

(a) The following behaviors shall be considered Tier V behaviors:

(14) Use, Possession, or bringing to school a loaded or unloaded firearm, as defined in 18 U.S.C. § 921 (2000), including but not limited to pistols, blank pistols, starter pistols, revolvers, rifles, and shotguns.

(15) Any behavior that violates the Gun-Free Schools Act;

(17) Assault with a weapon;

(b) Disciplinary responses for Tier V behaviors include:

(1) Off-site Long-Term Suspension, except in response to unexcused tardiness or absence; and

(2) Expulsion.

(c) Weapons include, but are not limited to:

(1) Weapons enumerated in D.C. Official Code §22-4514 (2001);

(2) Firearms as enumerated in 18 U.S.C. § 921 (2000);

(3) Knives (e.g. bowie, dirk, lock-blade, hunting, pen, pocket, switchblade, utility, boxcutter, etc.);

(4) Martial arts devices (e.g. Chinese stars, 'nunchucks', etc.);

(5) Air gun, bb gun, paintball gun;

(6) Other weapons or instruments designed to be or commonly used as weapons (e.g., chains, clubs, knuckles, night stick, pipes, studded bracelets);

(7) Mace, pepper spray, tear gas;

(8) Explosives;

(9) Slingshot;

(10) Bullets;

(11) Chemical weapon; and

(12) Razorblade or razor.

Other weapons

STATUTES

38-231. Expulsion of students who bring weapons into public schools.

Absent extenuating circumstances, as determined on a case-by-case basis by the Superintendent of Schools, and consistent with the Individuals With Disabilities Education Act, approved October 30, 1990 (104 Stat. 1141; 20 U.S.C. 1400 et seq.), any student who brings a weapon into a District of Columbia Public School shall be expelled for not less than one year.

38-232. Reference to criminal justice or juvenile delinquency system.

Pursuant to the Gun-Free Schools Act of 1994, approved October 20, 1994 (108 Stat. 3908; 20 U.S.C. 8921 et seq.) [repealed, see now 20 U.S.C. § 7151] the Superintendent of Schools shall refer to the criminal justice or juvenile delinquency system, simultaneous with expulsion, any student who is expelled for bringing a weapon into a District of Columbia Public School.

38-234. Definitions.

(a) For the purposes of this subchapter, the term "weapon" means a firearm and includes:

(1) Any weapon, including a starter gun, which will or is designed to or may be readily converted to expel a projectile by the action of an explosive:

(2) The frame or receiver of any weapon described in this subsection;

(3) Any firearm muffler or firearm silencer; or

(4) Any destructive device; the term "destructive device" means:

(A) Any explosive, incendiary, or poison gas;

(B) Bomb;

(C) Grenade;

(D) Rocket having a propellant charge of more than 4 ounces;

(E) Missile having an explosive or incendiary charge of more than a 1/4 ounce;

(F) Mine; or

(G) Any similar device.

(5) Any type of weapon which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, and which has any barrel with a bore of more than 1/2 an inch in diameter; and

(6) Any combination of parts either designed or intended for use in converting any device into any destructive device described in subparagraphs (e) and (f) of this paragraph and from which a destructive device may be readily assembled.

(b) The term "weapon" shall not include:

(1) An antique firearm;

(2) Any device which is neither designed nor redesigned for use as a weapon; or

(3) Any device, although originally designed for use as a weapon, which is redesigned for use as a signaling, pyrotechnic, line throwing, safety, or similar device.

ADMINISTRATIVE CODE

B2502. Grounds for disciplinary action.

4. Tier IV behaviors are those behaviors not specifically enumerated in any other tier in this chapter that cause disruption to the school operation, destroy school property, or cause significant harm to self or others. Tier IV behaviors result in off-site Suspension.

(a) The following behaviors shall be considered Tier IV behaviors:

(13) Possession of a weapon or replica or imitation of a weapon (including water guns), other than weapons subject to the requirements of the Gun-Free Schools Act;

(14) Using an article that is not normally considered a weapon to intimidate or threaten another individual;

5. Tier V behaviors are those behaviors not specifically enumerated in any other tier in this chapter that are illegal, cause significant disruption to the school operation, or cause substantial harm to self or others. Tier V behaviors result in off-site Suspension or Expulsion.

(a) The following behaviors shall be considered Tier V behaviors:

(7) Possession of fireworks or explosives;

(12) Using an article that is not normally considered a weapon to injure another individual;

(13) Use, threatened use, or transfer of any weapon;

(14) Use, Possession, or bringing to school a loaded or unloaded firearm, as defined in 18 U.S.C. § 921 (2000), including but not limited to pistols, blank pistols, starter pistols, revolvers, rifles, and shotguns.

(15) Any behavior that violates the Gun-Free Schools Act;

(17) Assault with a weapon;

(b) Disciplinary responses for Tier V behaviors include:

(1) Off-site Long-Term Suspension, except in response to unexcused tardiness or absence; and

(2) Expulsion.

(c) Weapons include, but are not limited to:

(1) Weapons enumerated in D.C. Official Code §22-4514 (2001);

(2) Firearms as enumerated in 18 U.S.C. § 921 (2000);

(3) Knives (e.g. bowie, dirk, lock-blade, hunting, pen, pocket, switchblade, utility, boxcutter, etc.);

(4) Martial arts devices (e.g. Chinese stars, 'nunchucks', etc.);

(5) Air gun, bb gun, paintball gun;

(6) Other weapons or instruments designed to be or commonly used as weapons (e.g., chains, clubs, knuckles, night stick, pipes, studded bracelets);

(7) Mace, pepper spray, tear gas;

(8) Explosives;

(9) Slingshot;

(10) Bullets;

(11) Chemical weapon; and

(12) Razorblade or razor.

Students with chronic disciplinary issues

ADMINISTRATIVE CODE

B2502. Grounds for disciplinary action.

2. Tier II behaviors are those behaviors not specifically enumerated in any other tier in this chapter that cause disruption to the academic environment, involve damage to school property, or may cause minor harm to self or others. Tier II behaviors result in school-based and administrative disciplinary responses.

(a) The following behaviors shall be considered Tier II behaviors:

(13) Documented Pattern of Persistent Tier I Behavior.

3. Tier III behaviors are those behaviors not specifically enumerated in any other tier in this chapter that cause significant disruption to the academic environment or cause harm to self or others. In addition to lesser consequences, Tier III behaviors may result in either on-site or off-site Suspension.

(a) The following behaviors shall be considered Tier III behaviors:

(28) Documented Pattern of Persistent Tier II Behavior.

4. Tier IV behaviors are those behaviors not specifically enumerated in any other tier in this chapter that cause disruption to the school operation, destroy school property, or cause significant harm to self or others. Tier IV behaviors result in off-site Suspension.

(a) The following behaviors shall be considered Tier IV behaviors:

(16) Documented Pattern of Persistent Tier III Behavior enumerated at 2502.3(a)(1) through (27).

5. Tier V behaviors are those behaviors not specifically enumerated in any other tier in this chapter that are illegal, cause significant disruption to the school operation, or cause substantial harm to self or others. Tier V behaviors result in off-site Suspension or Expulsion.

(a) The following behaviors shall be considered Tier V behaviors:

(24) Documented Pattern of Persistent Tier IV Behavior.

Attendance and truancy

STATUTES

38-202. Establishment of school attendance requirements.

(a) Every parent, guardian, or other person, who resides permanently or temporarily in the District during any school year and who has custody or control of a minor who has reached the age of 5 years or will become 5 years of age on or before September 30th of the current school year shall place the minor in regular attendance in a public, independent, private, or parochial school, or in private instruction during the period of each year when the public schools of the District are in session. This obligation of the parent, guardian, or other person having custody extends until the minor reaches the age of 18 years. For the purpose of this section placement in summer school is not required.

(b) Any minor who has satisfactorily completed the senior high school course of study prescribed by the Board and has been granted a diploma that certifies his or her graduation from high school, or who holds a diploma or certificate of graduation from another course of study determined by the Board to be at least equivalent to that required by the Board for graduation from the public senior high schools, shall be excused from further attendance at school.

(c) Any minor who has reached the age of 17 years may be allowed flexible school hours by the Superintendent of Schools provided he or she is actually, lawfully, gainfully, and regularly employed, but in no case shall he or she be excused entirely from regular attendance or excused to the extent that his or her timely graduation would be jeopardized or prevented.

(d) The Board shall, pursuant to subchapter I of Chapter 5 of Title 2, issue rules to establish requirements to govern acceptable credit for studies completed at independent or private schools and private instruction, to govern the validity of applications for permission to be absent from school, to govern the selection and appointment of appropriate staff members to carry out the provisions of this chapter under the direction of the Superintendent of Schools, pursuant to Chapter 6 of Title 1, and in respect to other matters within the scope of authority of the Board that relates to this subchapter.

38-203. Enforcement; penalties.

(a) An accurate daily record of the attendance of all minors covered by § 38-202 and this section shall be kept by the teachers of each public, independent, private, or parochial school and by every teacher who gives instruction privately. These records shall be open for inspection at all times by the Board, the Superintendent of Schools, school attendance officers, or other persons authorized to enforce this subchapter.

(b) It shall be the duty of each principal, head teacher, or school administrative officer as designated in each public, independent, private, or parochial school, and of each teacher who gives private instruction to report to the Board the school attendance of any minor covered by § 38-202(a) who is enrolled in a school or who is enrolled for private instruction and who is absent from school or instruction for more than 2 full-day sessions or 4 half-day sessions in any school month, along with a statement of the reasons for the absences.

(c) The absence of a minor covered by § 38-202(a) without valid excuse shall be unlawful.

(d) The parent, guardian, or other person who has custody or control of a minor covered by § 38-202(a) who is absent from school without a valid excuse shall be guilty of a misdemeanor.

(e) Any person convicted of failure to keep a minor in regular attendance in a public, independent, private, or parochial school, or failure to provide regular private instruction acceptable to the Board may be fined not less than $ 100 or imprisoned for not more than 5 days, or both for each offense.

(f) Each unlawful absence of a minor for 2 full-day sessions or for 4 half-day sessions during a school month shall constitute a separate offense.

(g) For the 1st offense, upon payment of costs, the sentence may be suspended and the defendant may be placed on probation.

(h) For any person convicted under this section, the courts shall consider requiring the offender to perform community service as an alternative to fine or imprisonment or both.

(i) Within 60 days after the end of a school year, each public, independent, private, or parochial school shall report to the Mayor, or the Mayor's designee, and make publicly available, the following data based on the preceding school year:

(A) The number of minors, categorized by grade, or equivalent grouping for ungraded schools, who had unexcused absences for:

(i) One to 5 days;

(ii) Six to 10 days;

(iii) Eleven to 20 days; and

(iv) Twenty-one or more days;

(A-i) The work of the school-based student support teams in reducing unexcused absences, including:

(i) The number of students who were referred to a school-based student support team;

(ii) The number of students who met with a school-based student support team;

(iii) A summary of the action plans and strategies implemented by the school-based student support team to eliminate or ameliorate unexcused absences; and

(iv) A summary of the services utilized by students to reduce unexcused absences;

(v) A summary of the common barriers to implementing the recommendations of the school-based student support team;

(B) The number of minors, categorized by grade, or equivalent grouping for ungraded schools, that the school reported to the Child and Family Services Agency pursuant to § 4-1321.02(a-1) and (a-2);

(B-i) The number of minors categorized by grade, or equivalent grouping for ungraded schools, that the school referred to the Court Social Services Division of the Family Court of the Superior Court of the District of Columbia for truancy; and

(C) The policy on absences, including defined categories of valid excuses, that it used.

(j) By August 1, 2012, the Mayor shall develop, through rulemaking, appropriate enforcement mechanisms to ensure that each school, principal, and teacher is in full compliance with the requirements of this subchapter and any regulations issued pursuant to this subchapter.

38-251. Authority of police over truant child.

(a) (1) The Office of the State Superintendent of Education, after consultation with the District of Columbia Public Schools, the Public Charter School Board, the Child and Family Services agency, and the Metropolitan Police Department, shall establish truancy centers in the District of Columbia for the delivery of truant public school and public charter school students by the Metropolitan Police Department.

(2) A law enforcement officer shall take to the nearest truancy center any child who the law enforcement officer has reasonable grounds to believe, based on the child's age and other factors, is truant from a public or public charter school on a day and during the hours when the public or public charter school is in session.

(3) The law enforcement officer shall take into custody any child who the law enforcement officer has reasonable grounds to believe is a truant from any independent, private, or parochial school on a day and during the hours when the independent, private, or parochial school is in session.

(b) On the request of a person who has reached the age of 18 years, graduated from high school, or received a general equivalency diploma, and who has previously been taken into custody pursuant to subsection (a) of this section, the Metropolitan Police Department shall seal all records relating to custody authorized by subsection (a) of this section.

38-252. Truancy and dropout prevention program.

(a) Subject to the availability of appropriations, the District of Columbia Board of Education, or its successor, and the District of Columbia Public Schools shall offer a Truancy and Dropout Prevention Program for students who are enrolled in the District of Columbia Public Schools system. The programs should be implemented on a full-time basis, work with local schools and parents, and provide resources that will help reduce absences and unexcused absences, and reduce dropout and increase retention rates.

(b) The program shall develop a supportive relationship with the Metropolitan Police Department.

(c) The program shall be available for students who are enrolled in grades K-12 and for students who are enrolled in ungraded classes in elementary, middle or junior high, and high schools.

(d) Notwithstanding any other law, nothing in this section shall be construed to create an entitlement to a truancy or dropout prevention program for any student.

ADMINISTRATIVE CODE

B2502. Grounds for disciplinary action.

1. Tier I behaviors are those behaviors that are insubordinate or cause minor disruptions to the academic environment but do not involve damage to school property or harm to self or others. Tier I behaviors result in classroom-level disciplinary responses that may be elevated to administrative response if they are not successfully abated by the teacher or the appropriate school-level committee.

(a) The following behaviors shall be considered Tier I behaviors:

(5) Unexcused lateness for school or class;

2. Tier II behaviors are those behaviors not specifically enumerated in any other tier in this chapter that cause disruption to the academic environment, involve damage to school property, or may cause minor harm to self or others. Tier II behaviors result in school-based and administrative disciplinary responses.

(a) The following behaviors shall be considered Tier II behaviors:

(6) Unexcused absence from class;

(7) Unauthorized presence in hallway during class time;

(8) Unexcused absence from school;

B2504. Policy for suspensions and expulsions.

8. In accordance with the An Act To provide for compulsory school attendance, for the taking of a school census in the District of Columbia, and for other purposes, approved February 4, 1925 (43 Stat. 806; D.C. Official Code § 38-201 et seq.), all children of compulsory school age are required to attend school or receive an equivalent education approved by the Office of the State Superintendent of Education. Notwithstanding the parent's responsibility to ensure that the child attends a school, a student may be subject to Suspension or Expulsion from DCPS pursuant to this chapter.

E2402. Code of student responsibilities and conduct.

9. A student shall respect the educational process and learning environment of others by refraining from intentional or habitual tardiness, unexcused absences, or other activities that diminish the rights of others and the opportunity for other students to receive an education and obtain the maximum benefit from a public education.

Substance use

ADMINISTRATIVE CODE

B2502. Grounds for disciplinary action.

5. Tier V behaviors are those behaviors not specifically enumerated in any other tier in this chapter that are illegal, cause significant disruption to the school operation, or cause substantial harm to self or others. Tier V behaviors result in off-site Suspension or Expulsion.

(a) The following behaviors shall be considered Tier V behaviors:

(3) Selling or Distribution of marijuana, prescription drugs, controlled dangerous substances, imitation controlled substances, inhalants, other intoxicants, controlled or drug paraphernalia;

(4) The Possession or Distribution of alcohol;

(5) The Possession of drug paraphernalia or controlled substance, irrespective of the amount or type, pursuant to the criminal statutes of the District of Columbia, codified at D.C. Official Code § 48-1101 et seq. (2001)

(b) Disciplinary responses for Tier V behaviors include:

(1) Off-site Long-Term Suspension, except in response to unexcused tardiness or absence; and

(2) Expulsion.

E2402. Code of student responsibilities and conduct.

8. A student shall respect the health and safety of others and shall refrain from using tobacco; or using, possessing, transmitting, or being under the influence of any alcoholic beverage, narcotic substance, or illegal or prohibited drug or substance; or by engaging in gambling, extortion, theft, assault, excessive noise, or any other unlawful activity.

Bullying, harassment, or hazing

STATUTES

2-1535.01. Definitions

For the purposes of this subchapter, the term:

(1) "Agency" means a District government entity that provides services, activities, or privileges to youth, including the:

(A) Office of the State Superintendent of Education;

(B) Department of Parks and Recreation;

(C) District of Columbia Public Library; and

(D) University of the District of Columbia.

(2) (A) "Bullying" means any severe, pervasive, or persistent act or conduct, whether physical, electronic, or verbal that:

(i) May be based on a youth's actual or perceived race, color, ethnicity, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, intellectual ability, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, status as a victim of an intrafamily offense, place of residence or business, or any other distinguishing characteristic, or on a youth's association with a person, or group with any person, with one or more of the actual or perceived foregoing characteristics; and

(ii) Can be reasonably predicted to:

(I) Place the youth in reasonable fear of physical harm to his or her person or property;

(II) Cause a substantial detrimental effect on the youth's physical or mental health;

(III) Substantially interfere with the youth's academic performance or attendance; or

(IV) Substantially interfere with the youth's ability to participate in or benefit from the services, activities, or privileges provided by an agency, educational institution, or grantee.

(B) For the purposes of this paragraph, the terms "familial status," "family responsibilities," "gender identity or expression," "genetic information," "intrafamily offense," "marital status," "matriculation," "personal appearance," "political affiliation," "sexual orientation," and "source of income" shall have the same meaning as provided in § 2-1401.02.

(3) "Educational institution" means any local education agency that receives funds from the District of Columbia.

(4) "Electronic communication" means a communication transmitted by means of an electronic device, including a telephone, cellular phone, computer, tablet, pager, or video or audio recording.

(5) "Employee" means an individual who performs a function for the District government for an agency, educational institution, or grantee who receives compensation for the performance of that function.

(6) "Grantee" means an entity or a contractor of an entity that, on behalf of the District government or through District funding, provides services, activities, or privileges to youth.

(7) "Human Rights Act" means Unit A of Chapter 14 [§ 2-1401.01 et seq.].

(8) "Party" means a person accused of bullying, a target of bullying, or a parent or guardian of either a person accused of bullying or a target of bullying.

(9) "Youth," depending on the context, means:

(A) An individual of 21 years of age or less who is enrolled in an educational institution or who accesses the services or programs provided by an agency or grantee, or an individual of 22 years of age or less who is receiving special education services from an educational institution; or

(B) Individuals as described in subparagraph (A) of this paragraph considered as a group.

2-1535.02. Bullying prevention task force

(a) Within 90 days of September 14, 2012, the Mayor shall establish a bullying prevention task force.

(b) (1) The task force shall consist of representatives from a diversity of the educational institutions and agencies that will be affected by this subchapter, as well as community representatives, including:

(A) Teachers;

(B) Administrators from educational institutions and agencies;

(C) School mental health professionals;

(D) Parents, and legal guardians;

(E) Youth;

(F) Direct service providers; and

(G) Advocates.

(2) In constituting this task force, the Mayor shall consider geographic and socioeconomic diversity as well as other forms of diversity.

(c) The task force shall:

(1) Provide guidance to the Mayor on the implementation of this subchapter;

(2) Within 180 days of September 14, 2012, publicize a model policy, which shall contain each of the components required in § 2-1535.03(b);

(3) Assist educational institutions and agencies with developing policies in accordance with § 2-1535.03;

(4) Compile, and make available to each agency, educational institution, and grantee, a list of free or low-cost methods for establishing the bullying prevention programs authorized in § 2-1535.06;

(5) Within 180 days of receipt of the bullying prevention policies submitted pursuant to § 2-1535.03(c), review each adopted policy for compliance with the requirements of § 2-1535.03(b); and

(6) Promulgate guidelines to assist the Mayor in evaluating the effectiveness of the bullying prevention policies that have been established.

(d) The task force shall disband 2 years after its initial meeting; provided, that at the discretion of the Mayor, a one-year extension may be granted by the Mayor.

2-1535.03. Bullying prevention policy

(a) Within 365 days of September 14, 2012, in coordination with the task force established pursuant to § 2-1535.02, each agency, educational institution, and grantee shall adopt a bullying prevention policy to be enforced:

(1) On its property, including electronic communication on, or with, its property;

(2) At sponsored functions;

(3) On its transportation, or transportation sponsored by it; and

(4) Through electronic communication to the extent that it is directed at a youth and it substantially interferes with the youth's ability to participate in or benefit from the services, activities, or privileges provided by the agency, education institution, or grantee.

(b) Each agency, educational institution, and grantee shall control the content of its policy; provided, that each policy includes:

(1) The definition of bullying set forth in § 2-1535.01(2);

(2) A statement prohibiting bullying;

(3) A statement that the policy applies to participation in functions sponsored by the agency, educational institution, or grantee;

(4) The expected code of conduct;

(5) A list of the consequences that can result from an identified incident of bullying, which are designed to;

(A) Appropriately correct the bullying behavior;

(B) Prevent another occurrence of bullying or retaliation;

(C) Protect the target of the bullying;

(D) Be flexible so that in application they can be unique to the individual incident and varied in method and severity based on the:

(i) Nature of the incident;

(ii) Developmental age of the person bullying; and

(iii) Any history of problem behavior from the person bullying;

(6) A procedure for reporting bullying or retaliation for reporting an act of bullying, including for reporting bullying anonymously; provided, that no formal response shall be taken solely on the basis of an anonymous report;

(7) A procedure for prompt investigation of reports of violations of its policy and of complaints of bullying or retaliation, including the name and contact information of the person responsible for investigating reports;

(8) An appeal process, in accordance with § 2-1535.04, for a person accused of bullying or a person who is the target of bullying who is not satisfied with the outcome of the initial investigation; and

(9) A statement that prohibits retaliation against any person who reports bullying, including the possible consequences for a person who engages in retaliatory behavior.

(c) Within 365 days of September 14, 2012, each agency, educational institution, and grantee shall submit a copy of its adopted policy to the task force, pursuant to § 2-1535.02(c)(5).

(d) The requirements of this subchapter and any policy adopted pursuant to this subchapter shall be deemed to constitute health and safety requirements for educational institutions.

(e) Information on the bullying prevention policy shall be incorporated into new employee training.

(f) Each agency, educational institution, and grantee shall develop a plan for how the policy is to be publicized, including the plan for:

(1) Discussing its bullying policy with youth; and

(2) Publicizing that the policy applies to participation in functions sponsored by an agency, educational institution, or grantee.

2-1535.04. Secondary investigation appeal

(a) (1) A party who is not satisfied with the outcome of the initial investigation conducted pursuant to § 2-1535.03(b)(7) may request a secondary investigation by submitting a written appeal to the higher-level authority in the agency, educational institution, or grantee designated to hear appeals within 30 days of the conclusion of the investigation conducted pursuant to § 2-1535.03(b)(7).

(2) The secondary investigation shall be completed within 30 days of receipt of the appeal, unless:

(A) Circumstances require additional time to complete a thorough investigation;

(B) The higher-level authority sets forth those circumstances in writing; and

(C) The additional time does not exceed 15 days.

(b) (1) When an appeal for a secondary investigation is submitted, the agency, educational institution, or grantee shall inform the party about his or her ability to seek further redress under the Human Rights Act.

(2) This section shall not be construed to limit the right of a person to assert or seek redress for a claim arising under the Human Rights Act.

2-1535.05. Retaliation

(a) An employee, volunteer, or youth shall not retaliate against a victim or witness of bullying or a person who reports bullying.

(b) An employee or volunteer who has witnessed bullying in violation of a bullying prevention policy that is consistent with § 2-1535.03(a), or has reliable information that a person has been subject to bullying in violation of a bullying prevention policy that is consistent with § 2-1535.03(a), shall report the incident or

information to the person designated by the agency, educational institution, or grantee, in accordance with § 2-1535.03(b)(7), as responsible for investigating the reports.

(c) An employee, volunteer, or youth who promptly and in good faith reports an incident of, or information on, bullying in compliance with the policy of the agency, educational institution, or grantee shall be immune from a cause of action for damages arising from the making of such report.

2-1535.06. Bullying prevention programs

Following the adoption of a bullying prevention policy, as required by § 2-1535.03, each agency, educational institution, and grantee may:

(1) Establish an annual bullying prevention program for youth, which for each educational institution should align with established health-education standards;

(2) Inform youth about their right to be free from discrimination in public accommodations and education, and of the redress available for a violation of their rights under the Human Rights Act; and

(3) Provide training on bullying prevention to all employees and volunteers who have significant contact with youth.

2-1535.07. Reporting requirement

(a) Each educational institution shall provide to the Mayor, by a date determined by the Mayor, an annual report regarding the aggregate incidents of bullying, and any other information that the Mayor determines is necessary or appropriate.

(b) By September 1, 2014, and biennially thereafter, the Mayor shall:

(1) Review the programs, activities, services, and policies established pursuant to this subchapter of each agency, educational institution, or grantee to determine their effectiveness and whether the agency, educational institution, or grantee is in compliance with this subchapter; and

(2) Report the findings to the Council by December 31 of each year that a report is due, along with an assessment of the current level and nature of bullying in agencies, educational institutions, and grantees and recommendations for appropriate actions to address identified problems.

2-1535.08. Availability of other remedies

This subchapter does not create a new private right of action or provide a statutory basis for a claim for damages against the District of Columbia or its employees.

2-1535.09. Rules

The Mayor, pursuant to subchapter I of Chapter 5 of Title 2 [§ 2-501 et seq.], may issue rules to implement the provisions of this subchapter.

ADMINISTRATIVE CODE

B2502. Grounds for disciplinary action.

3. Tier III behaviors are those behaviors not specifically enumerated in any other tier in this chapter that cause significant disruption to the academic environment or cause harm to self or others. In addition to lesser consequences, Tier III behaviors may result in either on-site or off-site Suspension.

(a) The following behaviors shall be considered Tier III behaviors:

(20) Hazing;

(21) Bullying, or using humiliating, or intimidating language or behavior, including Internet Bullying;

4. Tier IV behaviors are those behaviors not specifically enumerated in any other tier in this chapter that cause disruption to the school operation, destroy school property, or cause significant harm to self or others. Tier IV behaviors result in off-site Suspension.

(a) The following behaviors shall be considered Tier IV behaviors:

(5) Persistent Harassment based on actual or perceived race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, status as a victim of an intrafamily offense, or place of residence or business;

Other special infractions or conditions

ADMINISTRATIVE CODE

E2402. Code of student responsibilities and conduct.

1. Each student shall be responsible for providing a positive and healthy environment for others by maintaining order and self-discipline, and by having consideration for the rights and property of others.

2. Each student shall bear the responsibility for his or her own conduct.

3. Each student shall be responsible for neatness and cleanliness of personal attire and hygiene.

4. A student shall respect other students, teachers, administrators and other school personnel, and visitors as human beings and as fellow citizens of the school community.

5. A student shall respect the personal property of others and refrain from causing intentional damage or unnecessary wear and tear to books, facilities, school materials, school buildings and furnishings, and the personal property of others.

6. A student shall refrain from fighting, creating disturbances, denying others the use of school facilities or buildings, using or carrying any weapon on school grounds, intentionally injuring another person, or acting in a manner that would expose others to risk or danger of harm or injury.

7. A student shall not use threats or intimidation against any other person.

8. A student shall respect the health and safety of others and shall refrain from using tobacco; or using, possessing, transmitting, or being under the influence of any alcoholic beverage, narcotic substance, or illegal or prohibited drug or substance; or by engaging in gambling, extortion, theft, assault, excessive noise, or any other unlawful activity.

9. A student shall respect the educational process and learning environment of others by refraining from intentional or habitual tardiness, unexcused absences, or other activities that diminish the rights of others and the opportunity for other students to receive an education and obtain the maximum benefit from a public education.

B2408. Review by the chancellor.

16. If a student fails to abide by a mandatory uniform policy more than four times, a behavioral contract may be written in which the consequences for not fulfilling the terms of the contract may include a referral to a placement team to determine a more appropriate setting. Any transfer to an alternative setting must be approved by the Chancellor.

B2502. Grounds for disciplinary action.

1. Tier I behaviors are those behaviors that are insubordinate or cause minor disruptions to the academic environment but do not involve damage to school property or harm to self or others. Tier I behaviors

result in classroom-level disciplinary responses that may be elevated to administrative response if they are not successfully abated by the teacher or the appropriate school-level committee.

(a) The following behaviors shall be considered Tier I behaviors:

(1) Refusal to present school-issued identification upon request;

(2) Attending class without required class materials or assigned work;

(3) Off-task behaviors that demonstrate disengagement from classroom learning;

(4) Behaviors that disrupt or interfere with classroom teaching and learning;

(5) Unexcused lateness for school or class;

(6) Inappropriate displays of affection;

(7) Excessive noise in the classroom, hall, or school building;

(8) Running in the classroom, hall, or school building;

(9) Communicating with staff and peers in a manner that is not polite, courteous, or respectful;

(10) Directing profanity or obscene/offensive gestures toward peers;

(11) Refusal to comply with staff instructions, or classroom or school rules; and

(12) Any behavior or other conduct not specifically enumerated in any other tier in this chapter that is insubordinate or causes minor disruption to the academic environment but does not involve damage to school property or harm to self or others.

(b) Disciplinary responses for Tier I behaviors shall include:

(1) Verbal redirection or reprimand;

(2) Teacher/student conference;

(3) Parental contact in writing or by phone;

(4) Teacher/parent conference;

(5) Temporary Removal of Student from Classroom;

(6) In-School Disciplinary Action;

(7) Behavior contract; and

(8) Other school-based consequences as approved by a person designated by the Chancellor.

2. Tier II behaviors are those behaviors not specifically enumerated in any other tier in this chapter that cause disruption to the academic environment, involve damage to school property, or may cause minor harm to self or others. Tier II behaviors result in school-based and administrative disciplinary responses.

(a) The following behaviors shall be considered Tier II behaviors:

(1) Using computer/office equipment without permission;

(2) Intentional Misuse of School Equipment/Supplies/Facilities;

(3) Unauthorized use of portable electronic devices during school hours (e.g. mp3 players, cell phones);

(4) Non-compliance with approved dress code/uniform policy;

(5) Leaving classroom without permission;

(6) Unexcused absence from class;

(7) Unauthorized presence in hallway during class time;

(8) Unexcused absence from school;

(9) Inappropriate or disruptive physical contact between students;

(10) Directing profanity or obscene/offensive gestures toward staff;

(11) Throwing objects that may cause injury or damage to property;

(12) Any behavior or other conduct not specifically enumerated in any other tier in this chapter that causes disruption to the academic environment, involves damage to school property, or may cause minor harm to self or others; and

(13) Documented Pattern of Persistent Tier I Behavior.

(b) Disciplinary responses for Tier II behaviors shall include:

(1) Verbal redirection or reprimand;

(2) Teacher/student or administrator/student conference;

(3) Parental contact in writing or by phone;

(4) Administrator/parent conference;

(5) Temporary Removal of Student from Classroom;

(6) In-School Disciplinary Action;

(7) Behavior contract;

(8) Other school-based consequences as approved by a person designated by the Chancellor; and

(9) In the case of non-compliance with an approved dress code or uniform policy, disciplinary actions described in section B2408.16 of this title.

Prevention and Behavioral Interventions (Non-Punitive)

Prevention

STATUTES

2-1535.02. Bullying prevention task force

(a) Within 90 days of September 14, 2012, the Mayor shall establish a bullying prevention task force.

(b) (1) The task force shall consist of representatives from a diversity of the educational institutions and agencies that will be affected by this subchapter, as well as community representatives, including:

(A) Teachers;

(B) Administrators from educational institutions and agencies;

(C) School mental health professionals;

(D) Parents, and legal guardians;

(E) Youth;

(F) Direct service providers; and

(G) Advocates.

(2) In constituting this task force, the Mayor shall consider geographic and socioeconomic diversity as well as other forms of diversity.

(c) The task force shall:

(1) Provide guidance to the Mayor on the implementation of this subchapter;

(2) Within 180 days of September 14, 2012, publicize a model policy, which shall contain each of the components required in § 2-1535.03(b);

(3) Assist educational institutions and agencies with developing policies in accordance with § 2-1535.03;

(4) Compile, and make available to each agency, educational institution, and grantee, a list of free or low-cost methods for establishing the bullying prevention programs authorized in § 2-1535.06;

(5) Within 180 days of receipt of the bullying prevention policies submitted pursuant to § 2-1535.03(c), review each adopted policy for compliance with the requirements of § 2-1535.03(b); and

(6) Promulgate guidelines to assist the Mayor in evaluating the effectiveness of the bullying prevention policies that have been established.

(d) The task force shall disband 2 years after its initial meeting; provided, that at the discretion of the Mayor, a one-year extension may be granted by the Mayor.

2-1535.03. Bullying prevention policy

(a) Within 365 days of September 14, 2012, in coordination with the task force established pursuant to § 2-1535.02, each agency, educational institution, and grantee shall adopt a bullying prevention policy to be enforced:

(1) On its property, including electronic communication on, or with, its property;

(2) At sponsored functions;

(3) On its transportation, or transportation sponsored by it; and

(4) Through electronic communication to the extent that it is directed at a youth and it substantially interferes with the youth's ability to participate in or benefit from the services, activities, or privileges provided by the agency, education institution, or grantee.

(b) Each agency, educational institution, and grantee shall control the content of its policy; provided, that each policy includes:

(1) The definition of bullying set forth in § 2-1535.01(2);

(2) A statement prohibiting bullying;

(3) A statement that the policy applies to participation in functions sponsored by the agency, educational institution, or grantee;

(4) The expected code of conduct;

(5) A list of the consequences that can result from an identified incident of bullying, which are designed to;

(A) Appropriately correct the bullying behavior;

(B) Prevent another occurrence of bullying or retaliation;

(C) Protect the target of the bullying;

(D) Be flexible so that in application they can be unique to the individual incident and varied in method and severity based on the:

(i) Nature of the incident;

(ii) Developmental age of the person bullying; and

(iii) Any history of problem behavior from the person bullying;

(6) A procedure for reporting bullying or retaliation for reporting an act of bullying, including for reporting bullying anonymously; provided, that no formal response shall be taken solely on the basis of an anonymous report;

(7) A procedure for prompt investigation of reports of violations of its policy and of complaints of bullying or retaliation, including the name and contact information of the person responsible for investigating reports;

(8) An appeal process, in accordance with § 2-1535.04, for a person accused of bullying or a person who is the target of bullying who is not satisfied with the outcome of the initial investigation; and

(9) A statement that prohibits retaliation against any person who reports bullying, including the possible consequences for a person who engages in retaliatory behavior.

(c) Within 365 days of September 14, 2012, each agency, educational institution, and grantee shall submit a copy of its adopted policy to the task force, pursuant to § 2-1535.02(c)(5).

(d) The requirements of this subchapter and any policy adopted pursuant to this subchapter shall be deemed to constitute health and safety requirements for educational institutions.

(e) Information on the bullying prevention policy shall be incorporated into new employee training.

(f) Each agency, educational institution, and grantee shall develop a plan for how the policy is to be publicized, including the plan for:

(1) Discussing its bullying policy with youth; and

(2) Publicizing that the policy applies to participation in functions sponsored by an agency, educational institution, or grantee.

2-1535.06. Bullying prevention programs

Following the adoption of a bullying prevention policy, as required by § 2-1535.03, each agency, educational institution, and grantee may:

(1) Establish an annual bullying prevention program for youth, which for each educational institution should align with established health-education standards;

(2) Inform youth about their right to be free from discrimination in public accommodations and education, and of the redress available for a violation of their rights under the Human Rights Act; and

(3) Provide training on bullying prevention to all employees and volunteers who have significant contact with youth.

ADMINISTRATIVE CODE

B2500. General policy.

4. Whenever possible, prevention, intervention, and remediation strategies shall be used in addition to disciplinary responses at all stages of the disciplinary process, including students transitioning from Suspension or Expulsion.

Behavioral interventions and student support services

STATUTES

38-252. Truancy and dropout prevention program.

(a) Subject to the availability of appropriations, the District of Columbia Board of Education, or its successor, and the District of Columbia Public Schools shall offer a Truancy and Dropout Prevention Program for students who are enrolled in the District of Columbia Public Schools system. The programs should be implemented on a full-time basis, work with local schools and parents, and provide resources that will help reduce absences and unexcused absences, and reduce dropout and increase retention rates.

(b) The program shall develop a supportive relationship with the Metropolitan Police Department.

(c) The program shall be available for students who are enrolled in grades K-12 and for students who are enrolled in ungraded classes in elementary, middle or junior high, and high schools.

(d) Notwithstanding any other law, nothing in this section shall be construed to create an entitlement to a truancy or dropout prevention program for any student.

ADMINISTRATIVE CODE

B2500. General policy.

5. DCPS shall involve family members in efforts to determine the causes of misbehavior and in efforts to support appropriate school behavior.

6. Options for prevention, intervention, and remediation shall include, but not be limited to:

(a) Anger management;

(b) Attendance intervention plans;

(c) Behavior intervention plan;

(d) Behavior log/behavior progress report;

(e) Behavior redirection;

(f) Community conference;

(g) Community service;

(h) Conflict resolution;

(i) Crime awareness/prevention programs;

(j) Diverse instructional strategies;

(k) In-school program restructuring (schedule change);

(l) Individual or group counseling;

(m) Intervention by guidance counselor or mental health professional;

(n) Mediation, including teacher/student mediation and multi-party dispute resolution;

(o) Mentoring;

(p) Parent conference;

(q) Parent observation of student;

(r) Positive feedback for appropriate behavior;

(s) Positive behavior supports

(t) Problem solving conferences;

(u) Referral to community based organizations;

(v) Referral to substance abuse counseling service;

(w) Rehabilitative programs;

(x) Restitution;

(y) Restorative justice strategies;

(z) Social skills instruction;

(aa) Student support team meeting; and

(bb) Other appropriate intervention strategies.

B2502. Grounds for disciplinary action.

3. Tier III behaviors are those behaviors not specifically enumerated in any other tier in this chapter that cause significant disruption to the academic environment or cause harm to self or others. In addition to lesser consequences, Tier III behaviors may result in either on-site or off-site Suspension.

(b) Disciplinary responses for Tier III behaviors shall include:

(9) On-site Short-Term Suspension with provision of appropriate intervention services;

Professional development

STATUTES

2-1535.03. Bullying prevention policy

(e) Information on the bullying prevention policy shall be incorporated into new employee training.

2-1535.06. Bullying prevention programs

Following the adoption of a bullying prevention policy, as required by § 2-1535.03, each agency, educational institution, and grantee may:

(3) Provide training on bullying prevention to all employees and volunteers who have significant contact with youth.

Monitoring and Accountability

Formal incident reporting of conduct violations

STATUTES

2-1535.03. Bullying prevention policy

(b) Each agency, educational institution, and grantee shall control the content of its policy; provided, that each policy includes:

(6) A procedure for reporting bullying or retaliation for reporting an act of bullying, including for reporting bullying anonymously; provided, that no formal response shall be taken solely on the basis of an anonymous report;

(7) A procedure for prompt investigation of reports of violations of its policy and of complaints of bullying or retaliation, including the name and contact information of the person responsible for investigating reports;

(8) An appeal process, in accordance with § 2-1535.04, for a person accused of bullying or a person who is the target of bullying who is not satisfied with the outcome of the initial investigation; and

(9) A statement that prohibits retaliation against any person who reports bullying, including the possible consequences for a person who engages in retaliatory behavior.

2-1535.05. Retaliation

(a) An employee, volunteer, or youth shall not retaliate against a victim or witness of bullying or a person who reports bullying.

(b) An employee or volunteer who has witnessed bullying in violation of a bullying prevention policy that is consistent with § 2-1535.03(a), or has reliable information that a person has been subject to bullying in violation of a bullying prevention policy that is consistent with § 2-1535.03(a), shall report the incident or information to the person designated by the agency, educational institution, or grantee, in accordance with § 2-1535.03(b)(7), as responsible for investigating the reports.

ADMINISTRATIVE CODE

B2503. Policy for disciplinary actions.

2. Principals shall ensure that accurate, appropriate documentation is maintained of all disciplinary actions.

Parental notification

ADMINISTRATIVE CODE

B2408. Dress codes/uniforms.

13.

(a) Parents shall be called when a student reports to school out of uniform. The parent shall be asked to bring compliant clothing for the student to school.

(b) If the parents are not reachable or are unable to respond within two hours of the start of the school day, the student may be issued a conforming uniform from the school's uniform bank with directions to return it clean the next school day.

B2500. General policy.

18. All written documents concerning the disciplinary process shall be considered vital documents and provided to any student, parent, or guardian in a format that he or she can understand. For individuals with Limited or No-English Proficiency, documents shall be provided in the individual's native language. For individuals with vision impairments, reasonable accommodations shall be made to provide documents in a manner accessible to the individual, including but not limited to Braille, large type, audio recording, or some other suitable electronic media.

B2500. Grounds for disciplinary action.

1. Tier I behaviors are those behaviors that are insubordinate or cause minor disruptions to the academic environment but do not involve damage to school property or harm to self or others. Tier I behaviors result in classroom-level disciplinary responses that may be elevated to administrative response if they are not successfully abated by the teacher or the appropriate school-level committee.

(b) Disciplinary responses for Tier I behaviors shall include:

(3) Parental contact in writing or by phone;

(4) Teacher/parent conference;

2. Tier II behaviors are those behaviors not specifically enumerated in any other tier in this chapter that cause disruption to the academic environment, involve damage to school property, or may cause minor harm to self or others. Tier II behaviors result in school-based and administrative disciplinary responses.

(b) Disciplinary responses for Tier II behaviors shall include:

(3) Parental contact in writing or by phone;

(4) Administrator/parent conference;

3. Tier III behaviors are those behaviors not specifically enumerated in any other tier in this chapter that cause significant disruption to the academic environment or cause harm to self or others. In addition to lesser consequences, Tier III behaviors may result in either on-site or off-site Suspension.

(b) Disciplinary responses for Tier III behaviors shall include:

(3) Parental contact (written or by phone);

(4) Parent conference;

B2506. Procedures for disciplinary hearings.

6. Students and parents or guardians shall be provided written notice of all Suspensions and Expulsions as follows:

(a) No student may be suspended or expelled, including on-site Suspension, without written notice to the adult student or minor student's parent or guardian.

(b) Following the oral notice provided to parents or guardians pursuant to § B2504.13 verifiable written notice using contact information provided by the parent or guardian (e.g. email, certified mail, or hand-delivered mail with a signature receipt) of all authorized or proposed Suspensions and Expulsions must be sent to the parent or guardian or to the adult student no later than one (1) school day after the decision by the principal or a person designated by the Chancellor to authorize or propose Suspension or Expulsion.

(c) The notice must inform the parent or guardian of the identity of the person who has the authority to modify or rescind the proposed Suspension or Expulsion. Adult students shall receive notification of their infraction in the same manner.

(d) The notice must also include a description of the infraction including a citation of the rule(s) upon which the action is based, a summary of the facts, the length of the proposed Suspension or Expulsion,

the principal's recommendation for an Education Plan or Alternative Educational Setting; and a description of the student's right to appeal pursuant to § 2505.13 or to a hearing pursuant to § B2505.14.

(e) A student who has been given a notice of proposed Expulsion may be immediately placed on Suspension in accordance with the rules and procedures set forth in this section.

Reporting and referrals between schools and law enforcement

STATUTES

38-232. Reference to criminal justice or juvenile delinquency system.

Pursuant to the Gun-Free Schools Act of 1994, approved October 20, 1994 (108 Stat. 3908; 20 U.S.C. 8921 et seq.) [repealed, see now 20 U.S.C. § 7151] the Superintendent of Schools shall refer to the criminal justice or juvenile delinquency system, simultaneous with expulsion, any student who is expelled for bringing a weapon into a District of Columbia Public School.

Disclosure of school records

ADMINISTRATIVE CODE

B2503. Policy for disciplinary actions.

5. Records of all disciplinary actions taken shall be maintained for each student in a student discipline file that is separate from the student's official record and cumulative file. Disciplinary records are primarily for the use of the school that the student attends. Disciplinary records shall be maintained by the school until the student is promoted to the next educational level, e.g., from Elementary to Secondary.

Data collection, review, and reporting of disciplinary policies and actions

STATUTES

2-1535.07. Reporting requirement

(a) Each educational institution shall provide to the Mayor, by a date determined by the Mayor, an annual report regarding the aggregate incidents of bullying, and any other information that the Mayor determines is necessary or appropriate.

(b) By September 1, 2014, and biennially thereafter, the Mayor shall:

(1) Review the programs, activities, services, and policies established pursuant to this subchapter of each agency, educational institution, or grantee to determine their effectiveness and whether the agency, educational institution, or grantee is in compliance with this subchapter; and

(2) Report the findings to the Council by December 31 of each year that a report is due, along with an assessment of the current level and nature of bullying in agencies, educational institutions, and grantees and recommendations for appropriate actions to address identified problems.

38-174. Chancellor; appointment; duties.

(c) The duties of the Chancellor shall include to:

(8) Exercise, to the extent that such authority is delegated by the Mayor:

(10) Create and operate a District-wide database that records the condition of all school facilities under the control of DCPS, which database shall be updated as necessary, but at least once per calendar year.

38-203. Enforcement; penalties.

(i) Within 60 days after the end of a school year, each public, independent, private, or parochial school shall report to the Mayor, or the Mayor's designee, and make publicly available, the following data based on the preceding school year:

(A) The number of minors, categorized by grade, or equivalent grouping for ungraded schools, who had unexcused absences for:

(i) One to 5 days;

(ii) Six to 10 days;

(iii) Eleven to 20 days; and

(iv) Twenty-one or more days;

(A-i) The work of the school-based student support teams in reducing unexcused absences, including:

(i) The number of students who were referred to a school-based student support team;

(ii) The number of students who met with a school-based student support team;

(iii) A summary of the action plans and strategies implemented by the school-based student support team to eliminate or ameliorate unexcused absences; and

(iv) A summary of the services utilized by students to reduce unexcused absences;

(v) A summary of the common barriers to implementing the recommendations of the school-based student support team;

(B) The number of minors, categorized by grade, or equivalent grouping for ungraded schools, that the school reported to the Child and Family Services Agency pursuant to § 4-1321.02(a-1) and (a-2);

(B-i) The number of minors categorized by grade, or equivalent grouping for ungraded schools, that the school referred to the Court Social Services Division of the Family Court of the Superior Court of the District of Columbia for truancy; and

(C) The policy on absences, including defined categories of valid excuses, that it used.

ADMINISTRATIVE CODE

B2503. Policy for disciplinary actions.

2. Principals shall ensure that accurate, appropriate documentation is maintained of all disciplinary actions.

3. The Chancellor, at his or her discretion, may review and modify any proposed disciplinary action.

5. Records of all disciplinary actions taken shall be maintained for each student in a student discipline file that is separate from the student's official record and cumulative file. Disciplinary records are primarily for the use of the school that the student attends. Disciplinary records shall be maintained by the school until the student is promoted to the next educational level, e.g., from Elementary to Secondary.

B2504. Policy for suspensions and expulsions.

16. For students seeking to enroll in DCPS and who have been suspended or expelled from their current school, or who have withdrawn while disciplinary action is pending, a person designated by the Chancellor shall review the facts and circumstances regarding the student's Suspension, Expulsion, or withdrawal pending Expulsion, if the infraction for which the student was disciplined is one for which the

student could have been disciplined within DCPS. The purpose of this review is to determine the appropriate placement within DCPS.

B2508. Review by the chancellor.

1. The Chancellor may review, at his or her discretion, any proposed disciplinary action. If the Chancellor determines that disciplinary action is not warranted, the determination shall include a statement ordering the destruction of all school records of the disciplinary action, including any reports of the disciplinary action that relate to the incident upon which the action was based, provided that, from the facts presented, it is determined that there was no violation of any DCPS rule or policy, insofar as those reports individually identify the student.

2. With respect to all disciplinary actions, the Chancellor may overrule or modify any proposed disciplinary action including Expulsion. The Chancellor shall provide written justification for any modification of disciplinary action.

School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers

Authority and power to implement school arrest

No relevant statutes found.

Certification or training

No relevant statutes found.

MOUs, authorization, and/or funding

STATUTES

38-203. Enforcement; penalties.

(a) An accurate daily record of the attendance of all minors covered by § 38-202 and this section shall be kept by the teachers of each public, independent, private, or parochial school and by every teacher who gives instruction privately. These records shall be open for inspection at all times by the Board, the Superintendent of Schools, school attendance officers, or other persons authorized to enforce this subchapter.

38-251. Authority of police over truant child.

(a) (1) The Office of the State Superintendent of Education, after consultation with the District of Columbia Public Schools, the Public Charter School Board, the Child and Family Services agency, and the Metropolitan Police Department, shall establish truancy centers in the District of Columbia for the delivery of truant public school and public charter school students by the Metropolitan Police Department.

(2) A law enforcement officer shall take to the nearest truancy center any child who the law enforcement officer has reasonable grounds to believe, based on the child's age and other factors, is truant from a public or public charter school on a day and during the hours when the public or public charter school is in session.

(3) The law enforcement officer shall take into custody any child who the law enforcement officer has reasonable grounds to believe is a truant from any independent, private, or parochial school on a day and during the hours when the independent, private, or parochial school is in session.

(b) On the request of a person who has reached the age of 18 years, graduated from high school, or received a general equivalency diploma, and who has previously been taken into custody pursuant to subsection (a) of this section, the Metropolitan Police Department shall seal all records relating to custody authorized by subsection (a) of this section.

State Education Agency Support

State model policies and implementation support

STATUTES

2-1535.02. Bullying prevention task force

(c) The task force shall:

(1) Provide guidance to the Mayor on the implementation of this subchapter;

(2) Within 180 days of September 14, 2012, publicize a model policy, which shall contain each of the components required in § 2-1535.03(b);

(3) Assist educational institutions and agencies with developing policies in accordance with § 2-1535.03;

(4) Compile, and make available to each agency, educational institution, and grantee, a list of free or low-cost methods for establishing the bullying prevention programs authorized in § 2-1535.06;

(5) Within 180 days of receipt of the bullying prevention policies submitted pursuant to § 2-1535.03(c), review each adopted policy for compliance with the requirements of § 2-1535.03(b); and

(6) Promulgate guidelines to assist the Mayor in evaluating the effectiveness of the bullying prevention policies that have been established.

(d) The task force shall disband 2 years after its initial meeting; provided, that at the discretion of the Mayor, a one-year extension may be granted by the Mayor.

Funding appropriations

No relevant statutes found.

Other/Uncategorized

Professional immunity or liability

STATUTES

2-1535.05. Retaliation

(c) An employee, volunteer, or youth who promptly and in good faith reports an incident of, or information on, bullying in compliance with the policy of the agency, educational institution, or grantee shall be immune from a cause of action for damages arising from the making of such report.

Community input or involvement

STATUTES

2-1535.02. Bullying prevention task force

(a) Within 90 days of September 14, 2012, the Mayor shall establish a bullying prevention task force.

(b) (1) The task force shall consist of representatives from a diversity of the educational institutions and agencies that will be affected by this subchapter, as well as community representatives, including:

(A) Teachers;

(B) Administrators from educational institutions and agencies;

(C) School mental health professionals;

(D) Parents, and legal guardians;

(E) Youth;

(F) Direct service providers; and

(G) Advocates.

(2) In constituting this task force, the Mayor shall consider geographic and socioeconomic diversity as well as other forms of diversity.

(c) The task force shall:

(1) Provide guidance to the Mayor on the implementation of this subchapter;

(2) Within 180 days of September 14, 2012, publicize a model policy, which shall contain each of the components required in § 2-1535.03(b);

(3) Assist educational institutions and agencies with developing policies in accordance with § 2-1535.03;

(4) Compile, and make available to each agency, educational institution, and grantee, a list of free or low-cost methods for establishing the bullying prevention programs authorized in § 2-1535.06;

(5) Within 180 days of receipt of the bullying prevention policies submitted pursuant to § 2-1535.03(c), review each adopted policy for compliance with the requirements of § 2-1535.03(b); and

(6) Promulgate guidelines to assist the Mayor in evaluating the effectiveness of the bullying prevention policies that have been established.

(d) The task force shall disband 2 years after its initial meeting; provided, that at the discretion of the Mayor, a one-year extension may be granted by the Mayor.

38-174. Chancellor; appointment; duties.

(c) The duties of the Chancellor shall include to:

(6) Obtain parental input as required by the No Child Left Behind Act of 2001, approved January 8, 2002 (Pub. L. No. 107-110; 115 Stat. 1425), and in accordance with the rules promulgated pursuant to this chapter;

(7) Hold public meetings, at least quarterly;

ADMINISTRATIVE CODE

B2500. General policy.

6. Options for prevention, intervention, and remediation shall include, but not be limited to:

(f) Community conference;

(g) Community service;

(u) Referral to community based organizations.

Other/Uncategorized

No relevant statutes found.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by Washington, D.C. provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
Website		
No relevant resources found		
Documents		
Disciplinary Responses to Student Behavior (DCPS Student Discipline Policy, DCMR Chapter 25), District of Columbia Public Schools	Identifies specific behaviors within five tiers of conduct violations and assigns a series of graduated consequences appropriate to each tier.	http://dcps.dc.gov/DCPS/Files/downloads/In-the-Classroom/DCPS-Chapter-25-Tiers-FINAL-080510.pdf
Other Resources		
No relevant resources found		

West Virginia Compilation of School Discipline Laws and Regulations

Prepared: August 12, 2013

Introduction

This compilation presents school discipline-related state statutes, school discipline-related regulations, and, where available, links to state-sponsored websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSLE). For example, one major category encompasses all state laws or regulations mandating specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of state legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in each state.

Discipline categories were not mutually exclusive. Statutes and regulations often appeared across multiple categories. For states with more extensive statutes covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. State laws, ordered by chapter and section number, appear first within each category followed by state regulations. All statutes and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists statutes by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to state-sponsored websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of May 2013, with the exception of the state laws related to seclusion and restraint, which are complete and current as of December 2012. Readers should also note that the information in this document was compiled from individual state sources that are created by each state and which are maintained and updated with varying frequencies. Readers should consult the source information provided for each state directly in order to check for updates to this state's laws and regulations or conduct further research.

For further information, including definitions of the different policy categories, please refer to the Discipline Laws and Regulations Compendium posted on the Center's website.

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Safe Supportive Learning
Engagement | Safety | Environment

Table of Contents

West Virginia State Codes Cited **1**

General Provisions **3**

Authority to develop and establish rules of conduct 3
Scope 4
Communication of policy 5

In-School Discipline **7**

Use of multi-tiered discipline approaches 7
Teacher authority to remove students from classrooms 7
Alternatives to suspension 7
Use of corporal punishment 8
Use of student and locker searches 8
Other in-school disciplinary approaches 8

Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements **9**

Grounds for possible suspension or expulsion 9
Grounds for mandatory suspension or expulsion 9
Limitations, conditions or exclusions for use of suspension and expulsion 10
Administrative procedures related to suspension and expulsion 11
In-school suspension 14
Return to school following removal 14
Use of restraint and seclusion 14
Alternative placements 15

Disciplinary Approaches Addressing Specific Infractions and Conditions **17**

Firearms (as required by the Guns-Free Schools Act) 17
Other weapons 18
Students with chronic disciplinary issues 20
Attendance and truancy 20
Substance use 23
Bullying, harassment, or hazing 23
Other special infractions or conditions 26

Prevention and Behavioral Interventions (Non-Punitive) **27**

Prevention 27
Behavioral interventions and student support services 28
Professional development 29

Monitoring and Accountability **30**

Formal incident reporting of conduct violations 30
Parental notification 31
Reporting and referrals between schools and law enforcement 32
Disclosure of school records 32
Data collection, review, and reporting of disciplinary policies and actions 32

School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers 35
Authority and power to implement school arrest 35
Certification or training 36
MOUs, authorization, and/or funding 36
State Education Agency Support 37
State model policies and implementation support 37
Funding appropriations 37
Other/Uncategorized 39
Professional immunity or liability 39
Community input or involvement 39
Other/Uncategorized 40
State-Sponsored, Publicly Available Websites or Other Resources on School Discipline 41

West Virginia State Codes Cited

West Virginia Revised Statutes

Chapter 18. Education

Article 2. State Board Of Education

§18-2-5g. Duty to receive and submit summary of policy modifications and annual reports
§18-2-6. Classification and standardization of schools; standards for degrees and diplomas; certificates of proficiency; establishment of alternative education programs
§18-2-7b. Programs in drug prevention and violence reduction
§18-2-23. Comprehensive educational programs; standards, etc.; evaluation and approval; allocation and distribution of funds; distribution of excess funds
§18-2-33. Rules for antihazing

Article 2C. Harassment, Intimidation or Bullying Prohibition

§18-2C-1. Legislative findings
§18-2C-2. Definitions
§18-2C-3. Policy prohibiting harassment, intimidation or bullying
§18-2C-4. Immunity
§18-2C-5. Policy training and education
§18-2C-6. Liability

Article 5. County Board of Education

§18-5-15. Ages of persons to whom schools are open; enrollment of suspended or expelled student
§18-5-15f. Affirmation regarding the suspension or expulsion of a pupil from school

Article 5A. Local School Involvement

§18-5A-2. Local school improvement councils; election

Article 8. Compulsory School Attendance

§18-8-4. Duties of attendance director and assistant directors; complaints, warrants, and hearings

Article 21. Special Community-Based Pilot Demonstration Project to Improve Outcomes For At-Risk Youth

§18-21-4. Organization and goals of the community-based pilot demonstration program

Chapter 18A. School Personnel

Article 5. Authority; Rights; Responsibility

§18A-5-1. Authority of teachers and other school personnel; exclusion of students having infectious diseases; suspension or expulsion of disorderly students; corporal punishment abolished
§18A-5-1a. Possessing deadly weapons on premises of educational facilities; possessing a controlled substance on premises of educational facilities; assaults and batteries committed by pupils upon teachers or other school personnel; temporary suspension, hearing; procedure, notice and formal hearing; extended suspension; sale of narcotic; expulsion; exception; alternative education
§18A-5-1b. Alternative procedures for expulsion hearings by county boards
§18A-5-5. Records; reports by professional and other personnel

Chapter 61. Crimes and their Punishment

Article 7. Dangerous Weapons

§61-7-2. Definitions
§61-7-11a. Possessing deadly weapons on premises of educational facilities; reports by school principals; suspension of driver license; possessing deadly weapons on premises housing courts of law and in offices of family law master

West Virginia Administrative Code

Title 126. Legislative Rule, Board of Education

Series 42. Assuring the Quality of Education: Regulations for Education Programs (2510)

§126-42-4. General responsibilities
§126-42-7. County board of education responsibilities

Series 81. Attendance

§126-81-6. County attendance policy components

Series 99. Expected Behavior in Safe and Supportive Schools

§126-99-1. General
§126-99-2. Purpose
§126-99-4. Application

General Provisions

Authority to develop and establish rules of conduct

STATUTES

§18-2C-3. Policy prohibiting harassment, intimidation or bullying.

(a) Each county board shall establish a policy prohibiting harassment, intimidation or bullying. Each county board has control over the content of its policy as long as the policy contains, at a minimum, the requirements of subdivision (b) of this section. The policy shall be adopted through a process that includes representation of parents or guardians, school employees, school volunteers, students and community members.

ADMINISTRATIVE CODE

§126-42-7. County Board of Education Responsibilities.

7.3.11. A student code of conduct policy that requires public schools to respond immediately and consistently to incidents of harassment, intimidation, bullying, substance abuse and/or violence or other student code of conduct violations in a manner that effectively deters future incidents and affirms respect for individuals as outlined in W. Va. 126CSR99, WVBE Policy 4373, Student Code of Conduct;

§126-81-6. County Attendance Policy Components.

6.1. c. Development of Processes and Procedures: County school districts are responsible for:

1. developing a process to notify students and their parents/guardians of the county attendance policy and their responsibility and accountability for regular school attendance.
2. developing procedures and reasonable timelines requiring students with excused and unexcused absences to make up school work.
3. requiring a student maintain satisfactory attendance (satisfactory being defined as no unexcused absences) during one complete semester following the revocation of his/her driver's license. (Refer to §126-81-7.)
4. developing an attendance appeal process for students and parents/guardians.

d. Maintenance of Records: Accurate attendance records and related documentation shall be maintained for every student enrolled in public school.

1. An up-to-date daily register/record of attendance for every student must be maintained.
2. There must be written procedures for: 1) notifying parents/guardians about absences, 2) monitoring absences, and 3) notifying the county attendance director.
3. Students who are physically absent from school must be documented as absent. This record may become a legal document.

e. Preventive and Corrective: designed to meet the developmental needs of students, preventive, and corrective measures should include:

1. developing preventive and educational procedures including: incentives to maintain and improve attendance and reduce tardiness.
2. procedures for notification of parents/guardians of absences and procedures for securing parent/guardian involvement to improve student attendance.

3. procedures for providing adequate counseling for problems related to attendance.

4. procedures for interagency involvement.

5. alternative plans and programs that are positive in nature and encourage improved school attendance.

6. assurances that students with a pattern of excessive absenteeism are referred to appropriate student assistance teams/programs (Policy 2510 and W. Va. 126CSR13, WVBE Policy 2320, Process for Improving Education: Performance Based Accreditation System) for appropriate intervention(s), and that these interventions have been reviewed to determine effectiveness.

§126-99-1. General.

1.1. Scope. -- This rule sets the requirements for the development of safe and supportive schools that provide optimum learning conditions for both students and staff. Whereas safety and order is the foundation of a positive school climate/culture that supports student academic achievement and personal-social development, this rule also establishes disciplinary guidelines for student conduct that outline behaviors prohibited in West Virginia schools that must be consistently addressed in order to assure the orderly, safe, drug-free, violence- and harassment-free learning environment.

§126-99-2. Purpose.

2.1. The West Virginia Board of Education recognizes the need for students, teachers, administrators, and other school personnel to have a safe and supportive educational environment. The West Virginia Board of Education believes further that public schools should undertake proactive, preventive approaches to ensure a positive school climate/culture that fosters learning and personal-social development. These regulations require county boards of education to design and implement procedures to create and support continuous school climate/culture improvement processes within all schools that will ensure an orderly and safe environment that is conducive to learning. Public schools must create, encourage, and maintain a safe, drug-free, and fear-free school environment in the classroom, on the playground, and at school-sponsored activities. Assuring such an educational environment requires a comprehensive plan supported by everyone in the school organization, as well as parents/guardians and the community.

2.2. These regulations also set forth unacceptable behaviors that undermine a school's efforts to create a positive school climate/culture. These unacceptable behaviors are prohibited on all school property and school sponsored events. West Virginia's public schools must respond quickly and consistently, in accordance with these regulations, to incidents of these prohibited behaviors in a manner that effectively deters future incidents and affirms respect for individuals.

Scope

STATUTES

§18-2C-3. Policy prohibiting harassment, intimidation or bullying.

(b) Each county board policy shall, at a minimum, include the following components:

(1) A statement prohibiting harassment, intimidation or bullying of any student on school property, a school bus, at a school bus stop or at school sponsored events;

§18A-5-1a. Possessing deadly weapons on premises of educational facilities; possessing a controlled substance on premises of educational facilities; assaults and batteries committed by pupils upon teachers or other school personnel; temporary suspension, hearing; procedure,

notice and formal hearing; extended suspension; sale of narcotic; expulsion; exception; alternative education.

(a) A principal shall suspend a pupil from school or from transportation to or from the school on any school bus if the pupil, in the determination of the principal after an informal hearing pursuant to subsection (d) of this section, has: (i) Violated the provisions of subsection (b), section fifteen, article two, chapter sixty-one of this code; (ii) violated the provisions of subsection (b), section eleven-a, article seven of said chapter; or (iii) sold a narcotic drug, as defined in section one hundred one, article one, chapter sixty-a of this code, on the premises of an educational facility, at a school-sponsored function or on a school bus.[...]

(b) A principal shall suspend a pupil from school, or from transportation to or from the school on any school bus, if the pupil, in the determination of the principal after an informal hearing pursuant to subsection (d) of this section, has: (i) Committed an act or engaged in conduct that would constitute a felony under the laws of this state if committed by an adult; or (ii) unlawfully possessed on the premises of an educational facility or at a school-sponsored function a controlled substance governed by the uniform controlled substances act as described in chapter sixty-a of this code.[...]

(c) A principal may suspend a pupil from school, or transportation to or from the school on any school bus, if the pupil, in the determination of the principal after an informal hearing pursuant to subsection (d) of this section: [...] (iii) possessed alcohol in an educational facility, on school grounds, a school bus or at any school-sponsored function; [...]

ADMINISTRATIVE CODE

§126-99-4. Application.

4.1. The expectations outlined in these regulations apply in public schools in West Virginia during any education-sponsored event, whether in a classroom, elsewhere on school premises, on a school bus or other vehicle used for a school related event, or at a school-sponsored activity or event, whether or not it is held on school premises, in a building or other property used or operated by a county board of education, Regional Education Service Agency (RESA), WVDE, West Virginia Board of Education or in another facility or upon any other property being used by any of these agencies. These expectations apply to students, staff and public guests respectively as noted within the policy. […]

Communication of policy

STATUTES

§18-2C-5. Policy training and education.

(b) To the extent state or federal funds are appropriated for these purposes, each school district shall:

(1) Provide training on the harassment, intimidation or bullying policy to school employees and volunteers who have direct contact with students; and

(2) Develop a process for educating students on the harassment, intimidation or bullying policy.

(c) Information regarding the county board policy against harassment, intimidation or bullying shall be incorporated into each school's current employee training program.

ADMINISTRATIVE CODE

§126-42-4. General Responsibilities.

4.1.2. Responsibility of the WVDE - The WVDE has a primary leadership role in: 1) defining and developing the framework for education programs and services, 2) assisting county boards of education

to ensure delivery of these programs and student support services, and 3) assuring the WVBE, the Legislature and the public that a thorough and efficient system of education is being provided. It is the further responsibility of the WVDE to:

d. disseminate information concerning the content and implications of standards, policies, and state and federal laws to county boards of education, institutions of higher education, the business community, parents, professional organizations, educational agencies and other individuals and groups;

§126-81-6. County Attendance Policy Components.

c. Development of Processes and Procedures: County school districts are responsible for:

1. developing a process to notify students and their parents/guardians of the county attendance policy and their responsibility and accountability for regular school attendance.

2. developing procedures and reasonable timelines requiring students with excused and unexcused absences to make up school work.

3. requiring a student maintain satisfactory attendance (satisfactory being defined as no unexcused absences) during one complete semester following the revocation of his/her driver's license. (Refer to §126-81-7.)

4. developing an attendance appeal process for students and parents/guardians.

In-School Discipline

Use of multi-tiered discipline approaches

No relevant statutes found.

Teacher authority to remove students from classrooms

STATUTES

§18A-5-1. Authority of teachers and other school personnel; exclusion of students having infectious diseases; suspension or expulsion of disorderly students; corporal punishment abolished.

(c) The teacher may exclude from his or her classroom or school bus any student who is guilty of disorderly conduct; who in any manner interferes with an orderly educational process; who threatens, abuses or otherwise intimidates or attempts to intimidate a school employee or a student; who willfully disobeys a school employee; or who uses abusive or profane language directed at a school employee. Any student excluded shall be placed under the control of the principal of the school or a designee. The excluded student may be admitted to the classroom or school bus only when the principal, or a designee, provides written certification to the teacher that the student may be readmitted and specifies the specific type of disciplinary action, if any, that was taken. If the principal finds that disciplinary action is warranted, he or she shall provide written and, if possible, telephonic notice of the action to the parent(s), guardian(s) or custodian(s). When a student is excluded from a classroom or a school bus two times in one semester, and after exhausting all reasonable methods of classroom discipline provided in the school discipline plan, the student may be readmitted to the classroom or the school bus only after the principal, teacher and, if possible, the parent(s), guardian(s) or custodian(s) of the student have held a conference to discuss the student's disruptive behavior patterns, and the teacher and the principal agree on a course of discipline for the student and inform the parent(s), guardian(s) or custodian(s) of the course of action. Thereafter, if the student's disruptive behavior persists, upon the teacher's request, the principal may, to the extent feasible, transfer the student to another setting. [...]

Alternatives to suspension

STATUTES

§18A-5-1. Authority of teachers and other school personnel; exclusion of students having infectious diseases; suspension or expulsion of disorderly students; corporal punishment abolished.

(d) The Legislature finds that suspension from school is not appropriate solely for a student's failure to attend class. Therefore, a student may not be suspended from school solely for not attending class. Other methods of discipline may be used for the student which may include, but are not limited to, detention, extra class time or alternative class settings.

Use of corporal punishment

STATUTES

§18A-5-1. Authority of teachers and other school personnel; exclusion of students having infectious diseases; suspension or expulsion of disorderly students; corporal punishment abolished.

(e) Corporal punishment of any student by a school employee is prohibited.

(f) Each county board is solely responsible for the administration of proper discipline in the public schools of the county and shall adopt policies consistent with the provisions of this section to govern disciplinary actions. These policies shall encourage the use of alternatives to corporal punishment, providing for the training of school personnel in alternatives to corporal punishment and for the involvement of parent(s), guardian(s) or custodian(s) in the maintenance of school discipline. [...]

Use of student and locker searches

No relevant statutes found.

Other in-school disciplinary approaches

No relevant statutes found.

Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements

Grounds for possible suspension or expulsion

STATUTES

§18A-5-1a. Possessing deadly weapons on premises of educational facilities; possessing a controlled substance on premises of educational facilities; assaults and batteries committed by pupils upon teachers or other school personnel; temporary suspension, hearing; procedure, notice and formal hearing; extended suspension; sale of narcotic; expulsion; exception; alternative education.

(c) A principal may suspend a pupil from school, or transportation to or from the school on any school bus, if the pupil, in the determination of the principal after an informal hearing pursuant to subsection (d) of this section: (i) Threatened to injure, or in any manner injured, a pupil, teacher, administrator or other school personnel; (ii) willfully disobeyed a teacher; (iii) possessed alcohol in an educational facility, on school grounds, a school bus or at any school-sponsored function; (iv) used profane language directed at a school employee or pupil; (v) intentionally defaced any school property; (vi) participated in any physical altercation with another person while under the authority of school personnel; or (vii) habitually violated school rules or policies. If a student has been suspended pursuant to this subsection, the principal may request that the superintendent recommend to the county board that the student be expelled. Upon such recommendation by the county superintendent, the county board may hold a hearing in accordance with the provisions of subsections (e), (f) and (g) of this section to determine if the student committed the alleged violation. If the county board finds that the student did commit the alleged violation, the county board may expel the student.

Grounds for mandatory suspension or expulsion

STATUTES

§18A-5-1a. Possessing deadly weapons on premises of educational facilities; possessing a controlled substance on premises of educational facilities; assaults and batteries committed by pupils upon teachers or other school personnel; temporary suspension, hearing; procedure, notice and formal hearing; extended suspension; sale of narcotic; expulsion; exception; alternative education.

(a) A principal shall suspend a pupil from school or from transportation to or from the school on any school bus if the pupil, in the determination of the principal after an informal hearing pursuant to subsection (d) of this section, has: (i) Violated the provisions of subsection (b), section fifteen, article two, chapter sixty-one of this code; (ii) violated the provisions of subsection (b), section eleven-a, article seven of said chapter; or (iii) sold a narcotic drug, as defined in section one hundred one, article one, chapter sixty-a of this code, on the premises of an educational facility, at a school-sponsored function or on a school bus. If a student has been suspended pursuant to this subsection, the principal shall, within twenty-four hours, request that the county superintendent recommend to the county board that the student be expelled. Upon such a request by a principal, the county superintendent shall recommend to the county board that the student be expelled. Upon such recommendation, the county board shall conduct a hearing in accordance with subsections (e), (f) and (g) of this section to determine if the student

committed the alleged violation. If the county board finds that the student did commit the alleged violation, the county board shall expel the student.

(b) A principal shall suspend a pupil from school, or from transportation to or from the school on any school bus, if the pupil, in the determination of the principal after an informal hearing pursuant to subsection (d) of this section, has: (i) Committed an act or engaged in conduct that would constitute a felony under the laws of this state if committed by an adult; or (ii) unlawfully possessed on the premises of an educational facility or at a school-sponsored function a controlled substance governed by the uniform controlled substances act as described in chapter sixty-a of this code. If a student has been suspended pursuant to this subsection, the principal may request that the superintendent recommend to the county board that the student be expelled. Upon such recommendation by the county superintendent, the county board may hold a hearing in accordance with the provisions of subsections (e), (f) and (g) of this section to determine if the student committed the alleged violation. If the county board finds that the student did commit the alleged violation, the county board may expel the student.

Limitations, conditions or exclusions for use of suspension and expulsion

STATUTES

§18A-5-1a. Possessing deadly weapons on premises of educational facilities; possessing a controlled substance on premises of educational facilities; assaults and batteries committed by pupils upon teachers or other school personnel; temporary suspension, hearing; procedure, notice and formal hearing; extended suspension; sale of narcotic; expulsion; exception; alternative education.

(d) [...] At the conclusion of the hearing or upon the failure of the noticed student to appear, the principal may suspend the pupil for a maximum of ten school days, including the time prior to the hearing, if any, for which the pupil has been excluded from school. [...]

(i) Pupils may be expelled pursuant to the provisions of this section for a period not to exceed one school year, except that if a pupil is determined to have violated the provisions of subsection (a) of this section the pupil shall be expelled for a period of not less than twelve consecutive months: Provided, That the county superintendent may lessen the mandatory period of twelve consecutive months for the expulsion of the pupil if the circumstances of the pupil's case demonstrably warrant. Upon the reduction of the period of expulsion, the county superintendent shall prepare a written statement setting forth the circumstances of the pupil's case which warrant the reduction of the period of expulsion. The county superintendent shall submit the statement to the county board, the principal, the faculty senate and the local school improvement council for the school from which the pupil was expelled. The county superintendent may use the following factors as guidelines in determining whether or not to reduce a mandatory twelve-month expulsion:

(1) The extent of the pupil's malicious intent;

(2) The outcome of the pupil's misconduct;

(3) The pupil's past behavior history; and

(4) The likelihood of the pupil's repeated misconduct.

(j) In all hearings under this section, facts shall be found by a preponderance of the evidence.

(k) For purposes of this section, nothing herein may be construed to be in conflict with the federal provisions of the Individuals with Disabilities Education Act, 20 U.S.C. §1400 et seq.

Administrative procedures related to suspension and expulsion

STATUTES

§18-5-15. Ages of persons to whom schools are open; enrollment of suspended or expelled student.

(a) The public schools shall be open for the full instructional term to all persons who have attained the entrance age as stated in section five, article two and section eighteen, article five, chapter eighteen of this code: Provided, That any student suspended or expelled from public or private school shall only be permitted to enroll in public school upon the approval of the superintendent of the county where the student seeks enrollment: Provided, however, That in making such decision, the principal of the school in which the student may enroll shall be consulted by the superintendent and the principal may make a recommendation to the superintendent concerning the student's enrollment in his or her new school: Provided further, That if enrollment to public school is denied by the superintendent, the student may petition the board of education where the student seeks enrollment.

§18-5-15f. Affirmation regarding the suspension or expulsion of a pupil from school.

(a) Prior to the admission of a pupil to any public school in West Virginia, the county superintendent shall require the pupil's parent(s), guardian(s) or custodian(s) to provide, upon registration, a sworn statement or affirmation indicating whether the student is, at the time, under suspension or expulsion from attendance at a private or public school in West Virginia or another state. Any person willfully making a materially false statement or affirmation shall be guilty of a misdemeanor and, upon conviction, the penalty shall be the same as provided for "false swearing" pursuant to section three, article five, chapter sixty-one of this code.

(b) Prior to the admission of a pupil to any public school, the principal of that school or his or her designee shall consult the uniform integrated regional computer information system (commonly known as the West Virginia Education Information System) described in subsection (f), section twenty-six, article two, chapter eighteen of this code, to determine whether the pupil requesting admission is, at the time of the request for admission, serving a suspension or expulsion from another public school in West Virginia.

(c) The State Board of Education shall provide for the West Virginia Education Information System to disallow the recording of the enrollment of any pupil who is, at the time of attempted enrollment, serving a suspension or expulsion from another public school in West Virginia, and for that system to notify the user who has attempted to record the enrollment that the pupil may not be enrolled, and to notify that user of the reason therefore.

(d) Notwithstanding any other provision of this code to the contrary, any pupil who has been suspended or expelled from school pursuant to section one-a, article five, chapter eighteen-a of this code, or who has been suspended or expelled from a public or private school in another state, due to actions described in section one-a, article five, chapter eighteen-a of this code, may not be admitted to any public school within the state of West Virginia until the period of suspension or expulsion has expired.

§18A-5-1a. Possessing deadly weapons on premises of educational facilities; possessing a controlled substance on premises of educational facilities; assaults and batteries committed by pupils upon teachers or other school personnel; temporary suspension, hearing; procedure, notice and formal hearing; extended suspension; sale of narcotic; expulsion; exception; alternative education.

(d) The actions of any pupil which may be grounds for his or her suspension or expulsion under the provisions of this section shall be reported immediately to the principal of the school in which the pupil is enrolled. If the principal determines that the alleged actions of the pupil would be grounds for suspension,

he or she shall conduct an informal hearing for the pupil immediately after the alleged actions have occurred. The hearing shall be held before the pupil is suspended unless the principal believes that the continued presence of the pupil in the school poses a continuing danger to persons or property or an ongoing threat of disrupting the academic process, in which case the pupil shall be suspended immediately and a hearing held as soon as practicable after the suspension.

The pupil and his or her parent(s), guardian(s) or custodian(s), as the case may be, shall be given telephonic notice, if possible, of this informal hearing, which notice shall briefly state the grounds for suspension.

At the commencement of the informal hearing, the principal shall inquire of the pupil as to whether he or she admits or denies the charges. If the pupil does not admit the charges, he or she shall be given an explanation of the evidence possessed by the principal and an opportunity to present his or her version of the occurrence. At the conclusion of the hearing or upon the failure of the noticed student to appear, the principal may suspend the pupil for a maximum of ten school days, including the time prior to the hearing, if any, for which the pupil has been excluded from school.

The principal shall report any suspension the same day it has been decided upon, in writing, to the parent(s), guardian(s) or custodian(s) of the pupil by regular United States mail. The suspension also shall be reported to the county superintendent and to the faculty senate of the school at the next meeting after the suspension.

(e) Prior to a hearing before the county board, the county board shall cause a written notice which states the charges and the recommended disposition to be served upon the pupil and his or her parent(s), guardian(s) or custodian(s), as the case may be. The notice shall state clearly whether the board will attempt at hearing to establish the student as a dangerous student, as defined by section one, article one of this chapter. The notice also shall include any evidence upon which the board will rely in asserting its claim that the student is a dangerous student. The notice shall set forth a date and time at which the hearing shall be held, which date shall be within the ten-day period of suspension imposed by the principal.

(f) The county board shall hold the scheduled hearing to determine if the pupil should be reinstated or should or, under the provisions of this section, must be expelled from school. If the county board determines that the student should or must be expelled from school, it also may determine whether the student is a dangerous student pursuant to subsection (g) of this section. At this, or any hearing before a county board conducted pursuant to this section, the pupil may be represented by counsel, may call his or her own witnesses to verify his or her version of the incident and may confront and cross-examine witnesses supporting the charge against him or her. The hearing shall be recorded by mechanical means unless recorded by a certified court reporter. The hearing may be postponed for good cause shown by the pupil but he or she shall remain under suspension until after the hearing. The state board may adopt other supplementary rules of procedure to be followed in these hearings. At the conclusion of the hearing the county board shall either: (1) Order the pupil reinstated immediately at the end of his or her initial suspension; (2) suspend the pupil for a further designated number of days; or (3) expel the pupil from the public schools of the county.

(g) A county board that did not intend prior to a hearing to assert a dangerous student claim, that did not notify the student prior to the hearing that a dangerous student determination would be considered and that determines through the course of the hearing that the student may be a dangerous student shall schedule a second hearing within ten days to decide the issue. The hearing may be postponed for good cause shown by the pupil, but he or she remains under suspension until after the hearing.

A county board that expels a student, and finds that the student is a dangerous student, may refuse to provide alternative education. However, after a hearing conducted pursuant to this section for determining whether a student is a dangerous student, when the student is found to be a dangerous student, is

expelled and is denied alternative education, a hearing shall be conducted within three months after the refusal by the board to provide alternative education to reexamine whether or not the student remains a dangerous student and whether the student shall be provided alternative education. Thereafter, a hearing for the purpose of reexamining whether or not the student remains a dangerous student and whether the student shall be provided alternative education shall be conducted every three months for so long as the student remains a dangerous student and is denied alternative education. During the initial hearing, or in any subsequent hearing, the board may consider the history of the pupil's conduct as well as any improvements made subsequent to the expulsion. If it is determined during any of the hearings that the student is no longer a dangerous student or should be provided alternative education, the student shall be provided alternative education during the remainder of the expulsion period.

(h) The superintendent may apply to a circuit judge or magistrate for authority to subpoena witnesses and documents, upon his or her own initiative, in a proceeding related to a recommended student expulsion or dangerous student determination, before a county board conducted pursuant to the provisions of this section. Upon the written request of any other party, the superintendent shall apply to a circuit judge or magistrate for the authority to subpoena witnesses, documents or both on behalf of the other party in a proceeding related to a recommended student expulsion or dangerous student determination before a county board. If the authority to subpoena is granted, the superintendent shall subpoena the witnesses, documents or both requested by the other party. Furthermore, if the authority to subpoena is granted, it shall be exercised in accordance with the provisions of section one, article five, chapter twenty-nine-a of this code.

Any hearing conducted pursuant to this subsection may be postponed: (1) For good cause shown by the pupil; (2) when proceedings to compel a subpoenaed witness to appear must be instituted; or (3) when a delay in service of a subpoena hinders either party's ability to provide sufficient notice to appear to a witness. A pupil remains under suspension until after the hearing in any case where a postponement occurs.

The county boards are directed to report the number of pupils determined to be dangerous students to the State Board of Education. The state board will compile the county boards' statistics and shall report its findings to the Legislative Oversight Commission on Education Accountability.

§18A-5-1b. Alternative procedures for expulsion hearings by county boards.

The county boards may employ a hearing examiner to conduct the expulsion hearings required by this article. The hearing examiner shall be an attorney, duly licensed to practice law in the state of West Virginia and shall not be employed by the state or county boards for any other reason.

The hearing examiner shall conduct hearings in compliance with the guidelines of section one-a of this article. All hearings shall be recorded by mechanical means, unless recorded by a certified court reporter. The hearing examiner shall issue a decision and written findings of fact and conclusions of law within five days of the conclusion of the hearing. Hearings by a hearing examiner shall have the same force and effect as a decision made by a county board. Upon the written request of a parent, guardian, or custodian of the student, or the county superintendent, the county board shall review the decision of the hearing examiner. Within ten calendar days from the date of the request of the review, the county board shall enter an order affirming, reversing, or modifying the decision of the hearing examiner. A county board may, in its own discretion, hold a hearing to determine any issues in question.

The authority of the county superintendent shall be the same as contained in section one-a of this article.

In-school suspension

STATUTES

§18-5A-2. Local school improvement councils; election.

(l) Each local school improvement council annually shall develop and deliver a report to the countywide council on productive and safe schools. The report shall include:

(1) Guidelines for the instruction and rehabilitation of students who have been excluded from the classroom, suspended from the school or expelled from the school, the description and recommendation of in-school suspension programs, a description of possible alternative settings, schedules for instruction and alternative education programs and an implementation schedule for such guidelines. The guidelines shall include the following:

(A) A system to provide for effective communication and coordination between school and local emergency services agencies;

(B) A preventive discipline program which may include the responsible students program devised by the West Virginia Board of Education as adopted by the county board, pursuant to the provisions of subsection (e), section one, article five, chapter eighteen-a of this code; and

(C) A student involvement program, which may include the peer mediation program or programs devised by the West Virginia Board of Education as adopted by the county board, pursuant to the provisions of subsection (e), section one, article five, chapter eighteen-a of this code; and

Return to school following removal

STATUTES

§18A-5-1. Authority of teachers and other school personnel; exclusion of students having infectious diseases; suspension or expulsion of disorderly students; corporal punishment abolished.

(c) […] When a student is excluded from a classroom or a school bus two times in one semester, and after exhausting all reasonable methods of classroom discipline provided in the school discipline plan, the student may be readmitted to the classroom or the school bus only after the principal, teacher and, if possible, the parent(s), guardian(s) or custodian(s) of the student have held a conference to discuss the student's disruptive behavior patterns, and the teacher and the principal agree on a course of discipline for the student and inform the parent(s), guardian(s) or custodian(s) of the course of action. Thereafter, if the student's disruptive behavior persists, upon the teacher's request, the principal may, to the extent feasible, transfer the student to another setting. […]

Use of restraint and seclusion

No relevant statutes found.

Alternative placements

STATUTES

§18-2-6. Classification and standardization of schools; standards for degrees and diplomas; certificates of proficiency; establishment of alternative education programs.

(b) The state board shall promulgate a rule for the approval of alternative education programs for disruptive students who are at risk of not succeeding in the traditional school structure. This rule may provide for the waiver of other policies of the state board, the establishment and delivery of a nontraditional curriculum, the establishment of licensure requirements for alternative education program teachers, and the establishment of performance measures for school accreditation. This rule shall provide uniform definitions of disruptive student behavior and uniform standards for the placement of students in alternative settings or providing other interventions including referrals to local juvenile courts to correct student behavior so that they can return to a regular classroom without engaging in further disruptive behavior.

(c) The state board shall establish up to five pilot projects at the elementary or middle school levels, or both, that employ alternative schools or other placements for disruptive students to learn appropriate behaviors so they can return to the regular classroom without further disrupting the learning environment. The state board shall report to the Legislative Oversight Commission on Education Accountability by December 1, 2010, on its progress in establishing the pilot projects and by December 1 in each year after that for the duration of the pilot projects on the effect of the projects on maintaining student discipline.

§18A-5-1a. Possessing deadly weapons on premises of educational facilities; possessing a controlled substance on premises of educational facilities; assaults and batteries committed by pupils upon teachers or other school personnel; temporary suspension, hearing; procedure, notice and formal hearing; extended suspension; sale of narcotic; expulsion; exception; alternative education.

(g) A county board that expels a student, and finds that the student is a dangerous student, may refuse to provide alternative education. However, after a hearing conducted pursuant to this section for determining whether a student is a dangerous student, when the student is found to be a dangerous student, is expelled and is denied alternative education, a hearing shall be conducted within three months after the refusal by the board to provide alternative education to reexamine whether or not the student remains a dangerous student and whether the student shall be provided alternative education. Thereafter, a hearing for the purpose of reexamining whether or not the student remains a dangerous student and whether the student shall be provided alternative education shall be conducted every three months for so long as the student remains a dangerous student and is denied alternative education. During the initial hearing, or in any subsequent hearing, the board may consider the history of the pupil's conduct as well as any improvements made subsequent to the expulsion. If it is determined during any of the hearings that the student is no longer a dangerous student or should be provided alternative education, the student shall be provided alternative education during the remainder of the expulsion period.

§18-5A-2. Local school improvement councils; election.

(1) Guidelines for the instruction and rehabilitation of students who have been excluded from the classroom, suspended from the school or expelled from the school, the description and recommendation of in-school suspension programs, a description of possible alternative settings, schedules for instruction and alternative education programs and an implementation schedule for such guidelines. The guidelines shall include the following:

(A) A system to provide for effective communication and coordination between school and local emergency services agencies;

(B) A preventive discipline program which may include the responsible students program devised by the West Virginia board of education as adopted by the county board, pursuant to the provisions of subsection (e), section one, article five, chapter eighteen-a of this code; and

(C) A student involvement program, which may include the peer mediation program or programs devised by the West Virginia board of education as adopted by the county board, pursuant to the provisions of subsection (e), section one, article five, chapter eighteen-a of this code.

Disciplinary Approaches Addressing Specific Infractions and Conditions

Firearms (as required by the Guns-Free Schools Act)

STATUTES

§18A-5-1a. Possessing deadly weapons on premises of educational facilities; possessing a controlled substance on premises of educational facilities; assaults and batteries committed by pupils upon teachers or other school personnel; temporary suspension, hearing; procedure, notice and formal hearing; extended suspension; sale of narcotic; expulsion; exception; alternative education.

(a) A principal shall suspend a pupil from school or from transportation to or from the school on any school bus if the pupil, in the determination of the principal after an informal hearing pursuant to subsection (d) of this section, has: [...] (ii) violated the provisions of subsection (b), section eleven-a, article seven of said chapter; [...]

§61-7-2. Definitions.

(11) "Firearm" means any weapon which will expel a projectile by action of an explosion.

§61-7-11a. Possessing deadly weapons on premises of educational facilities; reports by school principals; suspension of driver license; possessing deadly weapons on premises housing courts of law and in offices of family law master.

(b) (1) It shall be unlawful for any person to possess any firearm or any other deadly weapon on any school bus as defined in section one, article one, chapter seventeen-a of this code, or in or on any public or private primary or secondary education building, structure, facility or grounds thereof, including any vocational education building, structure, facility or grounds thereof where secondary vocational education programs are conducted or at any school-sponsored function.

(2) This subsection shall not apply to:

(A) A law-enforcement officer acting in his or her official capacity;

(B) A person specifically authorized by the board of education of the county or principal of the school where the property is located to conduct programs with valid educational purposes;

(C) A person who, as otherwise permitted by the provisions of this article, possesses an unloaded firearm or deadly weapon in a motor vehicle, or leaves an unloaded firearm or deadly weapon in a locked motor vehicle;

(D) Programs or raffles conducted with the approval of the county board of education or school which include the display of unloaded firearms; or

(E) The official mascot of West Virginia University, commonly known as "The Mountaineer", acting in his or her official capacity.

(3) Any person violating this subsection shall be guilty of a felony, and, upon conviction thereof, shall be imprisoned in the penitentiary of this state for a definite term of years of not less than two years nor more than ten years, or fined not more than five thousand dollars, or both.

(c) It shall be the duty of the principal of each school subject to the authority of the state board of education to report any violation of subsection (b) of this section discovered by such principal to the state superintendent of schools within seventy-two hours after such violation occurs. The state board of

education shall keep and maintain such reports and may prescribe rules establishing policy and procedures for the making and delivery of the same as required by this subsection. In addition, it shall be the duty of the principal of each school subject to the authority of the state board of education to report any violation of subsection (b) of this section discovered by such principal to the appropriate local office of the division of public safety within seventy-two hours after such violation occurs.

(d) In addition to the methods of disposition provided by article five, chapter forty-nine of this code, any court which adjudicates a person who is fourteen years of age or older as delinquent for a violation of subsection (b) of this section may, in its discretion, order the division of motor vehicles to suspend any driver's license or instruction permit issued to such person for such period of time as the court may deem appropriate, such suspension, however, not to extend beyond such person's nineteenth birthday; or, where such person has not been issued a driver's license or instruction permit by this state, order the division of motor vehicles to deny such person's application for the same for such period of time as the court may deem appropriate, such denial, however, not to extend beyond such person's nineteenth birthday. Any suspension ordered by the court pursuant to this subsection shall be effective upon the date of entry of such order. Where the court orders the suspension of a driver's license or instruction permit pursuant to this subsection, the court shall confiscate any driver's license or instruction permit in the adjudicated person's possession and forward the same to the division of motor vehicles.

Other weapons

STATUTES

§18A-5-1a. Possessing deadly weapons on premises of educational facilities; possessing a controlled substance on premises of educational facilities; assaults and batteries committed by pupils upon teachers or other school personnel; temporary suspension, hearing; procedure, notice and formal hearing; extended suspension; sale of narcotic; expulsion; exception; alternative education.

(a) A principal shall suspend a pupil from school or from transportation to or from the school on any school bus if the pupil, in the determination of the principal after an informal hearing pursuant to subsection (d) of this section, has: [...] (ii) violated the provisions of subsection (b), section eleven-a, article seven of said chapter; [...]

§61-7-2. Definitions.

(9) "Deadly weapon" means an instrument which is designed to be used to produce serious bodily injury or death or is readily adaptable to such use. The term "deadly weapon" shall include, but not be limited to, the instruments defined in subdivisions (1) through (8), inclusive, of this section or other deadly weapons of like kind or character which may be easily concealed on or about the person. For the purposes of section one-a, article five, chapter eighteen-a of this code and section eleven-a, article seven of this chapter, in addition to the definition of "knife" set forth in subdivision (3) of this section, the term "deadly weapon" also includes any instrument included within the definition of "knife" with a blade of three and one-half inches or less in length. Additionally, for the purposes of section one-a, article five, chapter eighteen-a of this code and section eleven-a, article seven of this chapter, the term "deadly weapon" includes explosive, chemical, biological and radiological materials. Notwithstanding any other provision of this section, the term "deadly weapon" does not include any item or material owned by the school or county board, intended for curricular use, and used by the student at the time of the alleged offense solely for curricular purposes.

§61-7-11a. Possessing deadly weapons on premises of educational facilities; reports by school principals; suspension of driver license; possessing deadly weapons on premises housing courts of law and in offices of family law master.

(b) (1) It shall be unlawful for any person to possess any firearm or any other deadly weapon on any school bus as defined in section one, article one, chapter seventeen-a of this code, or in or on any public or private primary or secondary education building, structure, facility or grounds thereof, including any vocational education building, structure, facility or grounds thereof where secondary vocational education programs are conducted or at any school-sponsored function.

(2) This subsection shall not apply to:

(A) A law-enforcement officer acting in his or her official capacity;

(B) A person specifically authorized by the board of education of the county or principal of the school where the property is located to conduct programs with valid educational purposes;

(C) A person who, as otherwise permitted by the provisions of this article, possesses an unloaded firearm or deadly weapon in a motor vehicle, or leaves an unloaded firearm or deadly weapon in a locked motor vehicle;

(D) Programs or raffles conducted with the approval of the county board of education or school which include the display of unloaded firearms; or

(E) The official mascot of West Virginia University, commonly known as "The Mountaineer", acting in his or her official capacity.

(3) Any person violating this subsection shall be guilty of a felony, and, upon conviction thereof, shall be imprisoned in the penitentiary of this state for a definite term of years of not less than two years nor more than ten years, or fined not more than five thousand dollars, or both.

(c) It shall be the duty of the principal of each school subject to the authority of the state board of education to report any violation of subsection (b) of this section discovered by such principal to the state superintendent of schools within seventy-two hours after such violation occurs. The state board of education shall keep and maintain such reports and may prescribe rules establishing policy and procedures for the making and delivery of the same as required by this subsection. In addition, it shall be the duty of the principal of each school subject to the authority of the state board of education to report any violation of subsection (b) of this section discovered by such principal to the appropriate local office of the division of public safety within seventy-two hours after such violation occurs.

(d) In addition to the methods of disposition provided by article five, chapter forty-nine of this code, any court which adjudicates a person who is fourteen years of age or older as delinquent for a violation of subsection (b) of this section may, in its discretion, order the division of motor vehicles to suspend any driver's license or instruction permit issued to such person for such period of time as the court may deem appropriate, such suspension, however, not to extend beyond such person's nineteenth birthday; or, where such person has not been issued a driver's license or instruction permit by this state, order the division of motor vehicles to deny such person's application for the same for such period of time as the court may deem appropriate, such denial, however, not to extend beyond such person's nineteenth birthday. Any suspension ordered by the court pursuant to this subsection shall be effective upon the date of entry of such order. Where the court orders the suspension of a driver's license or instruction permit pursuant to this subsection, the court shall confiscate any driver's license or instruction permit in the adjudicated person's possession and forward the same to the division of motor vehicles.

Students with chronic disciplinary issues

STATUTES

§18A-5-1. Authority of teachers and other school personnel; exclusion of students having infectious diseases; suspension or expulsion of disorderly students; corporal punishment abolished.

(c) […] When a student is excluded from a classroom or a school bus two times in one semester, and after exhausting all reasonable methods of classroom discipline provided in the school discipline plan, the student may be readmitted to the classroom or the school bus only after the principal, teacher and, if possible, the parent(s), guardian(s) or custodian(s) of the student have held a conference to discuss the student's disruptive behavior patterns, and the teacher and the principal agree on a course of discipline for the student and inform the parent(s), guardian(s) or custodian(s) of the course of action. Thereafter, if the student's disruptive behavior persists, upon the teacher's request, the principal may, to the extent feasible, transfer the student to another setting. […] The Legislature finds that isolating students or placing them in alternative learning centers may be the best setting for chronically disruptive students. [...]

§18A-5-1a. Possessing deadly weapons on premises of educational facilities; possessing a controlled substance on premises of educational facilities; assaults and batteries committed by pupils upon teachers or other school personnel; temporary suspension, hearing; procedure, notice and formal hearing; extended suspension; sale of narcotic; expulsion; exception; alternative education.

(c) A principal may suspend a pupil from school, or transportation to or from the school on any school bus, if the pupil, in the determination of the principal after an informal hearing pursuant to subsection (d) of this section: (i) Threatened to injure, or in any manner injured, a pupil, teacher, administrator or other school personnel; (ii) willfully disobeyed a teacher; (iii) possessed alcohol in an educational facility, on school grounds, a school bus or at any school-sponsored function; (iv) used profane language directed at a school employee or pupil; (v) intentionally defaced any school property; (vi) participated in any physical altercation with another person while under the authority of school personnel; or (vii) habitually violated school rules or policies. If a student has been suspended pursuant to this subsection, the principal may request that the superintendent recommend to the county board that the student be expelled. Upon such recommendation by the county superintendent, the county board may hold a hearing in accordance with the provisions of subsections (e), (f) and (g) of this section to determine if the student committed the alleged violation. If the county board finds that the student did commit the alleged violation, the county board may expel the student.

Attendance and truancy

STATUTES

§ 18-8-4. Duties of attendance director and assistant directors; complaints, warrants and hearings.

(a) The county attendance director and the assistants shall diligently promote regular school attendance. The director and assistants shall:

(1) Ascertain reasons for inexcusable absences from school of students of compulsory school age and students who remain enrolled beyond the compulsory school age as defined under section one-a [§ 18-8-1a] of this article; and

(2) Take such steps as are, in their discretion, best calculated to correct attitudes of parents and students which result in absences from school even though not clearly in violation of law.

(b) In the case of five total unexcused absences of a student during a school year, the attendance director or assistant shall:

(1) Serve written notice to the parent, guardian or custodian of the student that the attendance of the student at school is required and that within ten days of receipt of the notice the parent, guardian or custodian, accompanied by the student, shall report in person to the school the student attends for a conference with the principal or other designated representative of the school in order to discuss and correct the circumstances causing the inexcusable absences of the student; and if the parent, guardian or custodian does not comply with the provisions of this article, then the attendance director or assistant shall make complaint against the parent, guardian or custodian before a magistrate of the county. If it appears from the complaint that there is probable cause to believe that an offense has been committed and that the accused has committed it, a summons or a warrant for the arrest of the accused shall issue to any officer authorized by law to serve the summons or to arrest persons charged with offenses against the state. More than one parent, guardian or custodian may be charged in a complaint. Initial service of a summons or warrant issued pursuant to the provisions of this section shall be attempted within ten calendar days of receipt of the summons or warrant and subsequent attempts at service shall continue until the summons or warrant is executed or until the end of the school term during which the complaint is made, whichever is later.

(c) The magistrate court clerk, or the clerk of the circuit court performing the duties of the magistrate court as authorized in section eight [§ 50-1-8], article one, chapter fifty of this code, shall assign the case to a magistrate within ten days of execution of the summons or warrant. The hearing shall be held within twenty days of the assignment to the magistrate, subject to lawful continuance. The magistrate shall provide to the accused at least ten days' advance notice of the date, time and place of the hearing.

(d) When any doubt exists as to the age of a student absent from school, the attendance director has authority to require a properly attested birth certificate or an affidavit from the parent, guardian or custodian of the student, stating age of the student. In the performance of his or her duties, the county attendance director has authority to take without warrant any student absent from school in violation of the provisions of this article and to place the student in the school in which he or she is or should be enrolled.

(e) The county attendance director shall devote such time as is required by section three [§ 18-8-3] of this article to the duties of attendance director in accordance with this section during the instructional term and at such other times as the duties of an attendance director are required. All attendance directors hired for more than two hundred days may be assigned other duties determined by the superintendent during the period in excess of two hundred days. The county attendance director is responsible under direction of the county superintendent for efficiently administering school attendance in the county.

(f) In addition to those duties directly relating to the administration of attendance, the county attendance director and assistant directors also shall perform the following duties:

(1) Assist in directing the taking of the school census to see that it is taken at the time and in the manner provided by law;

(2) Confer with principals and teachers on the comparison of school census and enrollment for the detection of possible nonenrollees;

(3) Cooperate with existing state and federal agencies charged with enforcing child labor laws;

(4) Prepare a report for submission by the county superintendent to the State Superintendent of Schools on school attendance, at such times and in such detail as may be required. The state board shall promulgate a legislative rule pursuant to article three-b [§§ 29A-3B-1 et seq.], chapter twenty-nine-a of this code that sets forth student absences that are excluded for accountability purposes. The absences that are excluded by the rule include, but are not be limited to, excused student absences, students not in attendance due to disciplinary measures and absent students for whom the attendance

director has pursued judicial remedies to compel attendance to the extent of his or her authority. The attendance director shall file with the county superintendent and county board at the close of each month a report showing activities of the school attendance office and the status of attendance in the county at the time;

(5) Promote attendance in the county by compiling data for schools and by furnishing suggestions and recommendations for publication through school bulletins and the press, or in such manner as the county superintendent may direct;

(6) Participate in school teachers' conferences with parents and students;

(7) Assist in such other ways as the county superintendent may direct for improving school attendance;

(8) Make home visits of students who have excessive unexcused absences, as provided above, or if requested by the chief administrator, principal or assistant principal; and

(9) Serve as the liaison for homeless children and youth.

§18A-5-1. Authority of teachers and other school personnel; exclusion of students having infectious diseases; suspension or expulsion of disorderly students; corporal punishment abolished.

(d) The Legislature finds that suspension from school is not appropriate solely for a student's failure to attend class. Therefore, a student may not be suspended from school solely for not attending class. Other methods of discipline may be used for the student which may include, but are not limited to, detention, extra class time or alternative class settings.

ADMINISTRATIVE CODE

§126-81-6. County Attendance Policy Components.

6.1. Each county's attendance policy shall address the following components:

a. Philosophy: A philosophy declaring the board's intent to increase attendance by:

1. creating a positive safe environment conducive to learning and committed to helping students develop responsibility, self-discipline, and other good work habits.

2. developing a system enlisting parental/guardian support for daily school attendance by students.

b. Principles of Operation: County school districts are responsible for:

1. appointing a designated school attendance coordinator (principal, or designee) who collects classroom attendance data and makes appropriate referrals to the countyattendance director.

2. reporting student attendance information which reflects the allowable deductions as defined by the WVBE.

3. defining excused and unexcused absences in compliance with W. Va. Code §§18-8-1 and 18-8-2 and attendance in W. Va. 126CSR42, WVBE Policy 2510, Assuring the Quality of Education: Regulations for Education Programs (hereinafter Policy 2510); provided, however, that no county may require more than a parental excuse for absences resulting from a documented chronic medical condition or a documented disability as defined in §126-81-4.10.a and §126-81-4.10.b of this policy.

4. defining extenuating circumstances for absences which may require home/hospital instruction.

5. setting reasonable preventive measures and consequences for student tardiness.

6. submitting each revision of the county attendance policy to the WVDE for approval.

7. assuring that a student may not be suspended solely for failure to attend class. Other methods of discipline may include, but are not limited to, detention, extra class time, or alternative class settings.

8. reporting all school dropouts to the WVDE.

c. Development of Processes and Procedures: County school districts are responsible for:

1. developing a process to notify students and their parents/guardians of the county attendance policy and their responsibility and accountability for regular school attendance.

2. developing procedures and reasonable timelines requiring students with excused and unexcused absences to make up school work.

3. requiring a student maintain satisfactory attendance (satisfactory being defined as no unexcused absences) during one complete semester following the revocation of his/her driver's license. (Refer to §126-81-7.)

4. developing an attendance appeal process for students and parents/guardians.

d. Maintenance of Records: Accurate attendance records and related documentation shall be maintained for every student enrolled in public school.

1. An up-to-date daily register/record of attendance for every student must be maintained.

2. There must be written procedures for: 1) notifying parents/guardians about absences, 2) monitoring absences, and 3) notifying the county attendance director.

3. Students who are physically absent from school must be documented as absent. This record may become a legal document.

e. Preventive and Corrective: designed to meet the developmental needs of students, preventive, and corrective measures should include:

1. developing preventive and educational procedures including: incentives to maintain and improve attendance and reduce tardiness.

2. procedures for notification of parents/guardians of absences and procedures for securing parent/guardian involvement to improve student attendance.

3. procedures for providing adequate counseling for problems related to attendance.

4. procedures for interagency involvement.

5. alternative plans and programs that are positive in nature and encourage improved school attendance.

6. assurances that students with a pattern of excessive absenteeism are referred to appropriate student assistance teams/programs (Policy 2510 and W. Va. 126CSR13, WVBE Policy 2320, Process for Improving Education: Performance Based Accreditation System) for appropriate intervention(s), and that these interventions have been reviewed to determine effectiveness.

Substance use

No relevant statutes found.

Bullying, harassment, or hazing

STATUTES

§18-2-33. Rules for antihazing.

(a) The Legislature hereby finds that hazing has become a problem in a limited number of public school-sponsored student organizations and that legal liability has already resulted from some of those activities. It is the intent of this section that problems with hazing in public school-sponsored student organizations be addressed.

(b) The state board shall promulgate legislative rules in accordance with article three-b, chapter twenty-nine-a of this code that addresses hazing in the public school system. The rules shall include at least the following:

(1) A definition of hazing;

(2) A definition of a public school-sponsored student organization that includes both cocurricular and extracurricular activities;

(3) A method to advise students and employees of the problems associated with hazing;

(4) Appropriate penalties or procedures for establishing penalties for students who haze while engaged in the activities of a public school-sponsored student organization; and

(5) Methods to prevent hazing in public school-sponsored organizations.

(c) The state board shall consider the antihazing law set forth in article sixteen, chapter eighteen in drafting the rules required by this section.

(d) Nothing in this section or in the policy promulgated in accordance with this section may be construed to prevent a suspension or expulsion executed in accordance with section one-a, article five, chapter eighteen-a of this code.

§18-2C-1. Legislative findings.

The Legislature finds that a safe and civil environment in school is necessary for students to learn and achieve high academic standards. The Legislature finds that harassment, intimidation or bullying, like other disruptive or violent behavior, is conduct that disrupts both a student's ability to learn and a school's ability to educate its students in a safe, nonthreatening environment.

The Legislature further finds that students learn by example. The Legislature charges school administrators, faculty, staff and volunteers with demonstrating appropriate behavior, treating others with civility and respect, and refusing to tolerate harassment, intimidation or bullying.

§18-2C-2. Definitions.

(a) As used in this article, "harassment, intimidation or bullying" means any intentional gesture, or any intentional electronic, written, verbal or physical act, communication, transmission or threat that:

(1) A reasonable person under the circumstances should know will have the effect of any one or more of the following:

(A) Physically harming a student;

(B) Damaging a student's property;

(C) Placing a student in reasonable fear of harm to his or her person; or

(D) Placing a student in reasonable fear of damage to his or her property;

(2) Is sufficiently severe, persistent or pervasive that it creates an intimidating, threatening or emotionally abusive educational environment for a student; or

(3) Disrupts or interferes with the orderly operation of the school.

(b) As used in this article, an electronic act, communication, transmission or threat includes but is not limited to one which is administered via telephone, wireless phone, computer, pager or any electronic or wireless device whatsoever, and includes but is not limited to transmission of any image or voice, email or text message using any such device.

§18-2C-3. Policy prohibiting harassment, intimidation or bullying.

(a) Each county board shall establish a policy prohibiting harassment, intimidation or bullying. Each county board has control over the content of its policy as long as the policy contains, at a minimum, the

requirements of subdivision (b) of this section. The policy shall be adopted through a process that includes representation of parents or guardians, school employees, school volunteers, students and community members.

(b) Each county board policy shall, at a minimum, include the following components:

(1) A statement prohibiting harassment, intimidation or bullying of any student on school property, a school bus, at a school bus stop or at school sponsored events;

(2) A definition of harassment, intimidation or bullying no less inclusive than that in section two of this article;

(3) A procedure for reporting prohibited incidents;

(4) A requirement that school personnel report prohibited incidents of which they are aware;

(5) A requirement that parents or guardians of any student involved in an incident prohibited pursuant to this article be notified;

(6) A procedure for documenting any prohibited incident that is reported;

(7) A procedure for responding to and investigating any reported incident;

(8) A strategy for protecting a victim from additional harassment, intimidation or bullying, and from retaliation following a report;

(9) A disciplinary procedure for any student guilty of harassment, intimidation or bullying;

(10) A requirement that any information relating to a reported incident is confidential, and exempt from disclosure under the provisions of chapter twenty-nine-b of this code; and

(11) A requirement that each county board shall input into the uniform integrated regional computer information system (commonly known as the West Virginia Education Information System) described in section twenty-six, article two of this chapter, and compile an annual report regarding the means of harassment, intimidation or bullying that have been reported to them, and the reasons therefor, if known. The West Virginia Department of Education shall compile the information and report it annually beginning July 1, 2012, to the Legislative Oversight Committee on Education Accountability.

(c) Each county board shall adopt the policy and submit a copy to the State Superintendent of Schools by December 1, 2011.

(d) To assist county boards in developing their policies, the West Virginia Department of Education shall develop a model policy applicable to grades kindergarten through twelfth. The model policy shall be issued by September 1, 2011.

(e) Notice of the county board's policy shall appear in any student handbook, and in any county board publication that sets forth the comprehensive rules, procedures and standards of conduct for the school.

§18-2C-4. Immunity.

A school employee, student or volunteer is individually immune from a cause of action for damages arising from reporting said incident, if that person:

(1) In good faith promptly reports an incident of harassment, intimidation or bullying;

(2) Makes the report to the appropriate school official as designated by policy; and

(3) Makes the report in compliance with the procedures as specified in policy.

§18-2C-5. Policy training and education.

(a) Schools and county boards are encouraged, but not required, to form bullying prevention task forces, programs and other initiatives involving school staff, students, teachers, administrators, volunteers, parents, law enforcement and community members.

(b) To the extent state or federal funds are appropriated for these purposes, each school district shall:

(1) Provide training on the harassment, intimidation or bullying policy to school employees and volunteers who have direct contact with students; and

(2) Develop a process for educating students on the harassment, intimidation or bullying policy.

(c) Information regarding the county board policy against harassment, intimidation or bullying shall be incorporated into each school's current employee training program.

§18-2C-6. Liability.

Except as provided in section four of this article, nothing in this article prohibits a victim from seeking redress under any other provision of civil or criminal law.

Other special infractions or conditions

No relevant statutes found.

Prevention and Behavioral Interventions (Non-Punitive)

Prevention

STATUTES

§18-2C-5. Policy training and education.

(a) Schools and county boards are encouraged, but not required, to form bullying prevention task forces, programs and other initiatives involving school staff, students, teachers, administrators, volunteers, parents, law enforcement and community members.

§18-2-7b. Programs in drug prevention and violence reduction.

In order for the schools to become healthy learning environments and to provide a strong defense against drug use and violence, the state board of education shall prescribe programs within the existing health and physical education program which teach resistance and life skills to counteract societal and peer pressure to use drugs, alcohol and tobacco, and shall include counselors, teachers and staff in full implementation of the program. The board shall also prescribe programs to coordinate violence reduction efforts in schools and between schools and their communities and to train students, teachers, counselors and staff in conflict resolution skills. The program shall be comprehensive, interdisciplinary and shall begin in elementary school. The state board shall report to the legislative oversight commission on education accountability on the status of the programs no later than the first day of July, one thousand nine hundred ninety-five.

§18-5A-2. Local school improvement councils; election.

(l) Each local school improvement council annually shall develop and deliver a report to the countywide council on productive and safe schools. The report shall include:

(1) Guidelines for the instruction and rehabilitation of students who have been excluded from the classroom, suspended from the school or expelled from the school, the description and recommendation of in-school suspension programs, a description of possible alternative settings, schedules for instruction and alternative education programs and an implementation schedule for such guidelines. The guidelines shall include the following:

[…] (B) A preventive discipline program which may include the responsible students program devised by the West Virginia Board of Education as adopted by the county board, pursuant to the provisions of subsection (e), section one, article five, chapter eighteen-a of this code; and

(C) A student involvement program, which may include the peer mediation program or programs devised by the West Virginia Board of Education as adopted by the county board, pursuant to the provisions of subsection (e), section one, article five, chapter eighteen-a of this code; and

§18A-5-1. Authority of teachers and other school personnel; exclusion of students having infectious diseases; suspension or expulsion of disorderly students; corporal punishment abolished.

(f) [...] The county boards also may establish cooperatives with private entities to provide middle educational programs which may include programs focusing on developing individual coping skills, conflict resolution, anger control, self-esteem issues, stress management and decision making for students and any other program related to preventive discipline.

ADMINISTRATIVE CODE

§126-81-6. County Attendance Policy Components.

6.1. Each county's attendance policy shall address the following components:

e. Preventive and Corrective: designed to meet the developmental needs of students, preventive, and corrective measures should include:

1. developing preventive and educational procedures including: incentives to maintain and improve attendance and reduce tardiness.

2. procedures for notification of parents/guardians of absences and procedures for securing parent/guardian involvement to improve student attendance.

§126-99-2. Purpose.

2.1. The West Virginia Board of Education recognizes the need for students, teachers, administrators, and other school personnel to have a safe and supportive educational environment. The West Virginia Board of Education believes further that public schools should undertake proactive, preventive approaches to ensure a positive school climate/culture that fosters learning and personal-social development. These regulations require county boards of education to design and implement procedures to create and support continuous school climate/culture improvement processes within all schools that will ensure an orderly and safe environment that is conducive to learning. Public schools must create, encourage, and maintain a safe, drug-free, and fear-free school environment in the classroom, on the playground, and at school-sponsored activities. Assuring such an educational environment requires a comprehensive plan supported by everyone in the school organization, as well as parents/guardians and the community.

2.2. These regulations also set forth unacceptable behaviors that undermine a school's efforts to create a positive school climate/culture. These unacceptable behaviors are prohibited on all school property and school sponsored events. West Virginia's public schools must respond quickly and consistently, in accordance with these regulations, to incidents of these prohibited behaviors in a manner that effectively deters future incidents and affirms respect for individuals.

Behavioral interventions and student support services

STATUTES

§18-2C-5. Policy training and education.

(a) Schools and county boards are encouraged, but not required, to form bullying prevention task forces, programs and other initiatives involving school staff, students, teachers, administrators, volunteers, parents, law enforcement and community members.

(b) To the extent state or federal funds are appropriated for these purposes, each school district shall:

(1) Provide training on the harassment, intimidation or bullying policy to school employees and volunteers who have direct contact with students; and

(2) Develop a process for educating students on the harassment, intimidation or bullying policy.

(c) Information regarding the county board policy against harassment, intimidation or bullying shall be incorporated into each school's current employee training program.

§18-5A-2. Local school improvement councils; election.

(1) Guidelines for the instruction and rehabilitation of students who have been excluded from the classroom, suspended from the school or expelled from the school, the description and recommendation

of in-school suspension programs, a description of possible alternative settings, schedules for instruction and alternative education programs and an implementation schedule for such guidelines. The guidelines shall include the following:

(C) A student involvement program, which may include the peer mediation program or programs devised by the West Virginia board of education as adopted by the county board, pursuant to the provisions of subsection (e), section one, article five, chapter eighteen-a of this code.

ADMINISTRATIVE CODE

§126-81-6. County Attendance Policy Components.

e. Preventive and Corrective: designed to meet the developmental needs of students, preventive, and corrective measures should include:

3. procedures for providing adequate counseling for problems related to attendance.

5. alternative plans and programs that are positive in nature and encourage improved school attendance.

6. assurances that students with a pattern of excessive absenteeism are referred to appropriate student assistance teams/programs (Policy 2510 and W. Va. 126CSR13, WVBE Policy 2320, Process for Improving Education: Performance Based Accreditation System) for appropriate intervention(s), and that these interventions have been reviewed to determine effectiveness.

Professional development

STATUTES

§18-2C-5. Policy training and education.

(b) To the extent state or federal funds are appropriated for these purposes, each school district shall:

(1) Provide training on the harassment, intimidation or bullying policy to school employees and volunteers who have direct contact with students; and

(c) Information regarding the county board policy against harassment, intimidation or bullying shall be incorporated into each school's current employee training program.

§18A-5-1. Authority of teachers and other school personnel; exclusion of students having infectious diseases; suspension or expulsion of disorderly students; corporal punishment abolished.

(f) [...] The county boards shall provide in-service training for teachers and principals relating to assertive discipline procedures and conflict resolution. [...]

For additional information on professional development, see also West Virginia Manual for Expected Behavior in Safe and Supportive Schools, included in the “State-Sponsored, Publicly Available Websites or Other Resources on School Discipline” section of the full West Virginia compilation.

Monitoring and Accountability

Formal incident reporting of conduct violations

STATUTES

§18A-5-1. Authority of teachers and other school personnel; exclusion of students having infectious diseases; suspension or expulsion of disorderly students; corporal punishment abolished.

(d) [...] The principal shall report any suspension the same day it has been decided upon, in writing, to the parent(s), guardian(s) or custodian(s) of the pupil by regular United States mail. The suspension also shall be reported to the county superintendent and to the faculty senate of the school at the next meeting after the suspension.

§18A-5-1a. Possessing deadly weapons on premises of educational facilities; possessing a controlled substance on premises of educational facilities; assaults and batteries committed by pupils upon teachers or other school personnel; temporary suspension, hearing; procedure, notice and formal hearing; extended suspension; sale of narcotic; expulsion; exception; alternative education.

(l) Each suspension or expulsion imposed upon a pupil under the authority of this section shall be recorded in the uniform integrated regional computer information system (commonly known as the West Virginia Education Information System) described in subsection (f), section twenty-six, article two, chapter eighteen of this code.

(1) The principal of the school at which the pupil is enrolled shall create an electronic record within twenty-four hours of the imposition of the suspension or expulsion.

(2) Each record of a suspension or expulsion shall include the pupil's name and identification number, the reason for the suspension or expulsion, and the beginning and ending dates of the suspension or expulsion.

(3) The State Board of Education shall collect and disseminate data so that any principal of a public school in West Virginia can review the complete history of disciplinary actions taken by West Virginia public schools against any pupil enrolled or seeking to enroll at that principal's school. The purposes of this provision are to allow every principal to fulfill his or her duty under subsection (b), section fifteen-f, article five, chapter eighteen of this code to determine whether a pupil requesting to enroll at a public school in West Virginia is currently serving a suspension or expulsion from another public school in West Virginia and to allow principals to obtain general information about pupils' disciplinary histories.

§61-7-11a. Possessing deadly weapons on premises of educational facilities; reports by school principals; suspension of driver license; possessing deadly weapons on premises housing courts of law and in offices of family law master.

(c) It shall be the duty of the principal of each school subject to the authority of the state board of education to report any violation of subsection (b) of this section discovered by such principal to the state superintendent of schools within seventy-two hours after such violation occurs. The state board of education shall keep and maintain such reports and may prescribe rules establishing policy and procedures for the making and delivery of the same as required by this subsection. In addition, it shall be the duty of the principal of each school subject to the authority of the state board of education to report

any violation of subsection (b) of this section discovered by such principal to the appropriate local office of the division of public safety within seventy-two hours after such violation occurs.

Parental notification

STATUTES

§18A-5-1. Authority of teachers and other school personnel; exclusion of students having infectious diseases; suspension or expulsion of disorderly students; corporal punishment abolished.

(c) The teacher may exclude from his or her classroom or school bus any student who is guilty of disorderly conduct; who in any manner interferes with an orderly educational process; who threatens, abuses or otherwise intimidates or attempts to intimidate a school employee or a student; who willfully disobeys a school employee; or who uses abusive or profane language directed at a school employee. Any student excluded shall be placed under the control of the principal of the school or a designee. The excluded student may be admitted to the classroom or school bus only when the principal, or a designee, provides written certification to the teacher that the student may be readmitted and specifies the specific type of disciplinary action, if any, that was taken. If the principal finds that disciplinary action is warranted, he or she shall provide written and, if possible, telephonic notice of the action to the parent(s), guardian(s) or custodian(s).

(d) [...] The pupil and his or her parent(s), guardian(s) or custodian(s), as the case may be, shall be given telephonic notice, if possible, of this informal hearing, which notice shall briefly state the grounds for suspension.

At the commencement of the informal hearing, the principal shall inquire of the pupil as to whether he or she admits or denies the charges. If the pupil does not admit the charges, he or she shall be given an explanation of the evidence possessed by the principal and an opportunity to present his or her version of the occurrence. At the conclusion of the hearing or upon the failure of the noticed student to appear, the principal may suspend the pupil for a maximum of ten school days, including the time prior to the hearing, if any, for which the pupil has been excluded from school.

The principal shall report any suspension the same day it has been decided upon, in writing, to the parent(s), guardian(s) or custodian(s) of the pupil by regular United States mail. The suspension also shall be reported to the county superintendent and to the faculty senate of the school at the next meeting after the suspension.

ADMINISTRATIVE CODE

§126-81-6. County Attendance Policy Components.

6.1. Each county's attendance policy shall address the following components:

c. Development of Processes and Procedures: County school districts are responsible for:

1. developing a process to notify students and their parents/guardians of the county attendance policy and their responsibility and accountability for regular school attendance.

4. developing an attendance appeal process for students and parents/guardians.

d. Maintenance of Records: Accurate attendance records and related documentation shall be maintained for every student enrolled in public school.

1. An up-to-date daily register/record of attendance for every student must be maintained.

2. There must be written procedures for: 1) notifying parents/guardians about absences, 2) monitoring absences, and 3) notifying the county attendance director.

e. Preventive and Corrective: designed to meet the developmental needs of students, preventive, and corrective measures should include:

1. developing preventive and educational procedures including: incentives to maintain and improve attendance and reduce tardiness.
2. procedures for notification of parents/guardians of absences and procedures for securing parent/guardian involvement to improve student attendance.

Reporting and referrals between schools and law enforcement

STATUTES

§61-7-11a. Possessing deadly weapons on premises of educational facilities; reports by school principals; suspension of driver license; possessing deadly weapons on premises housing courts of law and in offices of family law master.

(c) [...] In addition, it shall be the duty of the principal of each school subject to the authority of the state board of education to report any violation of subsection (b) of this section discovered by such principal to the appropriate local office of the division of public safety within seventy-two hours after such violation occurs.

Disclosure of school records

STATUTES

§18A-5-5. Records; reports by professional and other personnel.

Every teacher, principal, supervisor, or other person employed by a board of education shall keep such records and shall make such reports as may be required by the state superintendent of schools, and such records shall be kept and such reports shall be made according to the forms and blanks prescribed and furnished by the state superintendent. Teachers shall also keep such other records and make such other reports as may be required by the board of education employing them.

Data collection, review, and reporting of disciplinary policies and actions

STATUTES

§18-2-5g. Duty to receive and submit summary of policy modifications and annual reports.

In addition to filing each policy as required by section fourteen, article five of this chapter, the state board shall require each county board to provide a summary of any modifications to the policies and copies of annual reports developed pursuant to section fourteen, article five of this chapter. The state board shall submit copies of these summaries of modifications to the policies and annual reports, together with any comments and recommendations, to the legislative oversight commission on education accountability, no later than the thirty-first day of December of each year.

§18A-5-1a. Possessing deadly weapons on premises of educational facilities; possessing a controlled substance on premises of educational facilities; assaults and batteries committed by pupils upon teachers or other school personnel; temporary suspension, hearing; procedure, notice and formal hearing; extended suspension; sale of narcotic; expulsion; exception; alternative education.

(h) […] The county boards are directed to report the number of pupils determined to be dangerous students to the State Board of Education. The state board will compile the county boards' statistics and shall report its findings to the Legislative Oversight Commission on Education Accountability.

§18-5A-2. Local school improvement councils; election.

(l) Each local school improvement council annually shall develop and deliver a report to the countywide council on productive and safe schools. The report shall include:

(1) Guidelines for the instruction and rehabilitation of students who have been excluded from the classroom, suspended from the school or expelled from the school, the description and recommendation of in-school suspension programs, a description of possible alternative settings, schedules for instruction and alternative education programs and an implementation schedule for such guidelines. The guidelines shall include the following:

(A) A system to provide for effective communication and coordination between school and local emergency services agencies;

(B) A preventive discipline program which may include the responsible students program devised by the West Virginia board of education as adopted by the county board, pursuant to the provisions of subsection (e), section one, article five, chapter eighteen-a of this code; and

(C) A student involvement program, which may include the peer mediation program or programs devised by the West Virginia board of education as adopted by the county board, pursuant to the provisions of subsection (e), section one, article five, chapter eighteen-a of this code; and

(2) The local school improvement council's findings regarding its examination of the following, which also shall be reported to the county superintendent:

(A) Disciplinary measures at the school; and

(B) The fairness and consistency of disciplinary actions at the school. If the council believes that student discipline at the school is not enforced fairly or consistently, it shall transmit that determination in writing, along with supporting information, to the county superintendent. Within ten days of receiving the report, the superintendent, or designee, shall respond in writing to the council. The county board shall retain and file all such correspondence and maintain it for public review.

(C) Any report or communication made as required by this subdivision shall comply with any applicable provision of state, federal or county board policy, rule or law, as appropriate, regarding student privacy rights.

(m) The council may include in its report to the county-wide council on productive and safe schools provisions of the State Board of Education policy 4373, student code of conduct, or any expansion of such policy which increases the safety of students in schools in this state and is consistent with the policies and other laws of this state.

(n) Councils may adopt their own guidelines established under this section. In addition, the councils may adopt all or any part of the guidelines proposed by other local school improvement councils, as developed under this section, which are not inconsistent with the laws of this state, the policies of the West Virginia Board of Education or the policies of the county board.

ADMINISTRATIVE CODE

§18A-5-1a. Possessing deadly weapons on premises of educational facilities; possessing a controlled substance on premises of educational facilities; assaults and batteries committed by pupils upon teachers or other school personnel; temporary suspension, hearing; procedure, notice and formal hearing; extended suspension; sale of narcotic; expulsion; exception; alternative education.

(h) […] The county boards are directed to report the number of pupils determined to be dangerous students to the State Board of Education. The state board will compile the county boards' statistics and shall report its findings to the Legislative Oversight Commission on Education Accountability.

School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers

Authority and power to implement school arrest

STATUTES

§18-8-4. Duties of attendance director and assistant directors; complaints, warrants and hearings.

(a) The county attendance director and the assistants shall diligently promote regular school attendance. The director and assistants shall:

(1) Ascertain reasons for inexcusable absences from school of students of compulsory school age and students who remain enrolled beyond the compulsory school age as defined under section one-a [§ 18-8-1a] of this article; and

(2) Take such steps as are, in their discretion, best calculated to correct attitudes of parents and students which result in absences from school even though not clearly in violation of law.

(b) In the case of five total unexcused absences of a student during a school year, the attendance director or assistant shall:

(1) Serve written notice to the parent, guardian or custodian of the student that the attendance of the student at school is required and that within ten days of receipt of the notice the parent, guardian or custodian, accompanied by the student, shall report in person to the school the student attends for a conference with the principal or other designated representative of the school in order to discuss and correct the circumstances causing the inexcusable absences of the student; and if the parent, guardian or custodian does not comply with the provisions of this article, then the attendance director or assistant shall make complaint against the parent, guardian or custodian before a magistrate of the county. If it appears from the complaint that there is probable cause to believe that an offense has been committed and that the accused has committed it, a summons or a warrant for the arrest of the accused shall issue to any officer authorized by law to serve the summons or to arrest persons charged with offenses against the state. More than one parent, guardian or custodian may be charged in a complaint. Initial service of a summons or warrant issued pursuant to the provisions of this section shall be attempted within ten calendar days of receipt of the summons or warrant and subsequent attempts at service shall continue until the summons or warrant is executed or until the end of the school term during which the complaint is made, whichever is later.

(c) The magistrate court clerk, or the clerk of the circuit court performing the duties of the magistrate court as authorized in section eight [§ 50-1-8], article one, chapter fifty of this code, shall assign the case to a magistrate within ten days of execution of the summons or warrant. The hearing shall be held within twenty days of the assignment to the magistrate, subject to lawful continuance. The magistrate shall provide to the accused at least ten days' advance notice of the date, time and place of the hearing.

(d) When any doubt exists as to the age of a student absent from school, the attendance director has authority to require a properly attested birth certificate or an affidavit from the parent, guardian or custodian of the student, stating age of the student. In the performance of his or her duties, the county attendance director has authority to take without warrant any student absent from school in violation of the provisions of this article and to place the student in the school in which he or she is or should be enrolled.

(e) The county attendance director shall devote such time as is required by section three [§ 18-8-3] of this article to the duties of attendance director in accordance with this section during the instructional term and

at such other times as the duties of an attendance director are required. All attendance directors hired for more than two hundred days may be assigned other duties determined by the superintendent during the period in excess of two hundred days. The county attendance director is responsible under direction of the county superintendent for efficiently administering school attendance in the county.

(f) In addition to those duties directly relating to the administration of attendance, the county attendance director and assistant directors also shall perform the following duties:

(1) Assist in directing the taking of the school census to see that it is taken at the time and in the manner provided by law;

(2) Confer with principals and teachers on the comparison of school census and enrollment for the detection of possible nonenrollees;

(3) Cooperate with existing state and federal agencies charged with enforcing child labor laws;

(4) Prepare a report for submission by the county superintendent to the State Superintendent of Schools on school attendance, at such times and in such detail as may be required. The state board shall promulgate a legislative rule pursuant to article three-b [§§ 29A-3B-1 et seq.], chapter twenty-nine-a of this code that sets forth student absences that are excluded for accountability purposes. The absences that are excluded by the rule include, but are not be limited to, excused student absences, students not in attendance due to disciplinary measures and absent students for whom the attendance director has pursued judicial remedies to compel attendance to the extent of his or her authority. The attendance director shall file with the county superintendent and county board at the close of each month a report showing activities of the school attendance office and the status of attendance in the county at the time;

(5) Promote attendance in the county by compiling data for schools and by furnishing suggestions and recommendations for publication through school bulletins and the press, or in such manner as the county superintendent may direct;

(6) Participate in school teachers' conferences with parents and students;

(7) Assist in such other ways as the county superintendent may direct for improving school attendance;

(8) Make home visits of students who have excessive unexcused absences, as provided above, or if requested by the chief administrator, principal or assistant principal; and

(9) Serve as the liaison for homeless children and youth.

Certification or training

No relevant statutes found.

MOUs, authorization, and/or funding

No relevant statutes found.

State Education Agency Support

State model policies and implementation support

STATUTES

§18-2C-3. Policy prohibiting harassment, intimidation or bullying.

(d) To assist county boards in developing their policies, the West Virginia Department of Education shall develop a model policy applicable to grades kindergarten through twelfth. The model policy shall be issued by September 1, 2011.

Funding appropriations

STATUTES

§18-2-23. Comprehensive educational programs; standards, etc.; evaluation and approval; allocation and distribution of funds; distribution of excess funds.

The West Virginia board of education, through the state superintendent of schools, shall establish standards and criteria especially designed to guide the development of plans for a comprehensive educational program or programs in county school systems, to provide for their evaluation and approval, and to provide, as herein directed, for the allocation and distribution of state funds, which may be appropriated to assist county school systems to meet additional costs of development and operation of such programs. The plans shall include, but need not be restricted to an analysis of existing program area deficiencies and the procedures for their correction. The plans shall be submitted to and be approved by the West Virginia board of education.

County plans shall include one or more of the following: (1) A plan to initiate comprehensive educational programs in any or all areas or parts of the curriculum, and provide necessary supporting services, or (2) a plan to provide for the maintenance or extension of areas or parts of comprehensive educational programs developed or established under this section, or (3) a plan to give essential aid for instruction or supporting services for enrichment of curriculum in schools designated as isolated by the West Virginia board of education where consolidation of schools or the development of county comprehensive educational programs are not possible or feasible.

The state superintendent of schools shall provide assistance to counties in the development and preparation of their plans for a comprehensive educational program or programs in order to ensure that every county may have the opportunity to fully participate and receive its maximum share of the funds available. All plans shall be submitted to the West Virginia board of education on or before the first day of July of the school year in which they are operative. The state superintendent of schools shall as soon as possible and before the first day of August each year notify any county whose plan fails to receive approval specifying the manner in which the plan fails to meet the criteria established and suggesting the necessary corrections. If the county modifies its plan so that its program or programs become acceptable on or before the first day of September of that year, the county shall be entitled to receive the computed share of its allocation for which it is eligible under its approved plan.

The total potential cost of the comprehensive educational program for each county shall be determined prior to the first day of July by multiplying the applicable net enrollments at the close of the second month of the current school term by the following amounts: Ten dollars for an adult in a public school program; ten dollars per senior high school student; seven dollars and fifty cents per junior high school student; and

five dollars per elementary school student, including kindergarten. If the appropriation is not sufficient to provide for all counties their total potential costs as herein set forth, the allocation to all counties shall be reduced proportionately to secure a total which matches the appropriation.

Funds allocated to the counties shall be distributed to them annually not later than the first day of November on the basis of net enrollment in approved programs which are part of their current comprehensive educational plan and the funds distributed shall be computed as provided herein.

The West Virginia board of education shall establish by regulation the number of areas in which a county shall participate to qualify for full or partial distribution of its allocation. The number of curriculum areas in which a county shall be required to participate to qualify for its full allocation shall depend upon factors such as county size, population sparsity, topography and availability of school staff personnel. In no case shall the allocation for any one county exceed the amount derived from application of the maximum pupil allocation as hereinbefore setforth.

If the county plans approved by the first day of September do not utilize the total allocations by reason of the plan or plans of one or more counties not requiring the full allocations or by failure of one or more counties to submit an acceptable plan or plans by the first day of September, then those moneys which were available to such county or counties shall be declared by the state board of education to be excess funds. These excess funds shall be available for that year only for special distribution. All counties shall be eligible for additional moneys as a special distribution from excess funds if, and to the extent that, such county or counties approved plan or plans require funds in excess of the amount allocated to each county on or before the first day of September: Provided, That no county may receive any funds in excess of its total potential cost as determined prior to the first day of July. If the moneys for which the counties are eligible from the special distribution of excess funds exceed the total amount available for such distribution, the special distribution to each county shall be reduced proportionately. It is the intention to distribute all excess funds, in any given year, on a pro rata basis to all counties who have approved comprehensive educational programs for that year and who have not received their total potential funds.

Appropriations for the purpose of this section shall be used only to meet the requirements of the allocation schedule and of approved county plans.

Other/Uncategorized

Professional immunity or liability

STATUTES

§18-2C-4. Immunity.

A school employee, student or volunteer is individually immune from a cause of action for damages arising from reporting said incident, if that person:

(1) In good faith promptly reports an incident of harassment, intimidation or bullying;

(2) Makes the report to the appropriate school official as designated by policy; and

(3) Makes the report in compliance with the procedures as specified in policy.

Community input or involvement

STATUTES

§18-2C-5. Policy training and education.

(a) Schools and county boards are encouraged, but not required, to form bullying prevention task forces, programs and other initiatives involving school staff, students, teachers, administrators, volunteers, parents, law enforcement and community members.

§18-5A-2. Local school improvement councils; election.

(2) The school improvement council annually shall conduct a meeting to engage parents, students, school employees and other interested parties in a positive and interactive dialogue regarding effective discipline policies. The meeting shall afford ample time for the dialogue and comply with any applicable provision of state, federal or county board policy, rule or law, as appropriate, regarding student privacy rights.

§18-21-4. Organization and goals of the Community-Based Pilot Demonstration Program.

(a) The pilot program shall be operated by a local community-based organization under the direction the Secretary of the West Virginia Department of Health and Human Resources, and in collaboration with the State School Superintendent, county school superintendent, Executive Director of the State Workforce Investment Division, Executive Director of WV Vocational Rehabilitation Services, the local juvenile court system, the Chancellor of the Higher Education Policy Commission, President of the Community and Technical College System, president of the local community and technical college and four-year college or university, the Director of the West Virginia Division of Juvenile Services, the local mental/behavior health organizations and other governmental and community-based organizations and partner agencies to serve as a clearing house to coordinate comprehensive youth and family services. The pilot project shall be housed within the community and will be directed by a local community-based nonprofit organization.

(b) The pilot project shall operate out of a centrally located building to coordinate services to youth and their families in the selected county from birth to seventeen years of age who are referred by the Department of Health and Human Resources.

(c) The goal of the pilot program is to improve outcomes for at-risk youth as measured by the following metrics:

(1) Early childhood development:

(A) Increase in the number of mothers receiving early prenatal care;

(B) Increase in number of mothers participating in the Right From the Start Program;

(C) Increase in the number of children screened by birth to three year-old program for early development delays;

(D) Increase in the number of three year-olds enrolled in Head Start;

(E) Increase in the number of four year-olds enrolled in:

(2) Preschool youth and teen measures:

(A) Decrease in school truancy;

(B) Decrease in truancy hearings;

(C) Decrease in school suspensions;

(D) Decrease in school expulsions;

(E) Decrease in high school dropouts at a select school;

(F) Increase in the number of youth participating in a mentoring program;

(G) Increase in academic performance for select students;

(H) Increase in number of youth participating in summer employment;

(I) Increase in number of youth entering postsecondary education or job.

(3) Parent Measures:

(A) Increase in the number of individuals registered at the WorkForce West Virginia Center;

(B) Increase in the number of individuals enrolled in job training;

(C) Increase in the number of individuals completing job training with a certification or credential;

(D) Increase in the number of individuals placed in employment; and

(E) Increase in number of children enrolled in the CHIP program.

ADMINISTRATIVE CODE

§126-42-7. County Board of Education Responsibilities.

7.3.18. A Local School Improvement Council (hereinafter LSIC) as outlined in W. Va. Code §18 5A 2 that facilitates improvement of educational quality by encouraging the involvement of the school community in the operation of the school and by utilizing the waiver process when appropriate; (Note: The LSIC must conduct an annual meeting to engage parents, students, school employees and other interested parties in a positive and interactive dialogue regarding effective discipline policies; develop and deliver a report to the countywide council on productive and safe schools and examine their school's discipline and report to the county superintendent on the following; disciplinary measures at the school; fairness and consistency of disciplinary actions at the school.) If the LSIC believes that discipline is not enforced fairly or consistently, it shall report that to the Superintendent in writing with supporting documentation. The County Superintendent has ten days from receipt of this written report to respond to the LSIC.

Other/Uncategorized

No relevant statutes found.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by West Virginia provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
Website		
West Virginia Manual for Expected Behavior in Safe and Supportive Schools (Policy 4373)	Electronic Manual; includes Implementation Tools and Presentations	http://wvde.state.wv.us/healthyschools/ElectronicManual4373New.html
Documents		
No relevant resources found		
Other Resources		
No relevant resources found		

Wisconsin Compilation of School Discipline Laws and Regulations

Prepared: August 12, 2013

Introduction

This compilation presents school discipline-related state statutes, school discipline-related regulations, and, where available, links to state-sponsored websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSLE). For example, one major category encompasses all state laws or regulations mandating specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of state legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in each state.

Discipline categories were not mutually exclusive. Statutes and regulations often appeared across multiple categories. For states with more extensive statutes covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. State laws, ordered by chapter and section number, appear first within each category followed by state regulations. All statutes and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists statutes by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to state-sponsored websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of May 2013, with the exception of the state laws related to seclusion and restraint, which are complete and current as of December 2012. Readers should also note that the information in this document was compiled from individual state sources that are created by each state and which are maintained and updated with varying frequencies. Readers should consult the source information provided for each state directly in order to check for updates to this state's laws and regulations or conduct further research.

For further information, including definitions of the different policy categories, please refer to the Discipline Laws and Regulations Compendium posted on the Center's website.

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Safe Supportive Learning
Engagement | Safety | Environment

Table of Contents

Wisconsin State Codes Cited **1**

General Provisions **3**

Authority to develop and establish rules of conduct 3
Scope 5
Communication of policy 6

In-School Discipline **7**

Use of multi-tiered discipline approaches 7
Teacher authority to remove students from classrooms 7
Alternatives to suspension 8
Use of corporal punishment 9
Use of student and locker searches 10
Other in-school disciplinary approaches 11

Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements **12**

Grounds for possible suspension or expulsion 12
Grounds for mandatory suspension or expulsion 12
Limitations, conditions or exclusions for use of suspension and expulsion 13
Administrative procedures related to suspension and expulsion 13
In-school suspension 21
Return to school following removal 22
Use of restraint and seclusion 22
Alternative placements 26

Disciplinary Approaches Addressing Specific Infractions and Conditions **30**

Firearms (as required by the Guns-Free Schools Act) 30
Other weapons 30
Students with chronic disciplinary issues 30
Attendance and truancy 30
Substance use 44
Bullying, harassment, or hazing 46
Other special infractions or conditions 47

Prevention and Behavioral Interventions (Non-Punitive) **50**

Prevention 50
Behavioral interventions and student support services 51
Professional development 55

Monitoring and Accountability **56**

Formal incident reporting of conduct violations 56
Parental notification 57
Reporting and referrals between schools and law enforcement 63
Disclosure of school records 65
Data collection, review, and reporting of disciplinary policies and actions 70

School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers 71
Authority and power to implement school arrest 71
Certification or training 72
MOUs, authorization, and/or funding 72
State Education Agency Support 75
State model policies and implementation support 75
Funding appropriations 75
Other/Uncategorized 78
Professional immunity or liability 78
Community input or involvement 79
Other/Uncategorized 80
State-Sponsored, Publicly Available Websites or Other Resources on School Discipline 81

Wisconsin State Codes Cited

Wisconsin Revised Statutes

General Organization of the State, Except the Judiciary

Chapter 20. Appropriations and Budget Management.

20.255. Public instruction, department of

Charitable, Curative, Reformatory and Penal Institutions and Agencies

Chapter 49. Public Assistance and Children and Family Services

49.26. Learnfare program

Public Instruction

Chapter 115. State superintendent; general classifications and definitions; children with disabilities

115.36. Assistance to schools for alcohol and other drug abuse programs

Chapter 118. General School Operations

118.01. Educational goals and expectations
118.02. Special observance days
118.125. Pupil records
118.126. Privileged communications
118.127. Law enforcement agency information.
118.134. Race-based nicknames, logos, mascots, and team names
118.15. Compulsory school attendance
118.153. Children at risk of not graduating from high school
118.16. School attendance enforcement
118.162. Truancy committee and plan
118.163 Municipal truancy and school dropout ordinances
118.164. Removal of pupils from the class.
118.257. Liability for referral to police
118.258. Electronic communication devices prohibited
118.305. Use of seclusion and physical restraint
118.31. Corporal punishment.
118.32. Strip search by school employee
118.325. Locker searches
118.45. Tests for alcohol use
118.46. Policy on bullying.

Chapter 119. First Class City School System

119.25. Expulsion of pupils
119.55. Youth service centers, truancy abatement and burglary suppression
119.82. Alternative educational programs for learnfare pupils

Chapter 120. School District Government

120.12. School board duties
120.13. School board powers.

Regulation of Trade

Chapter 125. Alcohol Beverages

125.09. General restrictions

Criminal Code

Chapter 948. Crimes Against Children

948.50. Strip search by school employee

Wisconsin Administrative Code

No relevant regulations found.

General Provisions

Authority to develop and establish rules of conduct

STATUTES

118.162. Truancy committee and plan.

(4) Not later than September 1, 1989, each school board shall adopt a truancy plan which shall include all of the following:

(a) Procedures to be followed for notifying the parents or guardians of the unexcused absences of habitual truants under s. 118.16 (2) (cr) and for meeting and conferring with such parents or guardians.

(b) Plans and procedures for identifying truant children of all ages and returning them to school, including the identity of school personnel to whom a truant child shall be returned.

(c) Methods to increase and maintain public awareness of and involvement in responding to truancy within the school district.

(d) The immediate response to be made by school personnel when a truant child is returned to school.

(e) The types of truancy cases to be referred to the district attorney for the filing of information under s. 938.24 or prosecution under s. 118.15 (5) and the time periods within which the district attorney will respond to and take action on the referrals.

(f) Plans and procedures to coordinate the responses to the problems of habitual truants, as defined under s. 118.16 (1) (a), with public and private social services agencies.

(g) Methods to involve the truant child's parent or guardian in dealing with and solving the child's truancy problem.

118.31. Corporal punishment.

(4) Each school board shall adopt a policy that allows any official, employee or agent of the school board to use reasonable and necessary force for the purposes of sub. (3) (a) to (h). In determining whether or not a person was acting within the exceptions in sub. (3), deference shall be given to reasonable, good faith judgments made by an official, employee or agent of a school board.

118.46. Policy on bullying.

(1) By March 1, 2010, the department shall do all of the following:

(a) Develop a model school policy on bullying by pupils. The policy shall include all of the following:

1. A definition of bullying.
2. A prohibition on bullying.
3. A procedure for reporting bullying that allows reports to be made confidentially.
4. A prohibition against a pupil retaliating against another pupil for reporting an incident of bullying.
5. A procedure for investigating reports of bullying. The procedure shall identify the school district employee in each school who is responsible for conducting the investigation and require that the parent or guardian of each pupil involved in a bullying incident be notified.
6. A requirement that school district officials and employees report incidents of bullying and identify the persons to whom the reports must be made.
7. A list of disciplinary alternatives for pupils that engage in bullying or who retaliate against a pupil who reports an incident of bullying.

8. An identification of the school-related events at which the policy applies.

9. An identification of the property owned, leased, or used by the school district on which the policy applies.

10. An identification of the vehicles used for pupil transportation on which the policy applies.

(b) Develop a model education and awareness program on bullying.

(c) Post the model policy under par. (a) and the model program under par. (b) on its Internet site.

(2) By August 15, 2010, each school board shall adopt a policy prohibiting bullying by pupils. The school board may adopt the model policy under sub. (1) (a). The school board shall provide a copy of the policy to any person who requests it. Annually, the school board shall distribute the policy to all pupils enrolled in the school district and to their parents or guardians.

119.25. Expulsion of pupils.

(1) The board may adopt a resolution, which is effective only during the school year in which it is adopted, authorizing any of the following to determine pupil expulsion from school under sub. (2) instead of using the procedure under s. 120.13 (1) (c).

120.13. School board powers.

The school board of a common or union high school district may do all things reasonable to promote the cause of education, including establishing, providing and improving school district programs, functions and activities for the benefit of pupils, and including all of the following:

(1) School government rules; suspension; expulsion.

(a) Make rules for the organization, gradation and government of the schools of the school district, including rules pertaining to conduct and dress of pupils in order to maintain good decorum and a favorable academic atmosphere, which shall take effect when approved by a majority of the school board and filed with the school district clerk. Subject to 20 USC 1415 (k), the school board shall adopt a code to govern pupils' classroom conduct beginning in the 1999-2000 school year. The code shall be developed in consultation with a committee of school district residents that consists of parents, pupils, members of the school board, school administrators, teachers, pupil services professionals and other residents of the school district who are appointed to the committee by the school board. The code of classroom conduct may provide different standards of conduct for different schools and may provide additional placement options under s. 118.164 (3). The code shall include all of the following:

1. A specification of what constitutes dangerous, disruptive or unruly behavior or behavior that interferes with the ability of the teacher to teach effectively under s. 118.164 (2).

2. Any grounds in addition to those under subd. 1. for the removal of a pupil from the class under s. 118.164 (2).

3. The procedures for determining the appropriate educational placement of a pupil who has been removed from the class and assigned a placement by the school principal or his or her designee under s. 118.164.

4. A procedure for notifying the parent or guardian of a minor pupil who has been removed from the class under s. 118.164 (2).

(b)

1. In addition to rule-making authority granted school boards under par. (a), the school district administrator, or any principal or teacher designated by the school district administrator, may make rules with the consent of the school board.

(35) Presence in school buildings.

(a) A school board may adopt rules applicable to persons who enter or remain in a building operated by the school board, including requirements that such persons identify themselves and sign in when entering or remaining in the building or any specified portion of the building and designating time periods during which such persons may enter or remain in the building or any portion of the building.

Scope

STATUTES

118.46 Policy on bullying.

(1) By March 1, 2010, the department shall do all of the following:

(a) Develop a model school policy on bullying by pupils. The policy shall include all of the following:

8. An identification of the school-related events at which the policy applies.

9. An identification of the property owned, leased, or used by the school district on which the policy applies.

10. An identification of the vehicles used for pupil transportation on which the policy applies.

120.13. School board powers.

The school board of a common or union high school district may do all things reasonable to promote the cause of education, including establishing, providing and improving school district programs, functions and activities for the benefit of pupils, and including all of the following:

(1) School government rules; suspension; expulsion.

(b)

2. The school district administrator or any principal or teacher designated by the school district administrator may suspend a pupil for not more than 5 school days or, if a notice of expulsion hearing has been sent under par. (c) 4. or (e) 4. or s. 119.25 (2) (c), for not more than a total of 15 consecutive school days for any of the following reasons:

c. Conduct by the pupil while at school or while under the supervision of a school authority that endangers the property, health or safety of others.

d. Conduct while not at school or while not under the supervision of a school authority that endangers the property, health or safety of others at school or under the supervision of a school authority or endangers the property, health or safety of any employee or school board member of the school district in which the pupil is enrolled.

(bm) The school district administrator or any principal or teacher designated by the school district administrator shall suspend a pupil under par. (b) if the school district administrator, principal or teacher determines that the pupil, while at school or while under the supervision of a school authority, possessed a firearm, as defined in 18 USC 921 (a) (3). This paragraph does not apply to the possession of a firearm while legally hunting in a school forest if allowed under s. 120.13 (38).

(35) Presence in school buildings.

(a) A school board may adopt rules applicable to persons who enter or remain in a building operated by the school board, including requirements that such persons identify themselves and sign in when entering or remaining in the building or any specified portion of the building and designating time periods during which such persons may enter or remain in the building or any portion of the building.

Communication of policy

STATUTES

118.15. Compulsory school attendance.

(d) Any child's parent or guardian, or the child if the parent or guardian is notified, may request the school board, in writing, to provide the child with program or curriculum modifications, including but not limited to:

1. Modifications within the child's current academic program.
2. A school work training or work study program.
3. Enrollment in any alternative public school or program located in the school district in which the child resides.
4. Enrollment in any nonsectarian private school or program, or tribal school, located in the school district in which the child resides, which complies with the requirements of 42 USC 2000d. Enrollment of a child under this subdivision shall be pursuant to a contractual agreement under s. 121.78 (5) that provides for the payment of the child's tuition by the school district.
5. Homebound study, including nonsectarian correspondence courses or other courses of study approved by the school board or nonsectarian tutoring provided by the school in which the child is enrolled.
6. Enrollment in any public educational program located outside the school district in which the child resides. Enrollment of a child under this subdivision may be pursuant to a contractual agreement between school districts.

(dm) The school board shall render its decision, in writing, within 90 days of a request under par. (d), except that if the request relates to a child who has been evaluated by an individualized education program team under s. 115.782 and has not been recommended for special education, the school board shall render its decision within 30 days of the request. If the school board denies the request, the school board shall give its reasons for the denial.

(e) Any decision made by a school board or a designee of the school board in response to a request for program or curriculum modifications under par. (d) shall be reviewed by the school board upon request of the child's parent or guardian. The school board shall render its determination upon review in writing, if the child's parent or guardian so requests.

(f) At the beginning of each school term, the school board shall notify the pupils enrolled in the school district and their parents or guardians of the substance of pars. (d), (dm) and (e).

118.258. Electronic communication devices prohibited.

(1) Each school board may adopt rules prohibiting a pupil from using or possessing an electronic communication device while on premises owned or rented by or under the control of a public school.

(2) Annually, if the school board adopts rules under sub. (1), it shall provide each pupil enrolled in the school district with a copy of the rules.

118.46 Policy on bullying.

(1) By March 1, 2010, the department shall do all of the following:

(c) Post the model policy under par. (a) and the model program under par. (b) on its Internet site.

(2) By August 15, 2010, each school board shall adopt a policy prohibiting bullying by pupils. The school board may adopt the model policy under sub. (1) (a). The school board shall provide a copy of the policy to any person who requests it. Annually, the school board shall distribute the policy to all pupils enrolled in the school district and to their parents or guardians.

In-School Discipline

Use of multi-tiered discipline approaches

STATUTES

No relevant statutes found.

Teacher authority to remove students from classrooms

STATUTES

118.164 Removal of pupils from the class.

(1) In this section, "teacher" means a person holding a license or permit issued by the state superintendent whose employment by a school district requires that he or she hold that license or permit.

(2) Subject to 20 USC 1415 (k) and beginning August 1, 1999, a teacher may remove a pupil from the teacher's class if the pupil violates the code of classroom conduct adopted under s. 120.13 (1) (a) or is dangerous, unruly or disruptive or exhibits behavior that interferes with the ability of the teacher to teach effectively, as specified in the code of classroom conduct. The teacher shall send the pupil to the school principal or his or her designee and notify the school principal or his or her designee immediately of the reasons for the removal. In addition, the teacher shall provide to the principal or his or her designee within 24 hours after the pupil's removal from the class a written explanation of the reasons for the removal.

(3)

(a) The school principal or his or her designee shall place the pupil in one of the following:

1. An alternative education program, as defined in s. 115.28 (7) (e) 1.
2. Another class in the school or another appropriate place in the school, as determined by the school principal or his or her designee.
3. Another instructional setting.
4. The class from which the pupil was removed if, after weighing the interests of the removed pupil, the other pupils in the class and the teacher, the school principal or his or her designee determines that readmission to the class is the best or only alternative.

(b) This subsection does not prohibit the teacher who removed the pupil from the class or the school board, school district administrator, school principal or their designees from disciplining the pupil.

118.305. Use of seclusion and physical restraint.

(2) Seclusion; conditions for use. A covered individual may use seclusion on a pupil at school only if all of the following apply:

(a) The pupil's behavior presents a clear, present, and imminent risk to the physical safety of the pupil or others and it is the least restrictive intervention feasible.

(b) A covered individual maintains constant supervision of the pupil, either by remaining in the room or area with the pupil or by observing the pupil through a window that allows the covered individual to see the pupil at all times.

(c) The room or area in which the pupil is secluded is free of objects or fixtures that may injure the pupil.

(d) The pupil has adequate access to bathroom facilities, drinking water, necessary medication, and regularly scheduled meals.

(e) The duration of the seclusion is only as long as necessary to resolve the clear, present, and imminent risk to the physical safety of the pupil or others.

(f) No door connecting the room or area in which the pupil is secluded to other rooms or areas is capable of being locked.

120.13. School board powers.

The school board of a common or union high school district may do all things reasonable to promote the cause of education, including establishing, providing and improving school district programs, functions and activities for the benefit of pupils, and including all of the following:

(1) School government rules; suspension; expulsion.

(a) Make rules for the organization, gradation and government of the schools of the school district, including rules pertaining to conduct and dress of pupils in order to maintain good decorum and a favorable academic atmosphere, which shall take effect when approved by a majority of the school board and filed with the school district clerk. Subject to 20 USC 1415 (k), the school board shall adopt a code to govern pupils' classroom conduct beginning in the 1999-2000 school year. The code shall be developed in consultation with a committee of school district residents that consists of parents, pupils, members of the school board, school administrators, teachers, pupil services professionals and other residents of the school district who are appointed to the committee by the school board. The code of classroom conduct may provide different standards of conduct for different schools and may provide additional placement options under s. 118.164 (3). The code shall include all of the following:

1. A specification of what constitutes dangerous, disruptive or unruly behavior or behavior that interferes with the ability of the teacher to teach effectively under s. 118.164 (2).

2. Any grounds in addition to those under subd. 1. for the removal of a pupil from the class under s. 118.164 (2).

3. The procedures for determining the appropriate educational placement of a pupil who has been removed from the class and assigned a placement by the school principal or his or her designee under s. 118.164.

4. A procedure for notifying the parent or guardian of a minor pupil who has been removed from the class under s. 118.164 (2).

Alternatives to suspension

STATUTES

118.164 Removal of pupils from the class.

(3)

(a) The school principal or his or her designee shall place the pupil in one of the following:

1. An alternative education program, as defined in s. 115.28 (7) (e) 1.

2. Another class in the school or another appropriate place in the school, as determined by the school principal or his or her designee.

3. Another instructional setting.

4. The class from which the pupil was removed if, after weighing the interests of the removed pupil, the other pupils in the class and the teacher, the school principal or his or her designee determines that readmission to the class is the best or only alternative.

118.46 Policy on bullying.

(1) By March 1, 2010, the department shall do all of the following:

(a) Develop a model school policy on bullying by pupils. The policy shall include all of the following:

7. A list of disciplinary alternatives for pupils that engage in bullying or who retaliate against a pupil who reports an incident of bullying.

Use of corporal punishment

STATUTES

118.31 Corporal punishment.

(1) In this section, "corporal punishment" means the intentional infliction of physical pain which is used as a means of discipline. "Corporal punishment" includes, but is not limited to, paddling, slapping or prolonged maintenance of physically painful positions, when used as a means of discipline. "Corporal punishment" does not include actions consistent with an individualized education program developed under s. 115.787 or reasonable physical activities associated with athletic training.

(2) Except as provided in sub. (3), no official, employee or agent of a school board may subject a pupil enrolled in the school district to corporal punishment.

(3) Subsection (2) does not prohibit an official, employee or agent of a school board from:

(a) Using reasonable and necessary force to quell a disturbance or prevent an act that threatens physical injury to any person.

(b) Using reasonable and necessary force to obtain possession of a weapon or other dangerous object within a pupil's control.

(c) Using reasonable and necessary force for the purpose of self-defense or the defense of others under s. 939.48.

(d) Using reasonable and necessary force for the protection of property under s. 939.49.

(e) Using reasonable and necessary force to remove a disruptive pupil from a school premises or motor vehicle, as defined in s. 125.09 (2) (a) 1. and 4., or from school-sponsored activities.

(f) Using reasonable and necessary force to prevent a pupil from inflicting harm on himself or herself.

(g) Using reasonable and necessary force to protect the safety of others.

(h) Using incidental, minor or reasonable physical contact designed to maintain order and control.

(4) Each school board shall adopt a policy that allows any official, employee or agent of the school board to use reasonable and necessary force for the purposes of sub. (3) (a) to (h). In determining whether or not a person was acting within the exceptions in sub. (3), deference shall be given to reasonable, good faith judgments made by an official, employee or agent of a school board.

(5) Except as provided in s. 939.61 (1), this section does not create a separate basis for civil liability of a school board or their officials, employees or agents for damages arising out of claims involving allegations of improper or unnecessary use of force by school employees against students.

(6) Nothing in this section shall prohibit, permit or otherwise affect any action taken by an official, employee or agent of a school board with regard to a person who is not a pupil enrolled in the school district.

(7) Nothing in this section abrogates or restricts any statutory or common law defense to prosecution for any crime.

Use of student and locker searches

STATUTES

118.32. Strip search by school employee.

Any official, employee or agent of any school or school district is prohibited under s. 948.50 from conducting a strip search of any pupil.

118.325. Locker searches.

An official, employee or agent of a school or school district may search a pupil's locker as determined necessary or appropriate without the consent of the pupil, without notifying the pupil and without obtaining a search warrant if the school board has adopted a written policy specifying that the school board retains ownership and possessory control of all pupil lockers and designating the positions of the officials, employees or agents who may conduct searches, and has distributed a copy of the policy to pupils enrolled in the school district.

118.45. Tests for alcohol use.

A school board employee or agent, or law enforcement officer, as defined in s. 102.475 (8) (c), authorized by a public school board may require a public school pupil, including a charter school pupil, to provide one or more samples of his or her breath for the purpose of determining the presence of alcohol in the pupil's breath whenever the authorized employee, agent or officer has reasonable suspicion that the pupil is under the influence of alcohol while the pupil is in any of the circumstances listed in s. 125.09 (2) (b) 1. to 3. The authorized employee, agent or officer shall use a breath screening device approved by the department of transportation for the purpose of determining the presence of alcohol in a person's breath to determine if alcohol is present in the pupil's breath. The results of the breath screening device or the fact that a pupil refused to submit to breath testing shall be made available for use in any hearing or proceeding regarding the discipline, suspension or expulsion of a student due to alcohol use. No school board may require a pupil to provide one or more samples of his or her breath for the purpose of determining the presence of alcohol in the pupil's breath until the school board has adopted written policies regarding disciplines or treatments that will result from being under the influence of alcohol while on school premises or from refusing to submit to breath testing to determine the presence of alcohol in the pupil's breath.

948.50. Strip search by school employee.

(1) The legislature intends, by enacting this section, to protect pupils from being strip searched. By limiting the coverage of this section, the legislature is not condoning the use of strip searches under other circumstances.

(2) In this section:

(a) "School" means a public school, parochial or private school, or tribal school, as defined in s. 115.001 (15m), which provides an educational program for one or more grades between kindergarten and grade 12 and which is commonly known as a kindergarten, elementary school, middle school, junior high school, senior high school, or high school.

(b) "Strip search" means a search in which a person's genitals, pubic area, buttock or anus, or a female person's breast, is uncovered and either is exposed to view or is touched by a person conducting the search.

(3) Any official, employee or agent of any school or school district who conducts a strip search of any pupil is guilty of a Class B misdemeanor.

(4) This section does not apply to a search of any person who:

(a) Is serving a sentence, pursuant to a conviction, in a jail, state prison or house of correction.

(b) Is placed in or transferred to a juvenile correctional facility, as defined in s. 938.02 (10p), or a secured residential care center for children and youth, as defined in s. 938.02 (15g).

(c) Is committed, transferred or admitted under ch. 51, 971 or 975.

(5) This section does not apply to any law enforcement officer conducting a strip search under s. 968.255.

Other in-school disciplinary approaches

STATUTES

120.13. School board powers.

The school board of a common or union high school district may do all things reasonable to promote the cause of education, including establishing, providing and improving school district programs, functions and activities for the benefit of pupils, and including all of the following:

(1) School government rules; suspension; expulsion.

(b)

5. A pupil suspended under this paragraph shall not be denied the opportunity to take any quarterly, semester or grading period examinations or to complete course work missed during the suspension period, as provided in the attendance policy established under s. 118.16 (4) (a).

Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements

Grounds for possible suspension or expulsion

STATUTES

119.25. Expulsion of pupils.

(2)

(a) During any school year in which a resolution adopted under sub. (1) is effective, the independent hearing officer or independent hearing panel appointed by the board:

1. May expel a pupil from school whenever the hearing officer or panel finds that the pupil engaged in conduct that constitutes grounds for expulsion under s. 120.13 (1) (c) 1. or 2.

120.13. School board powers.

The school board of a common or union high school district may do all things reasonable to promote the cause of education, including establishing, providing and improving school district programs, functions and activities for the benefit of pupils, and including all of the following:

(1) School government rules; suspension; expulsion.

(b)

2. The school district administrator or any principal or teacher designated by the school district administrator may suspend a pupil for not more than 5 school days or, if a notice of expulsion hearing has been sent under par. (c) 4. or (e) 4. or s. 119.25 (2) (c), for not more than a total of 15 consecutive school days for any of the following reasons:

a. Noncompliance with rules adopted under subd. 1. or school board rules.

b. Knowingly conveying any threat or false information concerning an attempt or alleged attempt being made or to be made to destroy any school property by means of explosives.

c. Conduct by the pupil while at school or while under the supervision of a school authority that endangers the property, health or safety of others.

d. Conduct while not at school or while not under the supervision of a school authority that endangers the property, health or safety of others at school or under the supervision of a school authority or endangers the property, health or safety of any employee or school board member of the school district in which the pupil is enrolled.

2m. In subdivision 2. c. and d., conduct that endangers a person or property includes making a threat to the health or safety of a person or making a threat to damage property.

Grounds for mandatory suspension or expulsion

STATUTES

120.13. School board powers.

(bm) The school district administrator or any principal or teacher designated by the school district administrator shall suspend a pupil under par. (b) if the school district administrator, principal or teacher determines that the pupil, while at school or while under the supervision of a school authority, possessed

a firearm, as defined in 18 USC 921 (a) (3). This paragraph does not apply to the possession of a firearm while legally hunting in a school forest if allowed under s. 120.13 (38).

Limitations, conditions or exclusions for use of suspension and expulsion

STATUTES

118.16. School attendance enforcement.

(4)

(b) No public school may deny a pupil credit in a course or subject solely because of the pupil's unexcused absences or suspensions from school. The attendance policy under par. (a) shall specify the conditions under which a pupil may be permitted to take examinations missed during absences, other than suspensions, and the conditions under which a pupil shall be permitted to take any quarterly, semester or grading period examinations and complete any course work missed during a period of suspension.

120.13. School board powers.

The school board of a common or union high school district may do all things reasonable to promote the cause of education, including establishing, providing and improving school district programs, functions and activities for the benefit of pupils, and including all of the following:

(1) School government rules; suspension; expulsion.

(bm) The school district administrator or any principal or teacher designated by the school district administrator shall suspend a pupil under par. (b) if the school district administrator, principal or teacher determines that the pupil, while at school or while under the supervision of a school authority, possessed a firearm, as defined in 18 USC 921 (a) (3). This paragraph does not apply to the possession of a firearm while legally hunting in a school forest if allowed under s. 120.13 (38).

(d) No pupil enrolled in a school district operating under ch. 119 may be suspended or expelled from school for truancy.

(g) The school board may modify the requirement under pars. (c) 2m. and (e) 2. b. on a case-by-case basis.

Administrative procedures related to suspension and expulsion

STATUTES

119.25 Expulsion of pupils.

(1) The board may adopt a resolution, which is effective only during the school year in which it is adopted, authorizing any of the following to determine pupil expulsion from school under sub. (2) instead of using the procedure under s. 120.13 (1) (c):

(a) An independent hearing panel appointed by the board.

(b) An independent hearing officer appointed by the board.

(2)

(a) During any school year in which a resolution adopted under sub. (1) is effective, the independent hearing officer or independent hearing panel appointed by the board:

1. May expel a pupil from school whenever the hearing officer or panel finds that the pupil engaged in conduct that constitutes grounds for expulsion under s. 120.13 (1) (c) 1. or 2.

2. Shall commence proceedings under par. (b) and expel a pupil from school for not less than one year whenever the hearing officer or panel finds that the pupil engaged in conduct that constitutes grounds for expulsion under s. 120.13 (1) (c) 2m.

(b) No administrator may be designated to participate in an expulsion hearing if he or she was involved in the incident that led to the expulsion proceeding. Prior to expelling a pupil, the hearing officer or panel shall hold a hearing. Upon request of the pupil and, if the pupil is a minor, the pupil's parent or guardian, the hearing shall be closed. The pupil and, if the pupil is a minor, the pupil's parent or guardian, may be represented at the hearing by counsel. The hearing officer or panel shall keep a full record of the hearing. The hearing officer or panel shall inform each party of the right to a complete record of the proceeding. Upon request, the hearing officer or panel shall direct that a transcript of the record be prepared and that a copy of the transcript be given to the pupil and, if the pupil is a minor, the pupil's parent or guardian. Upon the ordering by the hearing officer or panel of the expulsion of a pupil, the school district shall mail a copy of the order to the board, the pupil and, if the pupil is a minor, the pupil's parent or guardian. A school board, hearing officer or panel may disclose the transcript to the parent or guardian of an adult pupil, if the adult pupil is a dependent of his or her parent or guardian under section 152 of the internal revenue code. Within 30 days after the date on which the order is issued, the board shall review the expulsion order and shall, upon review, approve, reverse or modify the order. The order of the hearing officer or panel shall be enforced while the board reviews the order. The expelled pupil or, if the pupil is a minor, the pupil's parent or guardian may appeal the board's decision to the state superintendent. If the board's decision is appealed to the state superintendent, within 60 days after the date on which the state superintendent receives the appeal, the state superintendent shall review the decision and shall, upon review, approve, reverse or modify the decision. The decision of the board shall be enforced while the state superintendent reviews the decision. An appeal from the decision of the state superintendent may be taken within 30 days to the circuit court for the county in which the school is located.

(c) Not less than 5 days' written notice of the hearing under par. (b) shall be sent to the pupil and, if the pupil is a minor, to the pupil's parent or guardian. The notice shall include all of the information specified in s. 120.13 (1) (e) 4.

(d)

1. In this paragraph:

a. "Early reinstatement" means the reinstatement to school of an expelled pupil before the expiration of the term of expulsion specified in the pupil's expulsion order under par. (b).

b. "Early reinstatement condition" means a condition that a pupil is required to meet before he or she may be granted early reinstatement or a condition that a pupil is required to meet after his or her early reinstatement but before the expiration of the term of expulsion specified in the pupil's expulsion order under par. (b).

2. An independent hearing panel or independent hearing officer appointed by the board may specify one or more early reinstatement conditions in the expulsion order under par. (b) if the early reinstatement conditions are related to the reasons for the pupil's expulsion. Within 15 days after the date on which the expulsion order is issued, the expelled pupil or, if the pupil is a minor, the pupil's parent or guardian may appeal the determination regarding whether an early reinstatement condition specified in the expulsion order is related to the reasons for the pupil's expulsion to the board. The decision of the board regarding that determination is final and not subject to appeal.

3. If the superintendent of schools or his or her designee, who shall be someone other than a principal, administrator or teacher in the pupil's school, determines that a pupil has met the early reinstatement conditions that he or she is required to meet before he or she may be granted early

reinstatement, the superintendent of schools or designee may grant the pupil early reinstatement. The determination of the superintendent of schools or designee is final.

4. If a pupil violates an early reinstatement condition that the pupil was required to meet after his or her early reinstatement but before the expiration of the term of expulsion, the superintendent of schools or a principal or teacher designated by the superintendent of schools may revoke the pupil's early reinstatement as provided in s. 120.13 (1) (h) 4.

5. Except as provided in subd. 6., if the pupil's early reinstatement is revoked under subd. 4., the pupil's expulsion shall continue to the expiration of the term specified in the expulsion order unless the pupil or, if the pupil is a minor, the pupil's parent or guardian and the board, independent hearing panel or independent hearing officer agree, in writing, to modify the expulsion order.

6. Within 5 school days after the revocation of a pupil's early reinstatement under subd. 4., the pupil or, if the pupil is a minor, the pupil's parent or guardian may request a conference with the superintendent of schools or his or her designee, who shall be someone other than a principal, administrator or teacher in the pupil's school. If a conference is requested, it shall be held within 5 school days following the request. If, after the conference, the superintendent of schools or his or her designee finds that the pupil did not violate an early reinstatement condition or that the revocation was inappropriate, the pupil shall be reinstated to school under the same reinstatement conditions as in the expulsion order and the early reinstatement revocation shall be expunged from the pupil's record. If the superintendent of schools or his or her designee finds that the pupil violated an early reinstatement condition and that the revocation was appropriate, he or she shall mail separate copies of the decision to the pupil and, if the pupil is a minor, to the pupil's parent or guardian. The decision of the superintendent of schools or his or her designee is final.

120.13. School board powers.

(b)

2. The school district administrator or any principal or teacher designated by the school district administrator may suspend a pupil for not more than 5 school days or, if a notice of expulsion hearing has been sent under par. (c) 4. or (e) 4. or s. 119.25 (2) (c), for not more than a total of 15 consecutive school days for any of the following reasons:

a. Noncompliance with rules adopted under subd. 1. or school board rules.

b. Knowingly conveying any threat or false information concerning an attempt or alleged attempt being made or to be made to destroy any school property by means of explosives.

c. Conduct by the pupil while at school or while under the supervision of a school authority that endangers the property, health or safety of others.

d. Conduct while not at school or while not under the supervision of a school authority that endangers the property, health or safety of others at school or under the supervision of a school authority or endangers the property, health or safety of any employee or school board member of the school district in which the pupil is enrolled.

2m. In subdivision 2. c. and d., conduct that endangers a person or property includes making a threat to the health or safety of a person or making a threat to damage property.

3. Prior to any suspension, the pupil shall be advised of the reason for the proposed suspension. The pupil may be suspended if it is determined that the pupil is guilty of noncompliance with a school board rule or a rule adopted under subd. 1., or of the conduct charged, and that the pupil's suspension is reasonably justified. The parent or guardian of a suspended minor pupil shall be given prompt notice of the suspension and the reason for the suspension.

4. The suspended pupil or the pupil's parent or guardian may, within 5 school days following the commencement of the suspension, have a conference with the school district administrator or his or her designee who shall be someone other than a principal, administrator or teacher in the suspended pupil's school. If the school district administrator or his or her designee finds that the pupil was suspended unfairly or unjustly, or that the suspension was inappropriate, given the nature of the alleged offense, or that the pupil suffered undue consequences or penalties as a result of the suspension, reference to the suspension on the pupil's school record shall be expunged. The administrator, or the administrator's designee, shall make a finding within 15 days of the conference.

5. A pupil suspended under this paragraph shall not be denied the opportunity to take any quarterly, semester or grading period examinations or to complete course work missed during the suspension period, as provided in the attendance policy established under s. 118.16 (4) (a).

(bm) The school district administrator or any principal or teacher designated by the school district administrator shall suspend a pupil under par. (b) if the school district administrator, principal or teacher determines that the pupil, while at school or while under the supervision of a school authority, possessed a firearm, as defined in 18 USC 921 (a) (3). This paragraph does not apply to the possession of a firearm while legally hunting in a school forest if allowed under s. 120.13 (38).

(c)

1. The school board may expel a pupil from school whenever it finds the pupil guilty of repeated refusal or neglect to obey the rules, or finds that a pupil knowingly conveyed or caused to be conveyed any threat or false information concerning an attempt or alleged attempt being made or to be made to destroy any school property by means of explosives, or finds that the pupil engaged in conduct while at school or while under the supervision of a school authority which endangered the property, health or safety of others, or finds that a pupil while not at school or while not under the supervision of a school authority engaged in conduct which endangered the property, health or safety of others at school or under the supervision of a school authority or endangered the property, health or safety of any employee or school board member of the school district in which the pupil is enrolled, and is satisfied that the interest of the school demands the pupil's expulsion. In this subdivision, conduct that endangers a person or property includes making a threat to the health or safety of a person or making a threat to damage property.

2. In addition to the grounds for expulsion under subd. 1., the school board may expel from school a pupil who is at least 16 years old if the school board finds that the pupil repeatedly engaged in conduct while at school or while under the supervision of a school authority that disrupted the ability of school authorities to maintain order or an educational atmosphere at school or at an activity supervised by a school authority and that such conduct does not constitute grounds for expulsion under subd. 1., and is satisfied that the interest of the school demands the pupil's expulsion.

2m. The school board shall commence proceedings under subd. 3. and expel a pupil from school for not less than one year whenever it finds that the pupil, while at school or while under the supervision of a school authority, possessed a firearm, as defined in 18 USC 921 (a) (3). Annually, the school board shall report to the department the information specified under 20 USC 8921 (d) (1) and (2). This subdivision does not apply to the possession of a firearm while legally hunting in a school forest if allowed under s. 120.13 (38).

3. Prior to expelling a pupil, the school board shall hold a hearing. Upon request of the pupil and, if the pupil is a minor, the pupil's parent or guardian, the hearing shall be closed. The pupil and, if the pupil is a minor, the pupil's parent or guardian may be represented at the hearing by counsel. The school board shall keep written minutes of the hearing. Upon the ordering by the school board of the expulsion of a pupil, the school district clerk shall mail a copy of the order to the pupil and, if the pupil is a minor, to the pupil's parent or guardian. The expelled pupil or, if the pupil is a minor, the pupil's parent or guardian

may appeal the expulsion to the state superintendent. If the school board's decision is appealed to the state superintendent, within 60 days after the date on which the state superintendent receives the appeal, the state superintendent shall review the decision and shall, upon review, approve, reverse or modify the decision. The decision of the school board shall be enforced while the state superintendent reviews the decision. An appeal from the decision of the state superintendent may be taken within 30 days to the circuit court of the county in which the school is located.

4. Not less than 5 days' written notice of the hearing under subd. 3. shall be sent to the pupil and, if the pupil is a minor, to the pupil's parent or guardian. The notice shall state all of the following:

a. The specific grounds, under subd. 1., 2. or 2m., and the particulars of the pupil's alleged conduct upon which the expulsion proceeding is based.

b. The time and place of the hearing.

c. That the hearing may result in the pupil's expulsion.

d. That, upon request of the pupil and, if the pupil is a minor, the pupil's parent or guardian, the hearing shall be closed.

e. That the pupil and, if the pupil is a minor, the pupil's parent or guardian may be represented at the hearing by counsel.

f. That the school board shall keep written minutes of the hearing.

g. That if the school board orders the expulsion of the pupil the school district clerk shall mail a copy of the order to the pupil and, if the pupil is a minor, to the pupil's parent or guardian.

h. That if the pupil is expelled by the school board the expelled pupil or, if the pupil is a minor, the pupil's parent or guardian may appeal the school board's decision to the department.

i. That if the school board's decision is appealed to the department, within 60 days after the date on which the department receives the appeal, the department shall review the decision and shall, upon review, approve, reverse or modify the decision.

j. That the decision of the school board shall be enforced while the department reviews the school board's decision.

k. That an appeal from the decision of the department may be taken within 30 days to the circuit court for the county in which the school is located.

L. That the state statutes related to pupil expulsion are ss. 119.25 and 120.13 (1).

(d) No pupil enrolled in a school district operating under ch. 119 may be suspended or expelled from school for truancy.

(e)

1. The school board may adopt a resolution, which is effective only during the school year in which it is adopted, authorizing any of the following to determine pupil expulsion from school under subd. 2. instead of using the procedure under par. (c) 3.:

a. An independent hearing panel appointed by the school board.

b. An independent hearing officer appointed by the school board.

2. During any school year in which a resolution adopted under subd. 1. is effective, the independent hearing officer or independent hearing panel appointed by the school board:

a. May expel a pupil from school whenever the hearing officer or panel finds that the pupil engaged in conduct that constitutes grounds for expulsion under par. (c) 1. or 2.

b. Shall commence proceedings under subd. 3. and expel a pupil from school for not less than one year whenever that hearing officer or panel finds that the pupil engaged in conduct that constitutes grounds for expulsion under par. (c) 2m.

3. Prior to expelling a pupil, the hearing officer or panel shall hold a hearing. Upon request of the pupil and, if the pupil is a minor, the pupil's parent or guardian, the hearing shall be closed. The pupil and, if the pupil is a minor, the pupil's parent or guardian, may be represented at the hearing by counsel. The hearing officer or panel shall keep a full record of the hearing. The hearing officer or panel shall inform each party of the right to a complete record of the proceeding. Upon request, the hearing officer or panel shall direct that a transcript of the record be prepared and that a copy of the transcript be given to the pupil and, if the pupil is a minor, the pupil's parent or guardian. Upon the ordering by the hearing officer or panel of the expulsion of a pupil, the school district shall mail a copy of the order to the school board, the pupil and, if the pupil is a minor, the pupil's parent or guardian. Within 30 days after the date on which the order is issued, the school board shall review the expulsion order and shall, upon review, approve, reverse or modify the order. The order of the hearing officer or panel shall be enforced while the school board reviews the order. The expelled pupil or, if the pupil is a minor, the pupil's parent or guardian may appeal the school board's decision to the state superintendent. If the school board's decision is appealed to the state superintendent, within 60 days after the date on which the state superintendent receives the appeal, the state superintendent shall review the decision and shall, upon review, approve, reverse or modify the decision. The decision of the school board shall be enforced while the state superintendent reviews the decision. An appeal from the decision of the state superintendent may be taken within 30 days to the circuit court of the county in which the school is located. This paragraph does not apply to a school district operating under ch. 119.

4. Not less than 5 days' written notice of the hearing under subd. 3. shall be sent to the pupil and, if the pupil is a minor, to the pupil's parent or guardian. The notice shall state all of the following:

a. The specific grounds, under par. (c) 1., 2. or 2m., and the particulars of the pupil's alleged conduct upon which the expulsion proceeding is based.

b. The time and place of the hearing.

c. That the hearing may result in the pupil's expulsion.

d. That, upon request of the pupil and, if the pupil is a minor, the pupil's parent or guardian, the hearing shall be closed.

e. That the pupil and, if the pupil is a minor, the pupil's parent or guardian may be represented at the hearing by counsel.

f. That the hearing officer or panel shall keep a full record of the hearing and, upon request, the hearing officer or panel shall direct that a transcript of the record be prepared and that a copy of the transcript be given to the pupil and, if the pupil is a minor, the pupil's parent or guardian.

g. That if the hearing officer or panel orders the expulsion of the pupil the school district shall mail a copy of the order to the school board, the pupil and, if the pupil is a minor, to the pupil's parent or guardian.

h. That within 30 days of the issuance of an expulsion order the school board shall review the order and shall, upon review, approve, reverse or modify the order.

i. That, if the pupil is expelled by the hearing officer or panel, the order of the hearing officer or panel shall be enforced while the school board reviews the order.

j. That, if the pupil's expulsion is approved by the school board, the expelled pupil or, if the pupil is a minor, the pupil's parent or guardian may appeal the school board's decision to the department.

k. That if the school board's decision is appealed to the department, within 60 days after the date on which the department receives the appeal, the department shall review the decision and shall, upon review, approve, reverse or modify the decision.

L. That the decision of the school board shall be enforced while the department reviews the school board's decision.

m. That an appeal from the decision of the department may be taken within 30 days to the circuit court for the county in which the school is located.

n. That the state statutes related to pupil expulsion are ss. 119.25 and 120.13 (1).

(f)

1. No school board is required to enroll a pupil during the term of his or her expulsion from another school district. Notwithstanding s. 118.125 (2) and (4), if a pupil who has been expelled from one school district seeks to enroll in another school district during the term of his or her expulsion, upon request the school board of the former school district shall provide the school board of the latter school district with a copy of the expulsion findings and order, a written explanation of the reasons why the pupil was expelled and the length of the term of the expulsion.

2. No school board is required to enroll a pupil during the term of his or her expulsion from a public school in another state if the school board determines the conduct giving rise to the pupil's expulsion would have been grounds for expulsion under par. (c) 1., 2., or 2m.

3. No school board is required to enroll a pupil during the term of his or her expulsion from a charter school established under s. 118.40 (2r) if the school board determines the conduct giving rise to the pupil's expulsion would have been grounds for expulsion under par. (c) 1., 2., or 2m. If a pupil who has been expelled from a charter school established under s. 118.40 (2r) seeks to enroll in a school district during the term of his or her expulsion, upon request of the pupil or, if the pupil is a minor, the pupil's parent or guardian, the governing body of the charter school shall provide the school board of the school district with a copy of the expulsion findings and order, a written explanation of the reasons why the pupil was expelled, and the term of the expulsion.

(g) The school board may modify the requirement under pars. (c) 2m. and (e) 2. b. on a case-by-case basis.

(h)

1. In this paragraph:

ag. "Conditional enrollment" means enrollment of an expelled pupil in a school district other than the school district or out-of-state public school that expelled the pupil before the expiration of the term of expulsion specified in the pupil's expulsion order issued under par. (c) 3. or (e) 3. or by the out-of-state public school.

am. "Early reinstatement" means the reinstatement to school of an expelled pupil before the expiration of the term of expulsion specified in the pupil's expulsion order under par. (c) 3. or (e) 3.

b. "Early reinstatement condition" means a condition that a pupil is required to meet before he or she may be granted early reinstatement or a condition that a pupil is required to meet after his or her early reinstatement but before the expiration of the term of expulsion specified in the pupil's expulsion order under par. (c) 3. or (e) 3.

c. "Enrollment condition" means a condition that a pupil is required to meet before he or she may be granted conditional enrollment or a condition that a pupil is required to meet after his or her conditional enrollment but before the expiration of the term of expulsion specified in the pupil's expulsion order issued under par. (c) 3. or (e) 3. or by the out-of-state public school.

2. A school board, or an independent hearing panel or independent hearing officer acting under par. (e), may specify one or more early reinstatement conditions in the expulsion order under par. (c) 3. or (e) 3. if the early reinstatement conditions are related to the reasons for the pupil's expulsion. Within 15 days after the date on which an expulsion order is issued by an independent hearing panel or independent hearing officer, the expelled pupil or, if the pupil is a minor, the pupil's parent or guardian may appeal the determination regarding whether an early reinstatement condition specified in the expulsion order is

related to the reasons for the pupil's expulsion to the school board. The decision of a school board regarding that determination is final and not subject to appeal.

2m. A school board other than the school board or out-of-state public school that expelled a pupil may specify in a written order one or more enrollment conditions instead of or in addition to the early reinstatement conditions, if any, imposed under subd. 2. by the school board, or independent hearing panel or independent hearing officer acting under par. (e), that expelled the pupil or instead of or in addition to any conditions imposed, if any, by the out-of-state public school that expelled the pupil. Any enrollment conditions established under this subdivision shall relate to the reasons for the pupil's expulsion and may not extend the term of expulsion specified in the expulsion order issued under par. (c) 3. or (e) 3. or by the out-of-state public school. The school district clerk of the school district other than the school district from which the pupil was expelled shall mail 2 copies of the order to the pupil or, if the pupil is a minor, to the pupil's parent or guardian. The expelled pupil or, if the pupil is a minor, the pupil's parent or guardian shall sign and return one copy of the order to the school board other than the school board that expelled the pupil. Within 15 days after the date on which the order under this subdivision is issued, the expelled pupil or, if the pupil is a minor, the pupil's parent or guardian may appeal the determination regarding whether an enrollment condition specified in the order is related to the reasons for the pupil's expulsion to the school board that specified the enrollment condition. The decision of the school board under this subdivision regarding that determination is final and not subject to appeal.

3. If the school district administrator or his or her designee, who shall be someone other than a principal, administrator or teacher in the pupil's school, determines that a pupil has met the early reinstatement conditions that he or she is required to meet before he or she may be granted early reinstatement, the school district administrator or designee may grant the pupil early reinstatement. The determination of the school district administrator or designee is final.

3m. If the school district administrator, or his or her designee, of a school district other than the school district or out-of-state public school from which a pupil was expelled determines that the pupil has met the enrollment conditions established in a written order under subd. 2m., the school district administrator or designee may grant the pupil conditional enrollment in a school in the school district. The determination of the school district administrator or designee under this subdivision is final.

4. If a pupil granted early reinstatement under subd. 3. violates an early reinstatement condition that the pupil was required to meet after his or her early reinstatement but before the expiration of the term of expulsion, the school district administrator or a principal or teacher designated by the school district administrator may revoke the pupil's early reinstatement. Before revoking the pupil's early reinstatement, the school district administrator or his or her designee shall advise the pupil of the reason for the proposed revocation, including the early reinstatement condition alleged to have been violated, provide the pupil an opportunity to present his or her explanation of the alleged violation, and make a determination that the pupil violated the early reinstatement condition and that revocation of the pupil's early reinstatement is appropriate. If the school district administrator or designee revokes the pupil's early reinstatement, the school district administrator or designee shall give prompt written notice of the revocation and the reason for the revocation, including the early reinstatement condition violated, to the pupil and, if the pupil is a minor, to the pupil's parent or guardian.

4m. If a pupil granted conditional enrollment under subd. 3m. violates an enrollment condition that the pupil was required to meet after his or her conditional enrollment but before the expiration of the term of expulsion, the school district administrator of the school district in which the pupil is enrolled, or a principal or teacher designated by the school district administrator, may revoke the pupil's conditional enrollment. Before revoking the pupil's conditional enrollment, the school district administrator or his or her designee shall advise the pupil of the reason for the proposed revocation, including the enrollment

condition alleged to have been violated, provide the pupil an opportunity to present his or her explanation of the alleged violation, and make a determination that the pupil violated the enrollment condition and that revocation of the pupil's conditional enrollment is appropriate. If the school district administrator or designee revokes the pupil's conditional enrollment, the school district administrator or designee shall give prompt written notice of the revocation and the reason for the revocation, including the enrollment condition violated, to the pupil and, if the pupil is a minor, to the pupil's parent or guardian.

5. Except as provided in subd. 6., if a pupil's early reinstatement is revoked under subd. 4., the pupil's expulsion shall continue to the expiration of the term of the expulsion specified in the expulsion order unless the pupil or, if the pupil is a minor, the pupil's parent or guardian and the school board, independent hearing panel or independent hearing officer agree, in writing, to modify the expulsion order.

5m. Except as provided in subd. 6m., if a pupil's conditional enrollment is revoked under subd. 4m., the pupil's expulsion shall continue to the expiration of the term of the expulsion specified in the expulsion order unless the pupil or, if the pupil is a minor, the pupil's parent or guardian and the school board that expelled the pupil, or the independent hearing panel or independent hearing officer, or the out-of-state public school, agree, in writing, to modify the expulsion order.

6. Within 5 school days after the revocation of a pupil's early reinstatement under subd. 4., the pupil or, if the pupil is a minor, the pupil's parent or guardian may request a conference with the school district administrator or his or her designee, who shall be someone other than a principal, administrator or teacher in the pupil's school. If a conference is requested, it shall be held within 5 school days following the request. If, after the conference, the school district administrator or his or her designee finds that the pupil did not violate an early reinstatement condition or that the revocation was inappropriate, the pupil shall be reinstated to school under the same reinstatement conditions as in the expulsion order and the early reinstatement revocation shall be expunged from the pupil's record. If the school district administrator or his or her designee finds that the pupil violated an early reinstatement condition and that the revocation was appropriate, he or she shall mail separate copies of the decision to the pupil and, if the pupil is a minor, to the pupil's parent or guardian. The decision of the school district administrator or his or her designee is final.

6m. Within 5 school days after the revocation of a pupil's conditional enrollment under subd. 4m., the pupil or, if the pupil is a minor, the pupil's parent or guardian may request a conference with the administrator of the school district in which the pupil is enrolled, or his or her designee, who shall be someone other than a principal, administrator, or teacher in the pupil's school. If a conference is requested, it shall be held within 5 school days following the request. If, after the conference, the school district administrator or his or her designee finds that the pupil did not violate an enrollment condition or that the revocation was inappropriate, the pupil shall be enrolled in school under the same enrollment conditions as in the order issued under subd. 2m. and the conditional enrollment revocation shall be expunged from the pupil's record. If the school district administrator or his or her designee finds that the pupil violated an enrollment condition and that the revocation was appropriate, he or she shall mail separate copies of the decision to the pupil and, if the pupil is a minor, to the pupil's parent or guardian. The decision of the school district administrator or his or her designee is final.

In-school suspension

STATUTES

118.16. School attendance enforcement.

(4)

(c) The school board may establish policies which provide that as a consequence of a pupil's truancy the pupil may be assigned to detention or to a supervised, directed study program. The program need not be held during the regular school day. The policies under this paragraph shall specify the conditions under which credit may be given for work completed during the period of detention or assignment to a supervised, directed study program. A pupil shall be permitted to take any examinations missed during a period of assignment to a supervised, directed study program.

Return to school following removal

STATUTES

118.162. Truancy committee and plan.

(4) Not later than September 1, 1989, each school board shall adopt a truancy plan which shall include all of the following:

(b) Plans and procedures for identifying truant children of all ages and returning them to school, including the identity of school personnel to whom a truant child shall be returned.

118.164 Removal of pupils from the class.

(3)

(a) The school principal or his or her designee shall place the pupil in one of the following:

4. The class from which the pupil was removed if, after weighing the interests of the removed pupil, the other pupils in the class and the teacher, the school principal or his or her designee determines that readmission to the class is the best or only alternative.

Use of restraint and seclusion

STATUTES

118.305. Use of seclusion and physical restraint.

(1) Definitions. In this section:

(a) "Child" has the meaning given in s. 115.76 (3).

(b) "Child with a disability" has the meaning given in s. 115.76 (5).

(c)

1. "Covered individual" means all of the following, except as provided in subd. 2.:

a. An individual who is employed by a governing body, or under contract with a governing body as an independent contractor, to provide services for the benefit of the school governed by the governing body.

b. An individual who is employed by a person under contract with a governing body to provide services for the benefit of the school governed by the governing body.

c. An individual who is engaged in student teaching under the supervision of an individual described in subd. 1. a.

2. "Covered individual" does not include any of the following:

a. A member of a governing body.

b. A law enforcement officer who is authorized or designated by a governing body to perform any duty under s. 118.125 (1) (bL) 1. or 2. in a school governed by the governing body.

(d) "Governing body" means the governing body in charge of a school.

(e) "Individualized education program" has the meaning given in s. 115.76 (9).

NOTE: Par. (e) was created as par. (c) by 2011 Wis. Act 125 and renumbered to par. (e) by the legislative reference bureau under s. 13.92 (1) (bm) 2.

(f) "Parent" has the meaning given in s. 115.76 (12).

(g) "Physical restraint" means a restriction that immobilizes or reduces the ability of a pupil to freely move his or her torso, arms, legs, or head.

(h) "School" means a public school, including a charter school.

(i) "Seclusion" means the involuntary confinement of a pupil, apart from other pupils, in a room or area from which the pupil is physically prevented from leaving.

(2) Seclusion; conditions for use. A covered individual may use seclusion on a pupil at school only if all of the following apply:

(a) The pupil's behavior presents a clear, present, and imminent risk to the physical safety of the pupil or others and it is the least restrictive intervention feasible.

(b) A covered individual maintains constant supervision of the pupil, either by remaining in the room or area with the pupil or by observing the pupil through a window that allows the covered individual to see the pupil at all times.

(c) The room or area in which the pupil is secluded is free of objects or fixtures that may injure the pupil.

(d) The pupil has adequate access to bathroom facilities, drinking water, necessary medication, and regularly scheduled meals.

(e) The duration of the seclusion is only as long as necessary to resolve the clear, present, and imminent risk to the physical safety of the pupil or others.

(f) No door connecting the room or area in which the pupil is secluded to other rooms or areas is capable of being locked.

(3) Physical restraint; conditions for use. A covered individual may use physical restraint on a pupil at school only if all of the following apply:

(a) The pupil's behavior presents a clear, present, and imminent risk to the physical safety of the pupil or others and it is the least restrictive intervention feasible.

(b) There are no medical contraindications to its use.

(c) The degree of force used and the duration of the physical restraint do not exceed the degree and duration that are reasonable and necessary to resolve the clear, present, and imminent risk to the physical safety of the pupil or others.

(d) None of the following maneuvers or techniques are used:

1. Those that do not give adequate attention and care to protecting the pupil's head.

2. Those that cause chest compression by placing pressure or weight on the pupil's chest, lungs, sternum, diaphragm, back, or abdomen.

3. Those that place pressure or weight on the pupil's neck or throat, on an artery, or on the back of the pupil's head or neck, or that otherwise obstruct the pupil's circulation or breathing.

(e) It does not constitute corporal punishment, as defined in s. 118.31 (1).

(f) The covered individual does not use a mechanical or chemical restraint on the pupil. The use of supportive equipment to properly align a pupil's body, assist a pupil to maintain balance, or assist a pupil's mobility, under the direction and oversight of appropriate medical or therapeutic staff, does not constitute the use of a mechanical restraint.

(4) Notification and reporting following use of seclusion or physical restraint.

(a) Whenever seclusion or physical restraint is used on a pupil at school, the school principal or his or her designee shall do all of the following:

1. As soon as practicable, but no later than one business day after the incident, notify the pupil's parent of the incident and of the availability of the written report under subd. 2.

2. Within 2 business days after the incident and after consulting with the covered individuals present during the incident, prepare a written report containing all of the following information:

a. The pupil's name.

b. The date, time, and duration of the use of seclusion or physical restraint.

c. A description of the incident, including a description of the actions of the pupil before, during, and after the incident.

d. The names and titles of the covered individuals present during the incident.

(b) Each report prepared under par. (a) 2. shall be retained by the school and made available for review by the pupil's parent within 3 business days of the incident.

(c) Annually by September 1, the principal of each school or his or her designee shall submit to the governing body a report containing all of the following:

1. The number of incidents of seclusion and of physical restraint in the school during the previous school year.

2. The total number of pupils who were involved in the incidents and the number of children with disabilities who were involved in the incidents.

(5) Child with a disability. The first time that seclusion or physical restraint is used on a child with a disability, the child's individualized education program team shall convene in the manner provided in s. 115.787 (4) as soon as possible after the incident. The child's individualized education program team shall review the child's individualized education program to ensure that it contains appropriate positive behavioral interventions and supports and other strategies to address the behavior of concern, as provided in s. 115.787 (2) (i), and revise it if necessary.

(6) Physical restraint; training.

(a) Except as provided in par. (c), no covered individual may use physical restraint on a pupil at school unless he or she has received training in the use of physical restraint that includes all of the following components:

1. Methods of preventing the need for physical restraint.

2. An identification and description of dangerous behavior that may indicate the need for physical restraint and methods of evaluating risk of harm in order to determine whether physical restraint is warranted.

3. Experience in administering and receiving various types of physical restraint.

4. Instruction regarding the effects of physical restraint on the person restrained, in monitoring signs of physical distress, and in obtaining medical assistance.

5. Instruction in documenting and reporting incidents of physical restraint.

6. A requirement that the trainee demonstrate proficiency in administering physical restraint.

(b) The governing body shall ensure that all of the following apply in each school that it operates in which physical restraint is used:

1. At least one covered individual has received training in the use of physical restraint under par. (a).

2. The school maintains a record of the training received by the covered individual under par. (a), including the period during which the training is considered valid by the entity that trained the covered individual.

(c) A covered individual who has not received training in the use of physical restraint under par. (a) may use physical restraint on a pupil at school only in an emergency and only if a covered individual who has received training in the use of physical restraint under par. (a) is not immediately available due to the unforeseen nature of the emergency.

(7) Construction. Nothing in this section prohibits a covered individual from doing any of the following at school if the pupil is not confined to an area from which he or she is physically prevented from leaving:

(a) Directing a pupil who is disruptive to temporarily separate himself or herself from the general activity in the classroom to allow the pupil to regain behavioral control and the covered individual to maintain or regain classroom order.

(b) Directing a pupil to temporarily remain in the classroom to complete tasks while other pupils participate in activities outside the classroom.

(c) Briefly touching or holding a pupil's hand, arm, shoulder, or back to calm, comfort, or redirect the pupil.

118.31 Corporal punishment.

(1) In this section, "corporal punishment" means the intentional infliction of physical pain which is used as a means of discipline. "Corporal punishment" includes, but is not limited to, paddling, slapping or prolonged maintenance of physically painful positions, when used as a means of discipline. "Corporal punishment" does not include actions consistent with an individualized education program developed under s. 115.787 or reasonable physical activities associated with athletic training.

(2) Except as provided in sub. (3), no official, employee or agent of a school board may subject a pupil enrolled in the school district to corporal punishment.

(3) Subsection (2) does not prohibit an official, employee or agent of a school board from:

(a) Using reasonable and necessary force to quell a disturbance or prevent an act that threatens physical injury to any person.

(b) Using reasonable and necessary force to obtain possession of a weapon or other dangerous object within a pupil's control.

(c) Using reasonable and necessary force for the purpose of self-defense or the defense of others under s. 939.48.

(d) Using reasonable and necessary force for the protection of property under s. 939.49.

(e) Using reasonable and necessary force to remove a disruptive pupil from a school premises or motor vehicle, as defined in s. 125.09 (2) (a) 1. and 4., or from school-sponsored activities.

(f) Using reasonable and necessary force to prevent a pupil from inflicting harm on himself or herself.

(g) Using reasonable and necessary force to protect the safety of others.

(h) Using incidental, minor or reasonable physical contact designed to maintain order and control.

(4) Each school board shall adopt a policy that allows any official, employee or agent of the school board to use reasonable and necessary force for the purposes of sub. (3) (a) to (h). In determining whether or not a person was acting within the exceptions in sub. (3), deference shall be given to reasonable, good faith judgments made by an official, employee or agent of a school board.

(5) Except as provided in s. 939.61 (1), this section does not create a separate basis for civil liability of a school board or their officials, employees or agents for damages arising out of claims involving allegations of improper or unnecessary use of force by school employees against students.

(6) Nothing in this section shall prohibit, permit or otherwise affect any action taken by an official, employee or agent of a school board with regard to a person who is not a pupil enrolled in the school district.

(7) Nothing in this section abrogates or restricts any statutory or common law defense to prosecution for any crime.

Alternative placements

STATUTES

49.26. Learnfare program.

(1)

(a) In this subsection:

1. "Habitual truant" has the meaning given in s. 118.16 (1) (a).

2. "School" means any one of the following:

a. A public school, as described in s. 115.01 (1).

b. A private school, as defined in s. 115.001 (3r).

bm. A tribal school, as defined in s. 115.001 (15m).

c. A technical college pursuant to a contract under s. 118.15 (2).

d. A course of study meeting the standards established by the state superintendent of public instruction under s. 115.29 (4) for the granting of a declaration of equivalency of high school graduation.

(c) A county department or Wisconsin works agency may provide services under this subsection directly or may contract with a nonprofit agency or a school district to provide the services.

(d) A county department or Wisconsin Works agency that provides services under this subsection directly shall develop a plan, in coordination with the school districts located in whole or in part in the county, describing the assistance that the county department or Wisconsin Works agency and school districts will provide to individuals receiving services under this subsection, the number of individuals that will be served and the estimated cost of the services. The county department or Wisconsin Works agency shall submit the plan to the department and the department of public instruction by January 15, annually.

(e) For an individual who is a recipient of aid under s. 49.19, or whose custodial parent is a participant under s. 49.147 (3) to (5), who is the parent with whom a dependent child lives and who is subject to the school attendance requirement under par. (ge), the department shall make a monthly payment to the individual or the child care provider for the month's child care costs in an amount based on need with the maximum amount per child equal to the lesser of the actual cost of the care or the rate established under s. 49.155 (6) if the individual demonstrates the need to purchase child care services in order to attend school and those services are available from a child care provider.

(g) An individual who is a dependent child in a Wisconsin Works group that includes a participant under s. 49.147 (3), (3m), (4), or (5) or who is a recipient of aid under s. 49.19 is subject to the school attendance requirement under par. (ge) if all of the following apply:

1. Before the first day of the fall 1994 school term, as defined in s. 115.001 (12), the individual is 13 to 17 years of age. Beginning on the first day of the fall 1997 school term, as defined in s. 115.001 (12), the individual is 6 to 17 years of age.

2. The individual has not graduated from a public, private, or tribal high school or obtained a declaration of equivalency of high school graduation under s. 115.29 (4).

3. The individual is not excused from attending school under s. 118.15 (3).

4. The individual is a parent or is residing with his or her natural or adoptive parent.

5. If the individual is the caretaker of a child, the child is at least 45 days old and child care is available for the child at the school or the school provides an instruction program for the caretaker at home.

6. If child care services are necessary in order for the individual to attend school, child care from a child care provider is available for the child and transportation to and from child care is also available.

7. The individual is not prohibited from attending school while an expulsion under s. 119.25 or 120.13 (1) is pending.

8. If the individual was expelled from a school under s. 119.25 or 120.13 (1), there is another school available which the individual can attend.

10. The individual does not have good cause for failing to attend school, as defined by the department by rule.

11. If the individual is the mother of a child, a physician has not determined that the individual should delay her return to school after giving birth.

12. If the individual is on a waiting list for a children-at-risk program under s. 118.153, a children-at-risk program that is appropriate for the individual is not available.

(ge) An individual fails to meet the school attendance requirement if the individual is not enrolled in school or was not enrolled in the immediately preceding semester. The Wisconsin works agency or county department shall verify enrollment.

(gm)

1. The following individuals who are subject to the school attendance requirement under the learnfare program are required to participate in case management under sub. (2) (b):

a. Minor parents.

b. Habitual truants.

c. Dropouts, as defined in s. 118.153 (1) (b), including individuals who were dropouts and reenrolled in school in the same or immediately succeeding semester in which they dropped out of school.

2. The department may, in accordance with rules promulgated by the department, sanction any individual specified under subd. 1. who fails to cooperate with case management efforts.

(h)

1. An individual who fails to cooperate with case management efforts under par. (gm) is subject to sanctions as provided under subd. 1s. only if all of the following apply:

as. The individual has failed to request a hearing or has failed to show good cause for not cooperating with case management efforts in a hearing. The hearing shall be requested and held under s. 49.152. The department shall determine by rule the criteria for good cause.

b. The individual's family fails to cooperate with the case manager or fails to engage in the activities identified by the case manager as being necessary to improve the individual's school attendance.

c. The individual continues to fail to meet the school attendance requirement under par. (ge).

1s.

a. Except as provided under subd. 1s. b., an individual who fails to meet the school attendance requirement under par. (ge) is subject to sanctions determined by the department by rule.

b. An individual who is a dependent child in a Wisconsin Works group that includes a participant under s. 49.147 (3), (3m), (4), or (5) and who fails to meet the school attendance requirement under par. (ge) is subject to a monthly sanction.

2. If, as a result of the application of sanctions under this paragraph, no child in a family receives payment under s. 49.19, the department shall make a payment to meet only the needs of the parent or parents who would otherwise be eligible for aid under s. 49.19.

(hm) The department may require consent to the release of school attendance records, under s. 118.125 (2) (e), as a condition of eligibility for benefits under s. 49.147 (3) to (5) or aid under s. 49.19.

(hr) If an individual subject to the school attendance requirement under par. (ge) is enrolled in a public school, communications between the school district and the department, a county department under s. 46.215, 46.22, or 46.23 or a Wisconsin works agency concerning the individual's school attendance may only be made by a school attendance officer, as defined under s. 118.16 (1) (b).

(2) Services for learnfare pupils.

(a) In this subsection, "county department" means a county department under s. 46.215, 46.22 or 46.23.

(b) County departments or Wisconsin works agencies shall provide case management services to individuals who are subject to the school attendance requirement under the learnfare program under sub. (1) and their families to improve the school attendance and achievement of those individuals.

119.82. Alternative educational programs for learnfare pupils.

(1m) Upon the request of the child or the child's parent or guardian, the board shall provide an alternative educational program for any child who resides in the city and satisfies all of the following:

(a) Is at least 13 years of age but not more than 18 years of age.

(b) Is receiving aid to families with dependent children under s. 49.19 or is a member of a Wisconsin works group, as defined in s. 49.141 (1) (s), with a member who is participating in Wisconsin works under s. 49.147 (3) to (5).

(c) Has been or is being sanctioned under s. 49.26 (1) (h).

(2m) Programs under sub. (1m) shall be designed to meet the high school graduation requirements under s. 118.33.

120.13. School board powers.

The school board of a common or union high school district may do all things reasonable to promote the cause of education, including establishing, providing and improving school district programs, functions and activities for the benefit of pupils, and including all of the following:

(1) School government rules; suspension; expulsion.

(a) Make rules for the organization, gradation and government of the schools of the school district, including rules pertaining to conduct and dress of pupils in order to maintain good decorum and a favorable academic atmosphere, which shall take effect when approved by a majority of the school board and filed with the school district clerk. Subject to 20 USC 1415 (k), the school board shall adopt a code to govern pupils' classroom conduct beginning in the 1999-2000 school year. The code shall be developed in consultation with a committee of school district residents that consists of parents, pupils, members of the school board, school administrators, teachers, pupil services professionals and other residents of the school district who are appointed to the committee by the school board. The code of classroom conduct may provide different standards of conduct for different schools and may provide additional placement options under s. 118.164 (3). The code shall include all of the following:

3. The procedures for determining the appropriate educational placement of a pupil who has been removed from the class and assigned a placement by the school principal or his or her designee under s. 118.164.

Disciplinary Approaches Addressing Specific Infractions and Conditions

Firearms (as required by the Guns-Free Schools Act)

STATUTES

120.13. School board powers.

(bm) The school district administrator or any principal or teacher designated by the school district administrator shall suspend a pupil under par. (b) if the school district administrator, principal or teacher determines that the pupil, while at school or while under the supervision of a school authority, possessed a firearm, as defined in 18 USC 921 (a) (3). This paragraph does not apply to the possession of a firearm while legally hunting in a school forest if allowed under s. 120.13 (38).

Other weapons

STATUTES

118.31 Corporal punishment.

(2) Except as provided in sub. (3), no official, employee or agent of a school board may subject a pupil enrolled in the school district to corporal punishment.

(3) Subsection (2) does not prohibit an official, employee or agent of a school board from:

(b) Using reasonable and necessary force to obtain possession of a weapon or other dangerous object within a pupil's control.

Students with chronic disciplinary issues

STATUTES

No relevant statutes found.

Attendance and truancy

STATUTES

118.15. Compulsory school attendance.

(1)

(a) Except as provided under pars. (b) to (d) and (g) and sub. (4), unless the child is excused under sub. (3) or has graduated from high school, any person having under control a child who is between the ages of 6 and 18 years shall cause the child to attend school regularly during the full period and hours, religious holidays excepted, that the public, private, or tribal school in which the child should be enrolled is in session until the end of the school term, quarter or semester of the school year in which the child becomes 18 years of age.

(am) Except as provided under par. (d), unless the child is excused under sub. (3), any person having under his or her control a child who is enrolled in 5-year-old kindergarten shall cause the child to attend school regularly, religious holidays excepted, during the full period and hours that kindergarten is in session at the public or private school in which the child is enrolled until the end of the school term.

(b) Upon the child's request of the school board and with the written approval of the child's parent or guardian, any child who is 16 years of age or over and a child at risk, as defined in s. 118.153 (1) (a), may attend, in lieu of high school or on a part-time basis, a technical college if the child and his or her parent or guardian agree, in writing, that the child will participate in a program leading to the child's high school graduation. The district board of the technical college district in which the child resides shall admit the child. Every technical college district board shall offer day class programs satisfactory to meet the requirements of this paragraph and s. 118.33 (3m) as a condition to the receipt of any state aid.

(c)

1. Upon the child's request and with the written approval of the child's parent or guardian, any child who is 16 years of age may be excused by the school board from regular school attendance if the child and his or her parent or guardian agree, in writing, that the child will participate in a program or curriculum modification under par. (d) leading to the child's high school graduation.

2. Upon the child's request and with the written approval of the child's parent or guardian, any child who is 17 years of age or over may be excused by the school board from regular school attendance if the child and his or her parent or guardian agree, in writing, that the child will participate in a program or curriculum modification under par. (d) leading to the child's high school graduation or leading to a high school equivalency diploma under s. 115.29 (4).

3. Prior to a child's admission to a program leading to the child's high school graduation or a high school equivalency program under par. (b) or subd. 1. or 2., the child, his or her parent or guardian, the school board and a representative of the high school equivalency program or program leading to the child's high school graduation shall enter into a written agreement. The written agreement shall state the services to be provided, the time period needed to complete the high school equivalency program or program leading to the child's high school graduation and how the performance of the pupil will be monitored. The agreement shall be monitored by the school board on a regular basis, but in no case shall the agreement be monitored less frequently than once per semester. If the school board determines that a child is not complying with the agreement, the school board shall notify the child, his or her parent or guardian and the high school equivalency program or program leading to the child's high school graduation that the agreement may be modified or suspended in 30 days.

(cm)

1. Upon the child's request and with the approval of the child's parent or guardian, any child who is 17 years of age or over shall be excused by the school board from regular school attendance if the child began a program leading to a high school equivalency diploma in a juvenile correctional facility, as defined in s. 938.02 (10p), a secured residential care center for children and youth, as defined in s. 938.02 (15g), a juvenile detention facility, as defined in s. 938.02 (10r), or a juvenile portion of a county jail, and the child and his or her parent or guardian agree under subd. 2. that the child will continue to participate in such a program. For purposes of this subdivision, a child is considered to have begun a program leading to a high school equivalency diploma if the child has received a passing score on a minimum of one of the 5 content area tests given under the general educational development test or has demonstrated under a course of study meeting the standards established under s. 115.29 (4) for the granting of a declaration of equivalency to high school graduation a level of proficiency in a minimum of one of the 5 content areas specified in s. 118.33 (1) (a) 1. that is equivalent to the level of proficiency that he or she would have attained if he or she had satisfied the requirements under s. 118.33 (1) (a) 1.

2. Prior to the admission of a child under subd. 1. to a program leading to a high school equivalency diploma, the child, his or her parent or guardian, the school board and a representative of the agency providing the program shall enter into a written agreement. The agreement shall specify that the child is excused from regular school attendance while he or she is enrolled in the program and making

progress toward completion of the program, or successfully completes the program. If the agency providing the program determines that the child is not making progress toward completion of the program, the agency shall notify the child and his or her parent or guardian that the agreement may be suspended within 30 days. If the agency suspends the agreement, the agency shall notify the child, his or her parent or guardian and the school board.

3. If the program that the child wishes to attend is provided by a technical college district, the technical college district board shall admit the child.

4. A child attending a program under this paragraph shall not be included in membership, as defined in s. 121.004 (5).

5. The state superintendent shall grant a high school equivalency diploma to a child under this paragraph who completes the general educational development test with a passing score, as determined by the state superintendent, and completes the additional requirements determined by the state superintendent under s. 115.29 (4).

(d) Any child's parent or guardian, or the child if the parent or guardian is notified, may request the school board, in writing, to provide the child with program or curriculum modifications, including but not limited to:

1. Modifications within the child's current academic program.

2. A school work training or work study program.

3. Enrollment in any alternative public school or program located in the school district in which the child resides.

4. Enrollment in any nonsectarian private school or program, or tribal school, located in the school district in which the child resides, which complies with the requirements of 42 USC 2000d. Enrollment of a child under this subdivision shall be pursuant to a contractual agreement under s. 121.78 (5) that provides for the payment of the child's tuition by the school district.

5. Homebound study, including nonsectarian correspondence courses or other courses of study approved by the school board or nonsectarian tutoring provided by the school in which the child is enrolled.

6. Enrollment in any public educational program located outside the school district in which the child resides. Enrollment of a child under this subdivision may be pursuant to a contractual agreement between school districts.

(dm) The school board shall render its decision, in writing, within 90 days of a request under par. (d), except that if the request relates to a child who has been evaluated by an individualized education program team under s. 115.782 and has not been recommended for special education, the school board shall render its decision within 30 days of the request. If the school board denies the request, the school board shall give its reasons for the denial.

(e) Any decision made by a school board or a designee of the school board in response to a request for program or curriculum modifications under par. (d) shall be reviewed by the school board upon request of the child's parent or guardian. The school board shall render its determination upon review in writing, if the child's parent or guardian so requests.

(f) At the beginning of each school term, the school board shall notify the pupils enrolled in the school district and their parents or guardians of the substance of pars. (d), (dm) and (e).

(g) Paragraph (a) does not apply to a person having under control a child who is enrolled in a virtual charter school.

(2)

(a) If the determination is made under sub. (1) (b) for a child to attend a technical college, the district board governing the technical college shall establish appropriate vocational and technical courses in accordance with s. 118.33 (3m) and the school board shall pay the technical college district board an amount calculated as follows:

1. Divide the number of credit hours of instruction scheduled by the technical college district for the pupil by 30.

2. Multiply the quotient under subd. 1. by the statewide average instructional cost for general education programs in the technical college system in the previous school year, as determined by the technical college system board.

3. Multiply the quotient under subd. 1. by any additional costs associated with direct student support services, as determined jointly by the state superintendent and the state director of the technical college system.

4. Add the product under subd. 2. to the product under subd. 3.

(c) Pupils attending a technical college under this subsection may receive general education subjects at the technical college. Payments by the school district under par. (a) shall be deemed costs of operation and maintenance.

(d) Transportation, or board and lodging under s. 121.57 (1) (a), for pupils attending a technical college under this subsection shall be provided by the school district, and state aids shall be paid therefor, on the same basis as is transportation for pupils attending high school.

(3) This section does not apply to:

(a) Any child who is excused by the school board because the child is temporarily not in proper physical or mental condition to attend a school program but who can be expected to return to a school program upon termination or abatement of the illness or condition. The school attendance officer may request the parent or guardian of the child to obtain a written statement from a licensed physician, dentist, chiropractor, optometrist, psychologist, physician assistant, or nurse practitioner, as defined in s. 255.06 (1) (d), or certified advanced practice nurse prescriber or Christian Science practitioner living and residing in this state, who is listed in the Christian Science Journal, as sufficient proof of the physical or mental condition of the child. An excuse under this paragraph shall be in writing and shall state the time period for which it is valid, not to exceed 30 days.

(b) Any child excused by the school board in accordance with the school board's written attendance policy under s. 118.16 (4) and with the written approval of the child's parent or guardian. The child's truancy, discipline or school achievement problems or disabilities as described in s. 115.76 (5) may not be used as the reason for an excuse under this paragraph. The excuse shall be in writing and shall state the time period for which it is effective, not to extend beyond the end of the current school year.

(c) Any child excused in writing by his or her parent or guardian before the absence. The school board shall require a child excused under this paragraph to complete any course work missed during the absence. A child may not be excused for more than 10 days in a school year under this paragraph.

(d) Any child excused in writing by his or her parent or guardian and by the principal of the school that the child attends for the purpose of serving as an election official under s. 7.30 (2) (am). A principal may not excuse a child under this paragraph unless the child has at least a 3.0 grade point average or the equivalent. The principal shall allow the child to take examinations and complete course work missed during the child's absences under this paragraph. The principal shall promptly notify the municipal clerk or the board of election commissioners of the municipality that appointed the child as an election official if the child ceases to be enrolled in school or if the child no longer has at least a 3.0 grade point average or the equivalent.

(4) Instruction in a home-based private educational program that meets all of the criteria under s. 118.165 (1) may be substituted for attendance at a public or private school.

(4m) No school board, board of control of a cooperative educational service agency or county children with disabilities education board, or person employed by a school board, cooperative educational service agency or county children with disabilities education board, may in any manner compel a pregnant girl to withdraw from her educational program.

(5)

(a)

1. Except as provided under par. (b) or if a person has been found guilty of a misdemeanor under s. 948.45, whoever violates this section may be penalized as follows, if evidence has been provided by the school attendance officer that the activities under s. 118.16 (5) have been completed or were not required to be completed as provided in s. 118.16 (5m):

a. For the first offense, by a fine of not more than $500 or imprisonment for not more than 30 days or both.

b. For a 2nd or subsequent offense, by a fine of not more than $1,000 or imprisonment for not more than 90 days or both.

2. The court may require a person who is subject to subd. 1. to perform community service work for a public agency or a nonprofit charitable organization in lieu of the penalties specified under subd. 1. Any organization or agency to which a defendant is assigned pursuant to an order under this subdivision acting in good faith has immunity from any civil liability in excess of $25,000 for any act or omission by or impacting on the defendant.

(am) The court may order any person who violates this section to participate in counseling at the person's own expense or to attend school with his or her child, or both.

(b)

1. Paragraph (a) does not apply to a person who has under his or her control a child who has been sanctioned under s. 49.26 (1) (h).

2. In a prosecution under par. (a), if the defendant proves that he or she is unable to comply with the law because of the disobedience of the child, the action shall be dismissed and the child shall be referred to the court assigned to exercise jurisdiction under chs. 48 and 938.

118.153. Children at risk of not graduating from high school.

(1) In this section:

(a) "Children at risk" means pupils in grades 5 to 12 who are at risk of not graduating from high school because they are dropouts or are 2 or more of the following:

1m. One or more years behind their age group in the number of high school credits attained.

2. Two or more years behind their age group in basic skill levels.

2m. Habitual truants, as defined in s. 118.16 (1) (a).

3. Parents.

4. Adjudicated delinquents.

5. Eighth grade pupils whose score in each subject area on the examination administered under s. 118.30 (1m) (am) 1. was below the basic level, 8th grade pupils who failed the examination administered under s. 118.30 (1m) (am) 2., and 8th grade pupils who failed to be promoted to the 9th grade.

(b) "Dropout" means a child who ceased to attend school, does not attend a public, private, or tribal school, technical college, or home-based private educational program on a full-time basis, has not graduated from high school, and does not have an acceptable excuse under s. 118.15 (1) (b) to (d) or (3).

(2)

(a) Every school board shall identify the children at risk who are enrolled in the school district and annually by August 15 develop a plan describing how the school board will meet their needs.

(b) If in the previous school year a school district had 30 or more dropouts or a dropout rate exceeding 5% of its total high school enrollment, the school board may apply to the state superintendent for aid under this section.

(3)

(a)

1. Every school board that applies for aid under sub. (2) (b) shall make available to the children at risk enrolled in the school district a program for children at risk.

2. Upon request of a pupil who is a child at risk or the pupil's parent or guardian, a school board described under subd. 1. shall enroll the pupil in the program for children at risk. If the school board makes available more than one program for children at risk, the school board shall enroll the pupil in the program selected by the pupil's parent or guardian if the pupil meets the prerequisites for that program. If there is no space in that program for the pupil, the school board of the school district operating under ch. 119 shall place the pupil's name on a waiting list for that program and offer the pupil another program for children at risk until space in the requested program becomes available.

(b) A program for children at risk shall be designed to allow the pupils enrolled to meet high school graduation requirements under s. 118.33. The school board of the school district operating under ch. 119 shall ensure that there are at least 30 pupils and no more than 250 pupils in each program and that a separate administrator or teacher is in charge of each program.

(c)

1. Each school board shall identify appropriate private, nonprofit, nonsectarian agencies located in the school district or within 5 miles of the boundaries of the school district to meet the requirements under pars. (a) and (b) for the children at risk enrolled in the school district.

2. The school board may contract with the agencies identified under subd. 1. for the children at risk enrolled in the school district if the school board determines that the agencies can adequately serve such children.

3. The school board shall pay each contracting agency, for each full-time equivalent pupil served by the agency, an amount equal to at least 80% of the average per pupil cost for the school district.

(4)

(a) Annually in August, a school board that applied for aid under this section in the previous school year shall submit a report to the state superintendent. The report shall include only information about the pupils enrolled in a program for children at risk in the previous school year that is necessary for the state superintendent to determine the number of pupils who achieved each of the objectives under par. (c).

(b) Upon receipt of a school board's annual report under par. (a) the state superintendent shall pay to the school district from the appropriation under s. 20.255 (2) (bc), for each pupil enrolled in a program for children at risk who achieved at least 3 of the objectives under par. (c) in the previous school year, additional state aid in an amount equal to 10% of the school district's average per pupil aids provided under s. 20.835 (7) (a), 1991 stats., and s. 20.255 (2) (ac) in the previous school year.

(c)

1. The pupil's attendance rate was at least 70%.

2. The pupil remained in school.

3. The pupil, if a high school senior, received a high school diploma.

4. The pupil earned at least 4.5 academic credits or a prorated number of credits if the pupil was enrolled in the program for less than the entire school year.

5. The pupil has demonstrated, on standardized tests or other appropriate measures, a gain in reading and mathematics commensurate with the duration of his or her enrollment in the program.

(e) If the appropriation under s. 20.255 (2) (bc) in any fiscal year is insufficient to pay the full amount of aid under par. (b), state aid payments shall be prorated among the school districts entitled to such aid.

(5)

(a) In this subsection:

1. "Alternative school" means a public school that has at least 30 pupils and no more than 250 pupils, has a separate administrator or teacher in charge of the school and offers a nontraditional curriculum.

2. "School within a school" means a school that has at least 30 pupils and no more than 250 pupils, has a separate administrator or teacher in charge of the school and is housed in a space specifically dedicated to it in a public school.

(b) Subject to sub. (3) (c) 3., a school board receiving funds under this section shall provide a specific sum to each program for children at risk in which pupils enrolled in the school district are enrolled based on the ability of the program to meet the objectives under sub. (4) (c).

(c) A school board receiving funds under this section shall give preference in allocating those funds to programs for children at risk provided by alternative schools, charter schools, schools within schools and agencies identified under sub. (3) (c) 1.

(7) The state superintendent shall promulgate rules to implement and administer this section. The rules shall not be overly restrictive in defining approved programs and shall not serve to exclude programs that have demonstrated success in meeting the needs of children at risk.

118.16. School attendance enforcement.

(1) In this section:

(a) "Habitual truant" means a pupil who is absent from school without an acceptable excuse under sub. (4) and s. 118.15 for part or all of 5 or more days on which school is held during a school semester.

(b) "School attendance officer" means an employee designated by the school board to deal with matters relating to school attendance and truancy. "School attendance officer" does not include an individual designated under sub. (2m) (a) to take into custody a child who is absent from school without an acceptable excuse under s. 118.15 unless that individual has also been designated by the school board to deal with matters relating to school attendance and truancy.

(c) "Truancy" means any absence of part or all of one or more days from school during which the school attendance officer, principal or teacher has not been notified of the legal cause of such absence by the parent or guardian of the absent pupil, and also means intermittent attendance carried on for the purpose of defeating the intent of s. 118.15.

(1m) The period during which a pupil is absent from school due to a suspension or expulsion under s. 120.13 or 119.25 is neither an absence without an acceptable excuse for the purposes of sub. (1) (a) nor an absence without legal cause for the purposes of sub. (1) (c).

(2) The school attendance officer:

(a) Shall determine daily which pupils enrolled in the school district are absent from school and whether that absence is excused under s. 118.15.

(c) Except as provided under pars. (cg) and (cr), shall notify the parent or guardian of a child who has been truant of the child's truancy and direct the parent or guardian to return the child to school no later than the next day on which school is in session or to provide an excuse under s. 118.15. The notice under this paragraph shall be given before the end of the 2nd school day after receiving a report of an unexcused absence. The notice may be made by personal contact, mail or telephone call of which a written record is kept, except that notice by personal contact or telephone call shall be attempted before notice by mail may be given.

(cg) Shall notify the parent or guardian of a child who is a habitual truant, by registered or certified mail, when the child initially becomes a habitual truant. The notice shall include all of the following:

1. A statement of the parent's or guardian's responsibility, under s. 118.15 (1) (a) and (am), to cause the child to attend school regularly.

2. A statement that the parent, guardian or child may request program or curriculum modifications for the child under s. 118.15 (1) (d) and that the child may be eligible for enrollment in a program for children at risk under s. 118.153 (3).

3. A request that the parent or guardian meet with appropriate school personnel to discuss the child's truancy. The notice shall include the name of the school personnel with whom the parent or guardian should meet, a date, time and place for the meeting and the name, address and telephone number of a person to contact to arrange a different date, time or place. The date for the meeting shall be within 5 school days after the date that the notice is sent, except that with the consent of the child's parent or guardian the date for the meeting may be extended for an additional 5 school days.

4. A statement of the penalties, under s. 118.15 (5), that may be imposed on the parent or guardian if he or she fails to cause the child to attend school regularly as required under s. 118.15 (1) (a) and (am).

(cr) After the notice required under par. (cg) has been given, shall notify the parent or guardian of a habitual truant of the habitual truant's unexcused absences as provided in the plan under s. 118.162 (4) (a). After the notice required under par. (cg) has been given, par. (c) does not apply.

(d) May visit any place of employment in the school district to ascertain whether any minors are employed there contrary to law. The officer shall require that school certificates and lists of minors who are employed there be produced for inspection, and shall report all cases of illegal employment to the proper school authorities and to the department of workforce development.

(e) Except as provided in par. (f), shall have access to information regarding the attendance of any child between the ages of 6 and 18 who is a resident of the school district or who claims or is claimed to be in attendance at a private school located in the school district.

(f) Shall request information regarding the attendance of any child between the ages of 6 and 18 who is a resident of the school district and who claims or is claimed to be in attendance at a tribal school, or who is not a resident of the school district and who claims or is claimed to be in attendance at a tribal school located in the school district.

(2m)

(a) A school district administrator may designate any of the following individuals to take a child who resides in the school district and who is absent from school without an acceptable excuse under s. 118.15 into custody under s. 938.19 (1m):

1. An employee of the school district who is directly involved in the provision of educational programs to the truant child.

2. An employee of the school district who is directly involved in the provision of a modified program or curriculum under s. 118.15 (1) (d), a program for children at risk under s. 118.153 or an alternative educational program under s. 119.82 or any other alternative educational program to children who attend the school attended by the truant child, if the school district administrator believes that the program or curriculum may be appropriate for the truant child.

3. A school social worker employed by the school district who provides services to children attending the school attended by the truant child, if the school district administrator believes that the services provided by the social worker may be appropriate for the truant child.

4. An employee of a social services agency who is directly involved in the provision of social services to the truant child or the child's family.

5. A school attendance officer, but only if the school attendance officer meets the criteria specified in subds. 1., 2. or 3.

(b) A designation under par. (a) shall be in writing and shall specifically identify the child whom the individual is authorized to take into custody.

(c) A school district administrator may not designate an individual under par. (a) unless the individual agrees to the designation in writing.

(d) A school district administrator who makes a designation under par. (a) shall provide each individual so designated with an identification card of a form determined by the school board. The designee shall carry the identification card on his or her person at all times while the designee is on official duty under s. 938.19 (1m) and shall exhibit the identification card to any person to whom the designee represents himself or herself as a person authorized to take a child into custody under s. 938.19 (1m).

(e) A school district administrator who makes a designation under par. (a) or the individual designated under par. (a) shall immediately attempt to notify, by personal contact or telephone call, the child's parent, guardian and legal custodian that the designation has been made and that the child may be taken into custody under s. 938.19 (1m). The school district administrator, or the designee, is not required to notify a parent, guardian or legal custodian under this paragraph if the parent, guardian or legal custodian is the person who requested that the child be taken into custody under s. 938.19 (1m).

(3) All private schools shall keep a record containing the information required under ss. 115.30 (2) and 120.18. The record shall be open to the inspection of school attendance officers at all reasonable times. When called upon by any school attendance officer, the school shall furnish, on forms supplied by the school attendance officer, the information required under ss. 115.30 (2) and 120.18 in regard to any child between the ages of 6 and 18 who is a resident of the school district or who claims or is claimed to be in attendance at the school.

(4)

(a) The school board shall establish a written attendance policy specifying the reasons for which pupils may be permitted to be absent from a public school under s. 118.15 and shall require the teachers employed in the school district to submit to the school attendance officer daily attendance reports on all pupils under their charge.

(b) No public school may deny a pupil credit in a course or subject solely because of the pupil's unexcused absences or suspensions from school. The attendance policy under par. (a) shall specify the conditions under which a pupil may be permitted to take examinations missed during absences, other than suspensions, and the conditions under which a pupil shall be permitted to take any quarterly, semester or grading period examinations and complete any course work missed during a period of suspension.

(c) The school board may establish policies which provide that as a consequence of a pupil's truancy the pupil may be assigned to detention or to a supervised, directed study program. The program need

not be held during the regular school day. The policies under this paragraph shall specify the conditions under which credit may be given for work completed during the period of detention or assignment to a supervised, directed study program. A pupil shall be permitted to take any examinations missed during a period of assignment to a supervised, directed study program.

(cm)

1. The school board may establish policies which provide that a pupil of an age eligible for high school enrollment in the school district, as determined by the school board, may be assigned to a period of assessment as a consequence of the pupil's truancy or upon the pupil's return to school from placement in a correctional facility, mental health treatment facility, alcohol and other drug abuse treatment facility or other out-of-school placement. The policies shall specify the conditions under which a pupil may participate in the assessment without being in violation of s. 118.15 and the maximum length of time that a pupil may be assigned to an assessment period.

2. A school board may not assign a pupil to an assessment period without the written approval of the pupil's parent or guardian. A school board may not assign a pupil to an assessment period for longer than the time necessary to complete the assessment and place the pupil in an appropriate education program or 8 weeks, whichever is less. A school board may not assign a pupil to an assessment period more than once and may not assign a pupil to an assessment period if the school district has an alternative education program, as defined in s. 115.28 (7) (e) 1., available for the pupil that is appropriate for the pupil's needs. An assessment need not be conducted during the regular school day.

3. The goals of an assessment period are to develop an educational plan for the pupil, implement an appropriate transitional plan and facilitate the pupil's placement in an education program in which the pupil will be able to succeed. The school board shall provide pupils who are assigned to an assessment period with information on other education programs that the school district or other community providers have available for the pupil. The assessment may include any of the following new or previously completed activities:

a. An assessment for problems with alcohol or other drugs.

b. An assessment of individual educational needs.

c. An assessment of whether the pupil is encountering problems in the community or at home that require intervention by a social worker.

d. A vocational assessment, which may include career counseling.

e. A medical assessment.

(d) The school board shall provide each pupil enrolled in the public schools in the district with a copy of the policies established under this subsection and shall file a copy of the policies in each school in the district. In addition, the school board shall make copies available upon request.

(e) Except as provided under s. 119.55, a school board may establish one or more youth service centers for the counseling of children who are taken into custody under s. 938.19 (1) (d) 10. for being absent from school without an acceptable excuse under s. 118.15.

(5) Except as provided in sub. (5m), before any proceeding may be brought against a child under s. 938.13 (6) for habitual truancy or under s. 938.125 (2) or 938.17 (2) for a violation of an ordinance enacted under s. 118.163 (2) or against the child's parent or guardian under s. 118.15 for failure to cause the child to attend school regularly, the school attendance officer shall provide evidence that appropriate school personnel in the school or school district in which the child is enrolled have, within the school year during which the truancy occurred, done all of the following:

(a) Met with the child's parent or guardian to discuss the child's truancy or attempted to meet with the child's parent or guardian and received no response or were refused.

(b) Provided an opportunity for educational counseling to the child to determine whether a change in the child's curriculum would resolve the child's truancy and have considered curriculum modifications under s. 118.15 (1) (d).

(c) Evaluated the child to determine whether learning problems may be a cause of the child's truancy and, if so, have taken steps to overcome the learning problems, except that the child need not be evaluated if tests administered to the child within the previous year indicate that the child is performing at his or her grade level.

(d) Conducted an evaluation to determine whether social problems may be a cause of the child's truancy and, if so, have taken appropriate action or made appropriate referrals.

(5m) Subsection (5) (a) does not apply if a meeting under sub. (2) (cg) 3. is not held within 10 school days after the date that the notice under sub. (2) (cg) is sent. Subsection (5) (b), (c) and (d) does not apply if the school attendance officer provides evidence that appropriate school personnel were unable to carry out the activity due to the child's absences from school.

(6)

(a) If the school attendance officer receives evidence that activities under sub. (5) have been completed or were not required to be completed as provided in sub. (5m), the school attendance officer may do any of the following:

1. File information on any child who continues to be truant with the court assigned to exercise jurisdiction under chs. 48 and 938 in accordance with s. 938.24. Filing information on a child under this subdivision does not preclude concurrent prosecution of the child's parent or guardian under s. 118.15 (5).

2. Refer the child to a teen court program if all of the following conditions apply:

a. The chief judge of the judicial administrative district has approved a teen court program established in the child's county of residence and has authorized the school attendance officer to refer children to the teen court program and the school attendance officer determines that participation in the teen court program will likely benefit the child and the community.

b. The child and the child's parent, guardian and legal custodian consent to the child's participation in the teen court program.

c. The child has not successfully completed participation in a teen court program during the 2 years before the date on which the school attendance officer received evidence that activities under sub. (5) have been completed or were not completed due to the child's absence from school as provided in sub. (5m).

(b) If a child who is referred to a teen court program under par. (a) 2. is not eligible for participation in the teen court program or does not successfully complete participation in the teen court program, the person administering the teen court program shall file information on the child with the court assigned to exercise jurisdiction under chs. 48 and 938 in accordance with s. 938.24. Filing information on a child under this paragraph does not preclude concurrent prosecution of the child's parent or guardian under s. 118.15 (5).

(7) Any school district administrator, principal, teacher or school attendance officer who violates this section shall forfeit not less than $5 nor more than $25.

118.162. Truancy committee and plan.

(1) At least once every 4 years, in each county, the school district administrator of the school district which contains the county seat designated under s. 59.05, or his or her designee, shall convene a committee to review and make recommendations to the school boards of all of the school districts in the

county on revisions to the school districts' truancy plans under sub. (4m). The committee shall consist of the following members:

(a) A representative from each school district in the county, designated by the school board of the school district that he or she represents, who may be a school board member, school administrator, teacher, pupil services professional or parent of a child enrolled in the school district. If the territory of a school district lies in more than one county, the school district shall have a representative on the committee for the county in which the largest portion of the school district's equalized valuation is located.

(am) A representative from each tribal school in the county, designated by the governing body of the tribal school that he or she represents, who may be a member of the tribal school governing body, school administrator, teacher, pupil services professional, or parent of a child enrolled in that tribal school.

(b) A representative of the office of the district attorney, designated by the district attorney.

(c) A representative of the sheriff's department, designated by the sheriff.

(d) A representative of the local law enforcement agency, other than the sheriff's department, with jurisdiction over the county seat, designated by the chief administrative officer of the law enforcement agency.

(e) A representative of the circuit court for the county, designated by the chief judge of the judicial administrative district.

(f) A representative of the county department of social services under s. 46.22, designated by the county social services director, or, if the duties of the department under s. 46.22 have been transferred to a department under s. 46.23, a representative of the county department of human services under s. 46.23, designated by the county human services director.

(g) A representative of the juvenile court intake unit, designated by the county social services director, or, if the duties of the department under s. 46.22 have been transferred to a department under s. 46.23, designated by the county human services director, or designated by the chief judge of the judicial administrative district.

(h) If a county department of human services has not been established under s. 46.23, a representative of a county department established under s. 51.42 or 51.437, designated by the director of the department established under s. 51.42 or 51.437.

(i) Any other member as determined by the committee.

(j) A parent of a pupil enrolled in a private school, who resides in a school district in the county, designated by the county board.

(k) A parent of a pupil enrolled in a public school, who resides in a school district in the county, designated by the county board.

(L) A parent of a pupil enrolled in a home-based private educational program, who resides in a school district in the county, designated by the county board.

(m) A parent of a pupil enrolled in a tribal school located in the county, who resides in the county, designated by the county board.

(2) The district attorney representative on the committee shall participate in reviewing and developing any recommendations regarding revisions to the portions of the school districts' plans under sub. (4) (e).

(3) The committee shall write a report to accompany the recommendations under sub. (1). The report shall include a description of the factors that contribute to truancy in the county and a description of any state statutes, municipal ordinances or school, social services, law enforcement, district attorney, court or other policies that contribute to or inhibit the response to truancy in the county. A copy of the report shall

be submitted to each of the entities identified in sub. (1) (b) to (h) and any other entity designating members on the committee under sub. (1) (i).

(4) Not later than September 1, 1989, each school board shall adopt a truancy plan which shall include all of the following:

(a) Procedures to be followed for notifying the parents or guardians of the unexcused absences of habitual truants under s. 118.16 (2) (cr) and for meeting and conferring with such parents or guardians.

(b) Plans and procedures for identifying truant children of all ages and returning them to school, including the identity of school personnel to whom a truant child shall be returned.

(c) Methods to increase and maintain public awareness of and involvement in responding to truancy within the school district.

(d) The immediate response to be made by school personnel when a truant child is returned to school.

(e) The types of truancy cases to be referred to the district attorney for the filing of information under s. 938.24 or prosecution under s. 118.15 (5) and the time periods within which the district attorney will respond to and take action on the referrals.

(f) Plans and procedures to coordinate the responses to the problems of habitual truants, as defined under s. 118.16 (1) (a), with public and private social services agencies.

(g) Methods to involve the truant child's parent or guardian in dealing with and solving the child's truancy problem.

(4m) At least once every 2 years, each school board shall review and, if appropriate, revise the truancy plan adopted by the school board under sub. (4).

118.163 Municipal truancy and school dropout ordinances.

(1) In this section:

(a) "Dropout" has the meaning given in s. 118.153 (1) (b).

(b) "Habitual truant" has the meaning given in s. 118.16 (1) (a).

(c) "Operating privilege" has the meaning given in s. 340.01 (40).

(d) "Truant" means a pupil who is absent from school without an acceptable excuse under ss. 118.15 and 118.16 (4) for part or all of any day on which school is held during a school semester.

(1m) A county, city, village or town may enact an ordinance prohibiting a person under 18 years of age from being a truant. The ordinance shall provide which of the following dispositions are available to the court:

(a) An order for the person to attend school.

(b) A forfeiture of not more than $50 plus costs for a first violation, or a forfeiture of not more than $100 plus costs for any 2nd or subsequent violation committed within 12 months of a previous violation, subject to s. 938.37 and subject to a maximum cumulative forfeiture amount of not more than $500 for all violations committed during a school semester. All or part of the forfeiture plus costs may be assessed against the person, the parents or guardian of the person, or both.

(c) An order for the person to report to a youth report center after school, in the evening, on weekends, on other nonschool days, or at any other time that the person is not under immediate adult supervision, for participation in the social, behavioral, academic, community service, and other programming of the center as described in s. 938.342 (1d) (c).

(2) A county, city, village or town may enact an ordinance prohibiting a person under 18 years of age from being a habitual truant. The ordinance shall provide which of the following dispositions are available to the court:

(a) Suspension of the person's operating privilege for not less than 30 days nor more than one year. The court may take possession of any suspended license. If the court takes possession of a license, it shall destroy the license. The court shall forward to the department of transportation a notice stating the reason for and the duration of the suspension.

(b) An order for the person to participate in counseling or a supervised work program or other community service work as described in s. 938.34 (5g). The costs of any such counseling, supervised work program or other community service work may be assessed against the person, the parents or guardian of the person, or both. Any county department of human services or social services, community agency, public agency or nonprofit charitable organization administering a supervised work program or other community service work to which a person is assigned pursuant to an order under this paragraph acting in good faith has immunity from any civil liability in excess of $25,000 for any act or omission by or impacting on that person.

(c) An order for the person to remain at home except during hours in which the person is attending religious worship or a school program, including travel time required to get to and from the school program or place of worship. The order may permit a person to leave his or her home if the person is accompanied by a parent or guardian.

(d) An order for the person to attend an educational program as described in s. 938.34 (7d).

(e) An order for the department of workforce development to revoke, under s. 103.72, a permit under s. 103.70 authorizing the employment of the person.

(f) An order for the person to be placed in a teen court program as described in s. 938.342 (1g) (f).

(g) An order for the person to attend school.

(h) A forfeiture of not more than $500 plus costs, subject to s. 938.37. All or part of the forfeiture plus costs may be assessed against the person, the parents or guardian of the person, or both.

(i) Any other reasonable conditions consistent with this subsection, including a curfew, restrictions as to going to or remaining on specified premises and restrictions on associating with other children or adults.

(j) An order placing the person under formal or informal supervision, as described in s. 938.34 (2), for up to one year.

(k) An order for the person's parent, guardian or legal custodian to participate in counseling at the parent's, guardian's or legal custodian's own expense or to attend school with the person, or both.

(L) An order for the person to report to a youth report center after school, in the evening, on weekends, on other nonschool days, or at any other time that the person is not under immediate adult supervision, for participation in the social, behavioral, academic, community service, and other programming of the center as described in s. 938.342 (1g) (k).

(2m)

(a) A county, city, village or town may enact an ordinance permitting a court to suspend the operating privilege of a person who is at least 16 years of age but less than 18 years of age and is a dropout. The ordinance shall provide that the court may suspend the person's operating privilege until the person reaches the age of 18. The court may take possession of any suspended license. If the court takes possession of a license, it shall destroy the license. The court shall forward to the department of transportation a notice stating the reason for and the duration of the suspension.

(b) A court may order a school district to provide to the court a list of all persons who are known to the school district to be dropouts and who reside within the county in which the circuit court is located or the municipality in which the municipal court is located. Upon request, the department of transportation shall assist the court to determine which dropouts have operating privileges.

(3) An ordinance enacted by a county under sub. (1m), (2) or (2m) is applicable and may be enforced in that part of any city or village located in the county and in any town located in the county regardless of whether the city, village or town has enacted an ordinance under sub. (1m), (2) or (2m).

(4) A person who is under 17 years of age on the date of disposition is subject to s. 938.342.

119.82. Alternative educational programs for learnfare pupils.

(1m) Upon the request of the child or the child's parent or guardian, the board shall provide an alternative educational program for any child who resides in the city and satisfies all of the following:

(a) Is at least 13 years of age but not more than 18 years of age.

(b) Is receiving aid to families with dependent children under s. 49.19 or is a member of a Wisconsin works group, as defined in s. 49.141 (1) (s), with a member who is participating in Wisconsin works under s. 49.147 (3) to (5).

(c) Has been or is being sanctioned under s. 49.26 (1) (h).

(2m) Programs under sub. (1m) shall be designed to meet the high school graduation requirements under s. 118.33.

Substance use

STATUTES

118.01. Educational goals and expectations.

(2) Educational goals.

(d) Personal development. Each school board shall provide an instructional program designed to give pupils:

6. Knowledge of the prevention of accidents and promotion of safety on the public highways, including instruction on the relationship between highway safety and the use of alcohol and controlled substances under ch. 961.

7. The skills needed to make sound decisions, knowledge of the conditions which may cause and the signs of suicidal tendencies, knowledge of the relationship between youth suicide and the use of alcohol and controlled substances under ch. 961 and knowledge of the available community youth suicide prevention and intervention services. Instruction shall be designed to help prevent suicides by pupils by promoting the positive emotional development of pupils.

118.126. Privileged communications.

(1) A school psychologist, counselor, social worker and nurse, and any teacher or administrator designated by the school board who engages in alcohol or drug abuse program activities, shall keep confidential information received from a pupil that the pupil or another pupil is using or is experiencing problems resulting from the use of alcohol or other drugs unless:

(a) The pupil using or experiencing problems resulting from the use of alcohol or other drugs consents in writing to disclosure of the information;

(b) The school psychologist, counselor, social worker, nurse, teacher or administrator has reason to believe that there is serious and imminent danger to the health, safety or life of any person and that disclosure of the information to another person will alleviate the serious and imminent danger. No more information than is required to alleviate the serious and imminent danger may be disclosed; or

(c) The information is required to be reported under s.

(2) A school psychologist, counselor, social worker or nurse, or any teacher or administrator designated by the school board who engages in alcohol or drug abuse program activities, who in good faith discloses or fails to disclose information under sub. (1) is immune from civil liability for such acts or omissions. This subsection does not apply to information required to be reported under s.

118.45. Tests for alcohol use.

A school board employee or agent, or law enforcement officer, as defined in s. 102.475 (8) (c), authorized by a public school board may require a public school pupil, including a charter school pupil, to provide one or more samples of his or her breath for the purpose of determining the presence of alcohol in the pupil's breath whenever the authorized employee, agent or officer has reasonable suspicion that the pupil is under the influence of alcohol while the pupil is in any of the circumstances listed in s. 125.09 (2) (b) 1. to 3. The authorized employee, agent or officer shall use a breath screening device approved by the department of transportation for the purpose of determining the presence of alcohol in a person's breath to determine if alcohol is present in the pupil's breath. The results of the breath screening device or the fact that a pupil refused to submit to breath testing shall be made available for use in any hearing or proceeding regarding the discipline, suspension or expulsion of a student due to alcohol use. No school board may require a pupil to provide one or more samples of his or her breath for the purpose of determining the presence of alcohol in the pupil's breath until the school board has adopted written policies regarding disciplines or treatments that will result from being under the influence of alcohol while on school premises or from refusing to submit to breath testing to determine the presence of alcohol in the pupil's breath.

120.12. School board duties.

The school board of a common or union high school district shall:

(20) Prohibition of tobacco. Prohibit the use of all tobacco products on premises owned or rented by, or under the control of, a school board, except that the school board may allow the use of tobacco products on premises owned by the school district and rented to another person for noneducational purposes.

125.09. General restrictions.

(1) Public place. No owner, lessee, or person in charge of a public place may permit the consumption of alcohol beverages on the premises of the public place, unless the person has an appropriate retail license or permit. This subsection does not apply to municipalities, buildings and parks owned by counties, regularly established athletic fields and stadiums, school buildings, campuses of private colleges, as defined in s. 16.99 (3g), at the place and time an event sponsored by the private college is being held, churches, premises in a state fair park or clubs.

(2) Possession of alcohol beverages on school grounds prohibited.

(a) In this subsection:

1. "Motor vehicle" means a motor vehicle owned, rented or consigned to a school.

2. "School" means a public school, a parochial or private school, or a tribal school, as defined in s. 115.001 (15m), which provides an educational program for one or more grades between grades 1 and 12 and which is commonly known as an elementary school, middle school, junior high school, senior high school, or high school.

3. "School administrator" means the person designated by the governing body of a school as ultimately responsible for the ordinary operations of a school.

4. "School premises" means premises owned, rented or under the control of a school.

(b) Except as provided by par. (c) no person may possess or consume alcohol beverages:

1. On school premises;

2. In a motor vehicle, if a pupil attending the school is in the motor vehicle; or

3. While participating in a school-sponsored activity.

(c) Alcohol beverages may be possessed or consumed on school premises, in motor vehicles or by participants in school-sponsored activities if specifically permitted in writing by the school administrator consistent with applicable laws, ordinances and school board policies.

(d) A person who violates this subsection is subject to a forfeiture of not more than $200, except that ss. 125.07 (4) (c) and (d) and 938.344 provide the penalties applicable to underage persons.

(3) Place-to-place deliveries. No person may peddle any alcohol beverage from house to house where the sale and delivery are made concurrently.

(6) Municipal stores. No municipality may engage in the sale of alcohol beverages, except as authorized under s. 125.26 (6). This subsection does not apply to municipal stores in operation on November 6, 1969.

Bullying, harassment, or hazing

STATUTES

118.02. Special observance days.

On the following days when school is held or, if the day falls on a Saturday or Sunday, on a school day immediately preceding or following the respective day, the day shall be appropriately observed:

(9t) Wednesday of the 4th week in September, Bullying Awareness Day.

118.46 Policy on bullying.

(1) By March 1, 2010, the department shall do all of the following:

(a) Develop a model school policy on bullying by pupils. The policy shall include all of the following:

1. A definition of bullying.

2. A prohibition on bullying.

3. A procedure for reporting bullying that allows reports to be made confidentially.

4. A prohibition against a pupil retaliating against another pupil for reporting an incident of bullying.

5. A procedure for investigating reports of bullying. The procedure shall identify the school district employee in each school who is responsible for conducting the investigation and require that the parent or guardian of each pupil involved in a bullying incident be notified.

6. A requirement that school district officials and employees report incidents of bullying and identify the persons to whom the reports must be made.

7. A list of disciplinary alternatives for pupils that engage in bullying or who retaliate against a pupil who reports an incident of bullying.

8. An identification of the school-related events at which the policy applies.

9. An identification of the property owned, leased, or used by the school district on which the policy applies.

10. An identification of the vehicles used for pupil transportation on which the policy applies.

(b) Develop a model education and awareness program on bullying.

(c) Post the model policy under par. (a) and the model program under par. (b) on its Internet site.

(2) By August 15, 2010, each school board shall adopt a policy prohibiting bullying by pupils. The school board may adopt the model policy under sub. (1) (a). The school board shall provide a copy of the policy to any person who requests it. Annually, the school board shall distribute the policy to all pupils enrolled in the school district and to their parents or guardians.

Other special infractions or conditions

STATUTES

118.134. Race-based nicknames, logos, mascots, and team names.

(1) Notwithstanding s. 118.13 and except as provided in sub. (3m), a school district resident may object to the use of a race-based nickname, logo, mascot, or team name by the school board of that school district by filing a complaint with the state superintendent. If the complainant objects to the use of a nickname or team name by the school board, the state superintendent shall immediately review the complaint and determine whether the use of the nickname or team name by the school board, alone or in connection with a logo or mascot, is ambiguous as to whether it is race-based. The state superintendent shall do all of the following:

(a) Notify the school board of the receipt of the complaint and of the state superintendent's determination regarding whether the use of the nickname or team name is ambiguous as to whether it is race-based and direct the school board to submit, if applicable, any of the information under sub. (1m) (a).

(b) Except as provided in sub. (1m), schedule a contested case hearing within 45 days after the complaint is filed.

(1m)

(a) The state superintendent may determine that no contested case hearing is necessary or that a hearing date may be postponed for the purpose of obtaining additional information from the school board if, no later than 10 days after being notified of the receipt of the complaint, the school board submits evidence to the state superintendent that demonstrates all of the following:

1. The nickname, logo, mascot, or team name that is used by the school board and that is the basis of the complaint is a reference to or depiction or portrayal of or the name of a specific, federally recognized, American Indian tribe.

2. The federally recognized American Indian tribe under subd. 1. has granted approval to the school board to refer to or depict or portray the tribe in a nickname, logo, or mascot or to use the name of the tribe as a team name in the specific manner used by the school board and has not rescinded that approval.

3. The use of the nickname, logo, mascot, or team name that has been approved by the tribe as provided in subd. 2. is the use to which the school district resident objects in the complaint filed under sub. (1).

(b) If the state superintendent does any of the following, the state superintendent shall notify the school district resident who filed the complaint under sub. (1) and the school board of his or her decision in writing:

1. Determines that a contested case hearing is not necessary. A decision under this subdivision is subject to judicial review under ch. 227.

2. Postpones a hearing date as provided in par. (a).

(2)

(a) Except as provided in par. (b), at the hearing, the school board has the burden of proving by clear and convincing evidence that the use of the race-based nickname, logo, mascot, or team name does not promote discrimination, pupil harassment, or stereotyping, as defined by the state superintendent by rule.

(b)

1. Except as provided in subd. 2., if the state superintendent determined under sub. (1) that the use of a nickname or team name by a school board is ambiguous as to whether it is race-based, the use of the nickname or team name by the school board shall be presumed to be not race-based and at the hearing the school district resident who filed the complaint under sub. (1) has the burden of proving by clear and convincing evidence that the use of the nickname or team name by the school board promotes discrimination, pupil harassment, or stereotyping, as defined by the state superintendent by rule.

2. If the state superintendent determined under sub. (1) that the use of a nickname or team name by a school board is ambiguous as to whether it is race-based but that the use of the nickname or team name in connection with a logo or mascot is race-based, at the hearing the school board has the burden of proving by clear and convincing evidence that the use of the nickname or team name in connection with the logo or mascot does not promote discrimination, pupil harassment, or stereotyping, as defined by the state superintendent by rule.

(3)

(a) The state superintendent shall issue a decision and order within 45 days after the hearing. If the state superintendent finds that the use of the race-based nickname, logo, mascot, or team name does not promote discrimination, pupil harassment, or stereotyping, the state superintendent shall dismiss the complaint. Except as provided in pars. (b) and (d), if the state superintendent finds that the use of the race-based nickname, logo, mascot, or team name promotes discrimination, pupil harassment, or stereotyping, the state superintendent shall order the school board to terminate its use of the race-based nickname, logo, mascot, or team name within 12 months after issuance of the order.

(b)

1. In this paragraph, "extenuating circumstances" includes circumstances in which the costs of compliance with an order issued under par. (a) pose an undue financial burden on the school district and circumstances in which the work or the requirements for bidding a contract to complete the work required to bring the school district into compliance with the order issued under par. (a) cannot be completed within 12 months after the issuance of the order.

2.

a. If, at the hearing under sub. (2) or after a decision and order have been issued under par. (a), the school board presents evidence to the state superintendent that extenuating circumstances render full compliance with the decision and order within 12 months after the issuance of that decision and order impossible or impracticable, the state superintendent may issue an order to extend the time within which the school board must terminate its use of the race-based nickname, logo, mascot, or team name. Except as provided in subd. 2. b., the extension may not exceed 24 months and shall apply only to those portions of the decision and order to which extenuating circumstances apply.

b. The state superintendent may extend the time granted to a school board under subd. 2. a. if the school board presents evidence to the state superintendent that compliance with a portion of the decision and order issued under par. (a) may be accomplished through a regularly scheduled maintenance program and that the cost of compliance with that portion of the decision and order exceeds $5,000. The extension granted under this subd. 2. b. may not exceed 96 months and

applies only to that portion of the decision and order with which compliance will be accomplished through the regularly scheduled maintenance program and that costs more than $5,000.

(c) Decisions of the state superintendent under this subsection are subject to judicial review under ch. 227.

(d) No school district required by a decision and order issued under this subsection on or before July 1, 2011, to terminate the use of a race-based nickname, logo, mascot, or team name shall be required to comply with the terms of that decision and order until January 15, 2013.

(3m) A pupil attending a public school in a nonresident school district under s. 118.51 may not file a complaint under sub. (1) in which the pupil objects to the use of a race-based nickname, logo, mascot, or team name by the school board of the nonresident school district.

(4) The state superintendent shall promulgate rules necessary to implement and administer this section.

(5) Any school board that uses a race-based nickname, logo, mascot, or team name in violation of sub. (3) shall forfeit not less than $100 nor more than $1,000. Each day of use of the race-based nickname, logo, mascot, or team name in violation of sub. (3) constitutes a separate violation.

118.258. Electronic communication devices prohibited.

(1) Each school board may adopt rules prohibiting a pupil from using or possessing an electronic communication device while on premises owned or rented by or under the control of a public school.

(2) Annually, if the school board adopts rules under sub. (1), it shall provide each pupil enrolled in the school district with a copy of the rules.

Prevention and Behavioral Interventions (Non-Punitive)

Prevention

STATUTES

115.36 Assistance to schools for alcohol and other drug abuse programs.

(1) The purpose of this section is to enable and encourage public, private, and tribal schools to develop comprehensive programs to prevent or ameliorate alcohol and other drug abuse among minors.

(2) The department shall:

(a) Develop and conduct training programs for the professional staff of public, private, and tribal schools in alcohol and other drug abuse prevention, intervention, and instruction programs.

(b) Provide consultation and technical assistance to public, private, and tribal schools for the development and implementation of alcohol and other drug abuse prevention, intervention, and instruction programs.

(c) Provide fellowship grants to support advanced training or education in comprehensive school health and alcohol and other drug abuse education.

(d) Provide access to informational resources for alcohol and other drug abuse education programs and services including, but not limited to:

1. The screening, revision and evaluation of available information resources.
2. The establishment of a central depository and loan program for high cost informational resources.
3. The systematic dissemination of information concerning available resources to appropriate public, private, and tribal school staff.

(e) Create a council under s. 15.04 (1) (c) to advise the department concerning the administration of this section.

(3)

(a) The department shall, from the appropriation under s. 20.255 (2) (kd), fund school district projects designed to assist minors experiencing problems resulting from the use of alcohol or other drugs or to prevent alcohol or other drug abuse by minors. The department shall:

1. Administer grant application and disbursement of funds.
2. Monitor program implementation.
3. Assist in and ensure evaluation of projects.
4. Report biennially in its report under s. 15.04 (1) (d) on program progress and project evaluation.
5. Promulgate necessary rules for the implementation of this subsection.

(b) Grants under this subsection may not be used to replace funding available from other sources.

(c) Grants under this subsection may be made only where there is a matching fund contribution from the local area in which a program is designed to operate of 20% of the amount of the grant obtained under this subsection. Private funds and in-kind contribution may be applied to meet the requirement of this paragraph.

(d) A school district applying for aid under this subsection shall submit a copy of the application to the county department under s. 51.42 for its advisory review. The county department under s. 51.42 may, and the council established under sub. (2) (e) shall, submit an advisory recommendation with respect to the application to the department prior to the approval or denial of the application.

118.46 Policy on bullying.

(1) By March 1, 2010, the department shall do all of the following:

(a) Develop a model school policy on bullying by pupils. The policy shall include all of the following:

1. A definition of bullying.
2. A prohibition on bullying.
3. A procedure for reporting bullying that allows reports to be made confidentially.
4. A prohibition against a pupil retaliating against another pupil for reporting an incident of bullying.
5. A procedure for investigating reports of bullying. The procedure shall identify the school district employee in each school who is responsible for conducting the investigation and require that the parent or guardian of each pupil involved in a bullying incident be notified.
6. A requirement that school district officials and employees report incidents of bullying and identify the persons to whom the reports must be made.
7. A list of disciplinary alternatives for pupils that engage in bullying or who retaliate against a pupil who reports an incident of bullying.
8. An identification of the school-related events at which the policy applies.
9. An identification of the property owned, leased, or used by the school district on which the policy applies.
10. An identification of the vehicles used for pupil transportation on which the policy applies.

(b) Develop a model education and awareness program on bullying.

(c) Post the model policy under par. (a) and the model program under par. (b) on its Internet site.

Behavioral interventions and student support services

STATUTES

115.36. Assistance to schools for alcohol and other drug abuse programs.

(2) The department shall:

(b) Provide consultation and technical assistance to public, private, and tribal schools for the development and implementation of alcohol and other drug abuse prevention, intervention, and instruction programs.

(c) Provide fellowship grants to support advanced training or education in comprehensive school health and alcohol and other drug abuse education.

(d) Provide access to informational resources for alcohol and other drug abuse education programs and services including, but not limited to:

1. The screening, revision and evaluation of available information resources.
2. The establishment of a central depository and loan program for high cost informational resources.
3. The systematic dissemination of information concerning available resources to appropriate public, private, and tribal school staff.

118.15. Compulsory school attendance.

(5)

(a)

2. The court may require a person who is subject to subd. 1. to perform community service work for a public agency or a nonprofit charitable organization in lieu of the penalties specified under subd. 1.

Any organization or agency to which a defendant is assigned pursuant to an order under this subdivision acting in good faith has immunity from any civil liability in excess of $25,000 for any act or omission by or impacting on the defendant.

(am) The court may order any person who violates this section to participate in counseling at the person's own expense or to attend school with his or her child, or both.

118.153. Children at risk of not graduating from high school.

(1) In this section:

(a) "Children at risk" means pupils in grades 5 to 12 who are at risk of not graduating from high school because they are dropouts or are 2 or more of the following:

1m. One or more years behind their age group in the number of high school credits attained.

2. Two or more years behind their age group in basic skill levels.

2m. Habitual truants, as defined in s. 118.16 (1) (a).

3. Parents.

4. Adjudicated delinquents.

5. Eighth grade pupils whose score in each subject area on the examination administered under s. 118.30 (1m) (am) 1. was below the basic level, 8th grade pupils who failed the examination administered under s. 118.30 (1m) (am) 2., and 8th grade pupils who failed to be promoted to the 9th grade.

(b) "Dropout" means a child who ceased to attend school, does not attend a public, private, or tribal school, technical college, or home-based private educational program on a full-time basis, has not graduated from high school, and does not have an acceptable excuse under s. 118.15 (1) (b) to (d) or (3).

(2)

(a) Every school board shall identify the children at risk who are enrolled in the school district and annually by August 15 develop a plan describing how the school board will meet their needs.

(b) If in the previous school year a school district had 30 or more dropouts or a dropout rate exceeding 5% of its total high school enrollment, the school board may apply to the state superintendent for aid under this section.

(3)

(a)

1. Every school board that applies for aid under sub. (2) (b) shall make available to the children at risk enrolled in the school district a program for children at risk.

2. Upon request of a pupil who is a child at risk or the pupil's parent or guardian, a school board described under subd. 1. shall enroll the pupil in the program for children at risk. If the school board makes available more than one program for children at risk, the school board shall enroll the pupil in the program selected by the pupil's parent or guardian if the pupil meets the prerequisites for that program. If there is no space in that program for the pupil, the school board of the school district operating under ch. 119 shall place the pupil's name on a waiting list for that program and offer the pupil another program for children at risk until space in the requested program becomes available.

(b) A program for children at risk shall be designed to allow the pupils enrolled to meet high school graduation requirements under s. 118.33. The school board of the school district operating under ch. 119 shall ensure that there are at least 30 pupils and no more than 250 pupils in each program and that a separate administrator or teacher is in charge of each program.

(c)

1. Each school board shall identify appropriate private, nonprofit, nonsectarian agencies located in the school district or within 5 miles of the boundaries of the school district to meet the requirements under pars. (a) and (b) for the children at risk enrolled in the school district.

2. The school board may contract with the agencies identified under subd. 1. for the children at risk enrolled in the school district if the school board determines that the agencies can adequately serve such children.

3. The school board shall pay each contracting agency, for each full-time equivalent pupil served by the agency, an amount equal to at least 80% of the average per pupil cost for the school district.

(4)

(a) Annually in August, a school board that applied for aid under this section in the previous school year shall submit a report to the state superintendent. The report shall include only information about the pupils enrolled in a program for children at risk in the previous school year that is necessary for the state superintendent to determine the number of pupils who achieved each of the objectives under par. (c).

(b) Upon receipt of a school board's annual report under par. (a) the state superintendent shall pay to the school district from the appropriation under s. 20.255 (2) (bc), for each pupil enrolled in a program for children at risk who achieved at least 3 of the objectives under par. (c) in the previous school year, additional state aid in an amount equal to 10% of the school district's average per pupil aids provided under s. 20.835 (7) (a), 1991 stats., and s. 20.255 (2) (ac) in the previous school year.

(c)

1. The pupil's attendance rate was at least 70%.

2. The pupil remained in school.

3. The pupil, if a high school senior, received a high school diploma.

4. The pupil earned at least 4.5 academic credits or a prorated number of credits if the pupil was enrolled in the program for less than the entire school year.

5. The pupil has demonstrated, on standardized tests or other appropriate measures, a gain in reading and mathematics commensurate with the duration of his or her enrollment in the program.

(e) If the appropriation under s. 20.255 (2) (bc) in any fiscal year is insufficient to pay the full amount of aid under par. (b), state aid payments shall be prorated among the school districts entitled to such aid.

(5)

(a) In this subsection:

1. "Alternative school" means a public school that has at least 30 pupils and no more than 250 pupils, has a separate administrator or teacher in charge of the school and offers a nontraditional curriculum.

2. "School within a school" means a school that has at least 30 pupils and no more than 250 pupils, has a separate administrator or teacher in charge of the school and is housed in a space specifically dedicated to it in a public school.

(b) Subject to sub. (3) (c) 3., a school board receiving funds under this section shall provide a specific sum to each program for children at risk in which pupils enrolled in the school district are enrolled based on the ability of the program to meet the objectives under sub. (4) (c).

(c) A school board receiving funds under this section shall give preference in allocating those funds to programs for children at risk provided by alternative schools, charter schools, schools within schools and agencies identified under sub. (3) (c) 1.

(7) The state superintendent shall promulgate rules to implement and administer this section. The rules shall not be overly restrictive in defining approved programs and shall not serve to exclude programs that have demonstrated success in meeting the needs of children at risk.

118.16. School attendance enforcement.

(cm)

1. The school board may establish policies which provide that a pupil of an age eligible for high school enrollment in the school district, as determined by the school board, may be assigned to a period of assessment as a consequence of the pupil's truancy or upon the pupil's return to school from placement in a correctional facility, mental health treatment facility, alcohol and other drug abuse treatment facility or other out-of-school placement. The policies shall specify the conditions under which a pupil may participate in the assessment without being in violation of s. 118.15 and the maximum length of time that a pupil may be assigned to an assessment period.

2. A school board may not assign a pupil to an assessment period without the written approval of the pupil's parent or guardian. A school board may not assign a pupil to an assessment period for longer than the time necessary to complete the assessment and place the pupil in an appropriate education program or 8 weeks, whichever is less. A school board may not assign a pupil to an assessment period more than once and may not assign a pupil to an assessment period if the school district has an alternative education program, as defined in s. 115.28 (7) (e) 1., available for the pupil that is appropriate for the pupil's needs. An assessment need not be conducted during the regular school day.

3. The goals of an assessment period are to develop an educational plan for the pupil, implement an appropriate transitional plan and facilitate the pupil's placement in an education program in which the pupil will be able to succeed. The school board shall provide pupils who are assigned to an assessment period with information on other education programs that the school district or other community providers have available for the pupil. The assessment may include any of the following new or previously completed activities:

a. An assessment for problems with alcohol or other drugs.

b. An assessment of individual educational needs.

c. An assessment of whether the pupil is encountering problems in the community or at home that require intervention by a social worker.

d. A vocational assessment, which may include career counseling.

e. A medical assessment.

(e) Except as provided under s. 119.55, a school board may establish one or more youth service centers for the counseling of children who are taken into custody under s. 938.19 (1) (d) 10. for being absent from school without an acceptable excuse under s. 118.15.

(5) Except as provided in sub. (5m), before any proceeding may be brought against a child under s. 938.13 (6) for habitual truancy or under s. 938.125 (2) or 938.17 (2) for a violation of an ordinance enacted under s. 118.163 (2) or against the child's parent or guardian under s. 118.15 for failure to cause the child to attend school regularly, the school attendance officer shall provide evidence that appropriate school personnel in the school or school district in which the child is enrolled have, within the school year during which the truancy occurred, done all of the following:

(a) Met with the child's parent or guardian to discuss the child's truancy or attempted to meet with the child's parent or guardian and received no response or were refused.

(b) Provided an opportunity for educational counseling to the child to determine whether a change in the child's curriculum would resolve the child's truancy and have considered curriculum modifications under s. 118.15 (1) (d).

(c) Evaluated the child to determine whether learning problems may be a cause of the child's truancy and, if so, have taken steps to overcome the learning problems, except that the child need not be evaluated if tests administered to the child within the previous year indicate that the child is performing at his or her grade level.

(d) Conducted an evaluation to determine whether social problems may be a cause of the child's truancy and, if so, have taken appropriate action or made appropriate referrals.

118.163 Municipal truancy and school dropout ordinances.

(2) A county, city, village or town may enact an ordinance prohibiting a person under 18 years of age from being a habitual truant. The ordinance shall provide which of the following dispositions are available to the court:

(b) An order for the person to participate in counseling or a supervised work program or other community service work as described in s. 938.34 (5g). The costs of any such counseling, supervised work program or other community service work may be assessed against the person, the parents or guardian of the person, or both. Any county department of human services or social services, community agency, public agency or nonprofit charitable organization administering a supervised work program or other community service work to which a person is assigned pursuant to an order under this paragraph acting in good faith has immunity from any civil liability in excess of $25,000 for any act or omission by or impacting on that person.

(d) An order for the person to attend an educational program as described in s. 938.34 (7d).

(k) An order for the person's parent, guardian or legal custodian to participate in counseling at the parent's, guardian's or legal custodian's own expense or to attend school with the person, or both.

(L) An order for the person to report to a youth report center after school, in the evening, on weekends, on other nonschool days, or at any other time that the person is not under immediate adult supervision, for participation in the social, behavioral, academic, community service, and other programming of the center as described in s. 938.342 (1g) (k).

Professional development

STATUTES

115.36. Assistance to schools for alcohol and other drug abuse programs.

(2) The department shall:

(a) Develop and conduct training programs for the professional staff of public, private, and tribal schools in alcohol and other drug abuse prevention, intervention, and instruction programs.

Monitoring and Accountability

Formal incident reporting of conduct violations

STATUTES

118.153. Children at risk of not graduating from high school.

(4)

(a) Annually in August, a school board that applied for aid under this section in the previous school year shall submit a report to the state superintendent. The report shall include only information about the pupils enrolled in a program for children at risk in the previous school year that is necessary for the state superintendent to determine the number of pupils who achieved each of the objectives under par. (c).

(b) Upon receipt of a school board's annual report under par. (a) the state superintendent shall pay to the school district from the appropriation under s. 20.255 (2) (bc), for each pupil enrolled in a program for children at risk who achieved at least 3 of the objectives under par. (c) in the previous school year, additional state aid in an amount equal to 10% of the school district's average per pupil aids provided under s. 20.835 (7) (a), 1991 stats., and s. 20.255 (2) (ac) in the previous school year.

(c)

1. The pupil's attendance rate was at least 70%.
2. The pupil remained in school.
3. The pupil, if a high school senior, received a high school diploma.
4. The pupil earned at least 4.5 academic credits or a prorated number of credits if the pupil was enrolled in the program for less than the entire school year.
5. The pupil has demonstrated, on standardized tests or other appropriate measures, a gain in reading and mathematics commensurate with the duration of his or her enrollment in the program.

(e) If the appropriation under s. 20.255 (2) (bc) in any fiscal year is insufficient to pay the full amount of aid under par. (b), state aid payments shall be prorated among the school districts entitled to such aid.

118.305. Use of seclusion and physical restraint.

(4) Notification and reporting following use of seclusion or physical restraint.

(a) Whenever seclusion or physical restraint is used on a pupil at school, the school principal or his or her designee shall do all of the following:

1. As soon as practicable, but no later than one business day after the incident, notify the pupil's parent of the incident and of the availability of the written report under subd. 2.
2. Within 2 business days after the incident and after consulting with the covered individuals present during the incident, prepare a written report containing all of the following information:
   a. The pupil's name.
   b. The date, time, and duration of the use of seclusion or physical restraint.
   c. A description of the incident, including a description of the actions of the pupil before, during, and after the incident.
   d. The names and titles of the covered individuals present during the incident.

(b) Each report prepared under par. (a) 2. shall be retained by the school and made available for review by the pupil's parent within 3 business days of the incident.

(c) Annually by September 1, the principal of each school or his or her designee shall submit to the governing body a report containing all of the following:

1. The number of incidents of seclusion and of physical restraint in the school during the previous school year.

2. The total number of pupils who were involved in the incidents and the number of children with disabilities who were involved in the incidents.

118.46 Policy on bullying.

(1) By March 1, 2010, the department shall do all of the following:

(a) Develop a model school policy on bullying by pupils. The policy shall include all of the following:

3. A procedure for reporting bullying that allows reports to be made confidentially.

5. A procedure for investigating reports of bullying. The procedure shall identify the school district employee in each school who is responsible for conducting the investigation and require that the parent or guardian of each pupil involved in a bullying incident be notified.

6. A requirement that school district officials and employees report incidents of bullying and identify the persons to whom the reports must be made.

120.13. School board powers.

(c)

2m. The school board shall commence proceedings under subd. 3. and expel a pupil from school for not less than one year whenever it finds that the pupil, while at school or while under the supervision of a school authority, possessed a firearm, as defined in 18 USC 921 (a) (3). Annually, the school board shall report to the department the information specified under 20 USC 8921 (d) (1) and (2). This subdivision does not apply to the possession of a firearm while legally hunting in a school forest if allowed under s. 120.13 (38).

Parental notification

STATUTES

118.15. Compulsory school attendance.

(1)

(c)

3. Prior to a child's admission to a program leading to the child's high school graduation or a high school equivalency program under par. (b) or subd. 1. or 2., the child, his or her parent or guardian, the school board and a representative of the high school equivalency program or program leading to the child's high school graduation shall enter into a written agreement. The written agreement shall state the services to be provided, the time period needed to complete the high school equivalency program or program leading to the child's high school graduation and how the performance of the pupil will be monitored. The agreement shall be monitored by the school board on a regular basis, but in no case shall the agreement be monitored less frequently than once per semester. If the school board determines that a child is not complying with the agreement, the school board shall notify the child, his or her parent or guardian and the high school equivalency program or program leading to the child's high school graduation that the agreement may be modified or suspended in 30 days.

(cm)

2. Prior to the admission of a child under subd. 1. to a program leading to a high school equivalency diploma, the child, his or her parent or guardian, the school board and a representative of the agency providing the program shall enter into a written agreement. The agreement shall specify that the child is excused from regular school attendance while he or she is enrolled in the program and making progress toward completion of the program, or successfully completes the program. If the agency providing the program determines that the child is not making progress toward completion of the program, the agency shall notify the child and his or her parent or guardian that the agreement may be suspended within 30 days. If the agency suspends the agreement, the agency shall notify the child, his or her parent or guardian and the school board.

118.16. School attendance enforcement.

(2) The school attendance officer:

(c) Except as provided under pars. (cg) and (cr), shall notify the parent or guardian of a child who has been truant of the child's truancy and direct the parent or guardian to return the child to school no later than the next day on which school is in session or to provide an excuse under s. 118.15. The notice under this paragraph shall be given before the end of the 2nd school day after receiving a report of an unexcused absence. The notice may be made by personal contact, mail or telephone call of which a written record is kept, except that notice by personal contact or telephone call shall be attempted before notice by mail may be given.

(cg) Shall notify the parent or guardian of a child who is a habitual truant, by registered or certified mail, when the child initially becomes a habitual truant. The notice shall include all of the following:

1. A statement of the parent's or guardian's responsibility, under s. 118.15 (1) (a) and (am), to cause the child to attend school regularly.

2. A statement that the parent, guardian or child may request program or curriculum modifications for the child under s. 118.15 (1) (d) and that the child may be eligible for enrollment in a program for children at risk under s. 118.153 (3).

3. A request that the parent or guardian meet with appropriate school personnel to discuss the child's truancy. The notice shall include the name of the school personnel with whom the parent or guardian should meet, a date, time and place for the meeting and the name, address and telephone number of a person to contact to arrange a different date, time or place. The date for the meeting shall be within 5 school days after the date that the notice is sent, except that with the consent of the child's parent or guardian the date for the meeting may be extended for an additional 5 school days.

4. A statement of the penalties, under s. 118.15 (5), that may be imposed on the parent or guardian if he or she fails to cause the child to attend school regularly as required under s. 118.15 (1) (a) and (am).

(2m)

(e) A school district administrator who makes a designation under par. (a) or the individual designated under par. (a) shall immediately attempt to notify, by personal contact or telephone call, the child's parent, guardian and legal custodian that the designation has been made and that the child may be taken into custody under s. 938.19 (1m). The school district administrator, or the designee, is not required to notify a parent, guardian or legal custodian under this paragraph if the parent, guardian or legal custodian is the person who requested that the child be taken into custody under s. 938.19 (1m).

(5) Except as provided in sub. (5m), before any proceeding may be brought against a child under s. 938.13 (6) for habitual truancy or under s. 938.125 (2) or 938.17 (2) for a violation of an ordinance enacted under s. 118.163 (2) or against the child's parent or guardian under s. 118.15 for failure to cause

the child to attend school regularly, the school attendance officer shall provide evidence that appropriate school personnel in the school or school district in which the child is enrolled have, within the school year during which the truancy occurred, done all of the following:

(a) Met with the child's parent or guardian to discuss the child's truancy or attempted to meet with the child's parent or guardian and received no response or were refused.

118.162. Truancy committee and plan.

(4) Not later than September 1, 1989, each school board shall adopt a truancy plan which shall include all of the following:

(a) Procedures to be followed for notifying the parents or guardians of the unexcused absences of habitual truants under s. 118.16 (2) (cr) and for meeting and conferring with such parents or guardians.

118.305. Use of seclusion and physical restraint.

(4) Notification and reporting following use of seclusion or physical restraint.

(a) Whenever seclusion or physical restraint is used on a pupil at school, the school principal or his or her designee shall do all of the following:

1. As soon as practicable, but no later than one business day after the incident, notify the pupil's parent of the incident and of the availability of the written report under subd. 2.

2. Within 2 business days after the incident and after consulting with the covered individuals present during the incident, prepare a written report containing all of the following information:

a. The pupil's name.

b. The date, time, and duration of the use of seclusion or physical restraint.

c. A description of the incident, including a description of the actions of the pupil before, during, and after the incident.

d. The names and titles of the covered individuals present during the incident.

(b) Each report prepared under par. (a) 2. shall be retained by the school and made available for review by the pupil's parent within 3 business days of the incident.

(c) Annually by September 1, the principal of each school or his or her designee shall submit to the governing body a report containing all of the following:

1. The number of incidents of seclusion and of physical restraint in the school during the previous school year.

2. The total number of pupils who were involved in the incidents and the number of children with disabilities who were involved in the incidents.

118.46 Policy on bullying.

(1) By March 1, 2010, the department shall do all of the following:

(a) Develop a model school policy on bullying by pupils. The policy shall include all of the following:

5. A procedure for investigating reports of bullying. The procedure shall identify the school district employee in each school who is responsible for conducting the investigation and require that the parent or guardian of each pupil involved in a bullying incident be notified.

119.25. Expulsion of pupils.

(2)

(c) Not less than 5 days' written notice of the hearing under par. (b) shall be sent to the pupil and, if the pupil is a minor, to the pupil's parent or guardian. The notice shall include all of the information specified in s. 120.13 (1) (e) 4.

(d)

6. Within 5 school days after the revocation of a pupil's early reinstatement under subd. 4., the pupil or, if the pupil is a minor, the pupil's parent or guardian may request a conference with the superintendent of schools or his or her designee, who shall be someone other than a principal, administrator or teacher in the pupil's school. If a conference is requested, it shall be held within 5 school days following the request. If, after the conference, the superintendent of schools or his or her designee finds that the pupil did not violate an early reinstatement condition or that the revocation was inappropriate, the pupil shall be reinstated to school under the same reinstatement conditions as in the expulsion order and the early reinstatement revocation shall be expunged from the pupil's record. If the superintendent of schools or his or her designee finds that the pupil violated an early reinstatement condition and that the revocation was appropriate, he or she shall mail separate copies of the decision to the pupil and, if the pupil is a minor, to the pupil's parent or guardian. The decision of the superintendent of schools or his or her designee is final.

120.13. School board powers.

The school board of a common or union high school district may do all things reasonable to promote the cause of education, including establishing, providing and improving school district programs, functions and activities for the benefit of pupils, and including all of the following:

(1) School government rules; suspension; expulsion.

(a) Make rules for the organization, gradation and government of the schools of the school district, including rules pertaining to conduct and dress of pupils in order to maintain good decorum and a favorable academic atmosphere, which shall take effect when approved by a majority of the school board and filed with the school district clerk. Subject to 20 USC 1415 (k), the school board shall adopt a code to govern pupils' classroom conduct beginning in the 1999-2000 school year. The code shall be developed in consultation with a committee of school district residents that consists of parents, pupils, members of the school board, school administrators, teachers, pupil services professionals and other residents of the school district who are appointed to the committee by the school board. The code of classroom conduct may provide different standards of conduct for different schools and may provide additional placement options under s. 118.164 (3). The code shall include all of the following:

4. A procedure for notifying the parent or guardian of a minor pupil who has been removed from the class under s. 118.164 (2).

(b)

3. Prior to any suspension, the pupil shall be advised of the reason for the proposed suspension. The pupil may be suspended if it is determined that the pupil is guilty of noncompliance with a school board rule or a rule adopted under subd. 1., or of the conduct charged, and that the pupil's suspension is reasonably justified. The parent or guardian of a suspended minor pupil shall be given prompt notice of the suspension and the reason for the suspension.

(c)

4. Not less than 5 days' written notice of the hearing under subd. 3. shall be sent to the pupil and, if the pupil is a minor, to the pupil's parent or guardian. The notice shall state all of the following:

a. The specific grounds, under subd. 1., 2. or 2m., and the particulars of the pupil's alleged conduct upon which the expulsion proceeding is based.

b. The time and place of the hearing.

c. That the hearing may result in the pupil's expulsion.

d. That, upon request of the pupil and, if the pupil is a minor, the pupil's parent or guardian, the hearing shall be closed.

e. That the pupil and, if the pupil is a minor, the pupil's parent or guardian may be represented at the hearing by counsel.

f. That the school board shall keep written minutes of the hearing.

g. That if the school board orders the expulsion of the pupil the school district clerk shall mail a copy of the order to the pupil and, if the pupil is a minor, to the pupil's parent or guardian.

h. That if the pupil is expelled by the school board the expelled pupil or, if the pupil is a minor, the pupil's parent or guardian may appeal the school board's decision to the department.

i. That if the school board's decision is appealed to the department, within 60 days after the date on which the department receives the appeal, the department shall review the decision and shall, upon review, approve, reverse or modify the decision.

j. That the decision of the school board shall be enforced while the department reviews the school board's decision.

k. That an appeal from the decision of the department may be taken within 30 days to the circuit court for the county in which the school is located.

L. That the state statutes related to pupil expulsion are ss. 119.25 and 120.13 (1).

(e)

4. Not less than 5 days' written notice of the hearing under subd. 3. shall be sent to the pupil and, if the pupil is a minor, to the pupil's parent or guardian. The notice shall state all of the following:

a. The specific grounds, under par. (c) 1., 2. or 2m., and the particulars of the pupil's alleged conduct upon which the expulsion proceeding is based.

b. The time and place of the hearing.

c. That the hearing may result in the pupil's expulsion.

d. That, upon request of the pupil and, if the pupil is a minor, the pupil's parent or guardian, the hearing shall be closed.

e. That the pupil and, if the pupil is a minor, the pupil's parent or guardian may be represented at the hearing by counsel.

f. That the hearing officer or panel shall keep a full record of the hearing and, upon request, the hearing officer or panel shall direct that a transcript of the record be prepared and that a copy of the transcript be given to the pupil and, if the pupil is a minor, the pupil's parent or guardian.

g. That if the hearing officer or panel orders the expulsion of the pupil the school district shall mail a copy of the order to the school board, the pupil and, if the pupil is a minor, to the pupil's parent or guardian.

h. That within 30 days of the issuance of an expulsion order the school board shall review the order and shall, upon review, approve, reverse or modify the order.

i. That, if the pupil is expelled by the hearing officer or panel, the order of the hearing officer or panel shall be enforced while the school board reviews the order.

j. That, if the pupil's expulsion is approved by the school board, the expelled pupil or, if the pupil is a minor, the pupil's parent or guardian may appeal the school board's decision to the department.

k. That if the school board's decision is appealed to the department, within 60 days after the date on which the department receives the appeal, the department shall review the decision and shall, upon review, approve, reverse or modify the decision.

L. That the decision of the school board shall be enforced while the department reviews the school board's decision.

m. That an appeal from the decision of the department may be taken within 30 days to the circuit court for the county in which the school is located.

n. That the state statutes related to pupil expulsion are ss. 119.25 and 120.13 (1).

(h)

3. or (e) 3. or by the out-of-state public school. The school district clerk of the school district other than the school district from which the pupil was expelled shall mail 2 copies of the order to the pupil or, if the pupil is a minor, to the pupil's parent or guardian. The expelled pupil or, if the pupil is a minor, the pupil's parent or guardian shall sign and return one copy of the order to the school board other than the school board that expelled the pupil. Within 15 days after the date on which the order under this subdivision is issued, the expelled pupil or, if the pupil is a minor, the pupil's parent or guardian may appeal the determination regarding whether an enrollment condition specified in the order is related to the reasons for the pupil's expulsion to the school board that specified the enrollment condition. The decision of the school board under this subdivision regarding that determination is final and not subject to appeal.

4. If a pupil granted early reinstatement under subd. 3. violates an early reinstatement condition that the pupil was required to meet after his or her early reinstatement but before the expiration of the term of expulsion, the school district administrator or a principal or teacher designated by the school district administrator may revoke the pupil's early reinstatement. Before revoking the pupil's early reinstatement, the school district administrator or his or her designee shall advise the pupil of the reason for the proposed revocation, including the early reinstatement condition alleged to have been violated, provide the pupil an opportunity to present his or her explanation of the alleged violation, and make a determination that the pupil violated the early reinstatement condition and that revocation of the pupil's early reinstatement is appropriate. If the school district administrator or designee revokes the pupil's early reinstatement, the school district administrator or designee shall give prompt written notice of the revocation and the reason for the revocation, including the early reinstatement condition violated, to the pupil and, if the pupil is a minor, to the pupil's parent or guardian.

4m. If a pupil granted conditional enrollment under subd. 3m. violates an enrollment condition that the pupil was required to meet after his or her conditional enrollment but before the expiration of the term of expulsion, the school district administrator of the school district in which the pupil is enrolled, or a principal or teacher designated by the school district administrator, may revoke the pupil's conditional enrollment. Before revoking the pupil's conditional enrollment, the school district administrator or his or her designee shall advise the pupil of the reason for the proposed revocation, including the enrollment condition alleged to have been violated, provide the pupil an opportunity to present his or her explanation of the alleged violation, and make a determination that the pupil violated the enrollment condition and that revocation of the pupil's conditional enrollment is appropriate. If the school district administrator or designee revokes the pupil's conditional enrollment, the school district administrator or designee shall give prompt written notice of the revocation and the reason for the revocation, including the enrollment condition violated, to the pupil and, if the pupil is a minor, to the pupil's parent or guardian.

6. Within 5 school days after the revocation of a pupil's early reinstatement under subd. 4., the pupil or, if the pupil is a minor, the pupil's parent or guardian may request a conference with the school district administrator or his or her designee, who shall be someone other than a principal, administrator or teacher in the pupil's school. If a conference is requested, it shall be held within 5 school days following the request. If, after the conference, the school district administrator or his or her designee finds that the pupil did not violate an early reinstatement condition or that the revocation

was inappropriate, the pupil shall be reinstated to school under the same reinstatement conditions as in the expulsion order and the early reinstatement revocation shall be expunged from the pupil's record. If the school district administrator or his or her designee finds that the pupil violated an early reinstatement condition and that the revocation was appropriate, he or she shall mail separate copies of the decision to the pupil and, if the pupil is a minor, to the pupil's parent or guardian. The decision of the school district administrator or his or her designee is final.

6m. Within 5 school days after the revocation of a pupil's conditional enrollment under subd. 4m., the pupil or, if the pupil is a minor, the pupil's parent or guardian may request a conference with the administrator of the school district in which the pupil is enrolled, or his or her designee, who shall be someone other than a principal, administrator, or teacher in the pupil's school. If a conference is requested, it shall be held within 5 school days following the request. If, after the conference, the school district administrator or his or her designee finds that the pupil did not violate an enrollment condition or that the revocation was inappropriate, the pupil shall be enrolled in school under the same enrollment conditions as in the order issued under subd. 2m. and the conditional enrollment revocation shall be expunged from the pupil's record. If the school district administrator or his or her designee finds that the pupil violated an enrollment condition and that the revocation was appropriate, he or she shall mail separate copies of the decision to the pupil and, if the pupil is a minor, to the pupil's parent or guardian. The decision of the school district administrator or his or her designee is final.

Reporting and referrals between schools and law enforcement

STATUTES

118.125 Pupil records.

(2) CONFIDENTIALITY AND DISCLOSURE OF PUPIL RECORDS. All pupil records maintained by a public school shall be confidential, except as provided in pars. (a) to (p) and sub. (2m). The school board shall adopt policies to maintain the confidentiality of such records and may adopt policies to promote the disclosure of pupil records and information permitted by law for purposes of school safety.

(d) Pupil records shall be made available to persons employed by the school district which the pupil attends who are required by the department under s. 115.28 (7) to hold a license, law enforcement officers who are individually designated by the school board and assigned to the school district, and other school district officials who have been determined by the school board to have legitimate educational interests, including safety interests, in the pupil records. Law enforcement officers' records obtained under s. 938.396 (1) (c) 3. shall be made available as provided in s. 118.127. A school board member or an employee of a school district may not be held personally liable for any damages caused by the nondisclosure of any information specified in this paragraph unless the member or employee acted with actual malice in failing to disclose the information. A school district may not be held liable for any damages caused by the nondisclosure of any information specified in this paragraph unless the school district or its agent acted with gross negligence or with reckless, wanton, or intentional misconduct in failing to disclose the information.

118.127 Law enforcement agency information.

A school district, private school, or tribal school may disclose information from law enforcement officers' records obtained under s. 938.396 (1) (c) 3. only to persons employed by the school district who are required by the department under s. 115.28 (7) to hold a license, to persons employed by the private school or tribal school as teachers, and to other school district, private school, or tribal school officials who have been determined by the school board or governing body of the private school or tribal school to

have legitimate educational interests, including safety interests, in that information. In addition, if that information relates to a pupil of the school district, private school, or tribal school, the school district, private school, or tribal school may also disclose that information to those employees of the school district, private school, or tribal school who have been designated by the school board or governing body of the private school or tribal school to receive that information for the purpose of providing treatment programs for pupils enrolled in the school district, private school, or tribal school. A school district may not use law enforcement officers' records obtained under s. 938.396 (1) (c) 3. as the sole basis for expelling or suspending a pupil or as the sole basis for taking any other disciplinary action against a pupil, but may use law enforcement officers' records obtained under s. 938.396 (1) (c) 3. as the sole basis for taking action against a pupil under the school district's athletic code.

118.16. School attendance enforcement.

(4)

(a) The school board shall establish a written attendance policy specifying the reasons for which pupils may be permitted to be absent from a public school under s. 118.15 and shall require the teachers employed in the school district to submit to the school attendance officer daily attendance reports on all pupils under their charge.

(6)

(a) If the school attendance officer receives evidence that activities under sub. (5) have been completed or were not required to be completed as provided in sub. (5m), the school attendance officer may do any of the following:

1. File information on any child who continues to be truant with the court assigned to exercise jurisdiction under chs. 48 and 938 in accordance with s. 938.24. Filing information on a child under this subdivision does not preclude concurrent prosecution of the child's parent or guardian under s. 118.15 (5).

2. Refer the child to a teen court program if all of the following conditions apply:

a. The chief judge of the judicial administrative district has approved a teen court program established in the child's county of residence and has authorized the school attendance officer to refer children to the teen court program and the school attendance officer determines that participation in the teen court program will likely benefit the child and the community.

b. The child and the child's parent, guardian and legal custodian consent to the child's participation in the teen court program.

c. The child has not successfully completed participation in a teen court program during the 2 years before the date on which the school attendance officer received evidence that activities under sub. (5) have been completed or were not completed due to the child's absence from school as provided in sub. (5m).

(b) If a child who is referred to a teen court program under par. (a) 2. is not eligible for participation in the teen court program or does not successfully complete participation in the teen court program, the person administering the teen court program shall file information on the child with the court assigned to exercise jurisdiction under chs. 48 and 938 in accordance with s. 938.24. Filing information on a child under this paragraph does not preclude concurrent prosecution of the child's parent or guardian under s. 118.15 (5).

118.162. Truancy committee and plan.

(2) The district attorney representative on the committee shall participate in reviewing and developing any recommendations regarding revisions to the portions of the school districts' plans under sub. (4) (e).

(3) The committee shall write a report to accompany the recommendations under sub. (1). The report shall include a description of the factors that contribute to truancy in the county and a description of any state statutes, municipal ordinances or school, social services, law enforcement, district attorney, court or other policies that contribute to or inhibit the response to truancy in the county. A copy of the report shall be submitted to each of the entities identified in sub. (1) (b) to (h) and any other entity designating members on the committee under sub. (1) (i).

(4) Not later than September 1, 1989, each school board shall adopt a truancy plan which shall include all of the following:

(e) The types of truancy cases to be referred to the district attorney for the filing of information under s. 938.24 or prosecution under s. 118.15 (5) and the time periods within which the district attorney will respond to and take action on the referrals.

118.257. Liability for referral to police.

(1) In this section:

(a) "Controlled substance" has the meaning specified in s. 961.01 (4).

(am) "Controlled substance analog" has the meaning given in s. 961.01 (4m).

(at) "Delivery" has the meaning given in s. 961.01 (6).

(b) "Distribute" has the meaning specified in s. 961.01 (9).

(c) "Pupil services professional" means a school counselor, school social worker, school psychologist or school nurse.

(d) "School" means a public, parochial, private, or tribal school which provides an educational program for one or more grades between grades 1 and 12 and which is commonly known as an elementary school, middle school, junior high school, senior high school, or high school.

(2) A school administrator, principal, pupil services professional or teacher employed by a school board is not liable for referring a pupil enrolled in the school district to law enforcement authorities, or for removing a pupil from the school premises or from participation in a school-sponsored activity, for suspicion of possession, distribution, delivery or consumption of an alcohol beverage or a controlled substance or controlled substance analog.

Disclosure of school records

STATUTES

118.125. Pupil records.

(1) Definitions. In this section:

(a) "Behavioral records" means those pupil records that include psychological tests, personality evaluations, records of conversations, any written statement relating specifically to an individual pupil's behavior, tests relating specifically to achievement or measurement of ability, the pupil's physical health records other than his or her immunization records or any lead screening records required under s. 254.162, law enforcement officers' records obtained under s. 48.396 (1) or 938.396 (1) (b) 2. or (c) 3., and any other pupil records that are not progress records.

(b) "Directory data" means those pupil records which include the pupil's name, address, telephone listing, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, photographs, degrees and awards received and the name of the school most recently previously attended by the pupil.

(be) "Law enforcement agency" has the meaning given in s. 165.83 (1) (b).

(bL) "Law enforcement unit" means any individual, office, department, division, or other component of a school district that is authorized or designated by the school board to do any of the following:

1. Enforce any law or ordinance, or refer to the appropriate authorities a matter for enforcement of any law or ordinance, against any person other than the school district.

2. Maintain the physical security and safety of a public school.

(bs) "Law enforcement unit records" means records maintained by a law enforcement unit that were created by that law enforcement unit for the purpose of law enforcement.

(c) "Progress records" means those pupil records which include the pupil's grades, a statement of the courses the pupil has taken, the pupil's attendance record, the pupil's immunization records, any lead screening records required under s. 254.162 and records of the pupil's school extracurricular activities.

(cm) "Pupil physical health records" means those pupil records that include basic health information about a pupil, including the pupil's immunization records, an emergency medical card, a log of first aid and medicine administered to the pupil, an athletic permit card, a record concerning the pupil's ability to participate in an education program, any lead screening records required under s. 254.162, the results of any routine screening test, such as for hearing, vision or scoliosis, and any follow-up to such test, and any other basic health information, as determined by the state superintendent.

(d) "Pupil records" means all records relating to individual pupils maintained by a school but does not include any of the following:

1. Notes or records maintained for personal use by a teacher or other person who is required by the state superintendent under s. 115.28 (7) to hold a certificate, license, or permit if such records and notes are not available to others.

2. Records necessary for, and available only to persons involved in, the psychological treatment of a pupil.

3. Law enforcement unit records.

(e) "Record" means any material on which written, drawn, printed, spoken, visual, or electromagnetic information is recorded or preserved, regardless of physical form or characteristics.

(2) Confidentiality and disclosure of pupil records. All pupil records maintained by a public school shall be confidential, except as provided in pars. (a) to (p) and sub. (2m). The school board shall adopt policies to maintain the confidentiality of such records and may adopt policies to promote the disclosure of pupil records and information permitted by law for purposes of school safety.

(a) A pupil, or the parent or guardian of a minor pupil, shall, upon request, be shown and provided with a copy of the pupil's progress records.

(b) An adult pupil or the parent or guardian of a minor pupil shall, upon request, be shown, in the presence of a person qualified to explain and interpret the records, the pupil's behavioral records. Such pupil or parent or guardian shall, upon request, be provided with a copy of the behavioral records.

(c)

1. The judge of any court of this state or of the United States shall, upon request, be provided by the school district clerk or his or her designee with a copy of all progress records of a pupil who is the subject of any proceeding in such court.

2. Names of dropouts shall be provided to a court in response to an order under s. 118.163 (2m) (b).

(cg) The school district clerk or his or her designee shall provide a law enforcement agency with a copy of a pupil's attendance record if the law enforcement agency certifies in writing that the pupil is under investigation for truancy or for allegedly committing a criminal or delinquent act and that the law enforcement agency will not further disclose the pupil's attendance record except as permitted under s. 938.396 (1) (a). A school district clerk or designee who discloses a copy of a pupil's attendance record

to a law enforcement agency for purposes of a truancy investigation shall notify the pupil's parent or guardian of that disclosure as soon as practicable after that disclosure.

(ch) The school district clerk or his or her designee shall provide a fire investigator under s. 165.55 (15) with a copy of a pupil's attendance record if the fire investigator certifies in writing that the pupil is under investigation under s. 165.55, that the pupil's attendance record is necessary for the fire investigator to pursue his or her investigation and that the fire investigator will use and further disclose the pupil's attendance record only for the purpose of pursuing that investigation.

(ck) The school district clerk or his or her designee shall make pupil records available for inspection or, upon request, disclose the contents of pupil records to authorized representatives of the department of corrections, the department of health services, the department of justice, or a district attorney for use in the prosecution of any proceeding or any evaluation conducted under ch. 980, if the pupil records involve or relate to an individual who is the subject of the proceeding or evaluation. The court in which the proceeding under ch. 980 is pending may issue any protective orders that it determines are appropriate concerning pupil records made available or disclosed under this paragraph. Any representative of the department of corrections, the department of health services, the department of justice, or a district attorney may disclose information obtained under this paragraph for any purpose consistent with any proceeding under ch. 980.

(cm) If school attendance is a condition of a child's dispositional order under s. 48.355 (2) (b) 7. or 938.355 (2) (b) 7., the school board shall notify the county department that is responsible for supervising the child within 5 days after any violation of the condition by the child.

(d) Pupil records shall be made available to persons employed by the school district which the pupil attends who are required by the department under s. 115.28 (7) to hold a license, law enforcement officers who are individually designated by the school board and assigned to the school district, and other school district officials who have been determined by the school board to have legitimate educational interests, including safety interests, in the pupil records. Law enforcement officers' records obtained under s. 938.396 (1) (c) 3. shall be made available as provided in s. 118.127. A school board member or an employee of a school district may not be held personally liable for any damages caused by the nondisclosure of any information specified in this paragraph unless the member or employee acted with actual malice in failing to disclose the information. A school district may not be held liable for any damages caused by the nondisclosure of any information specified in this paragraph unless the school district or its agent acted with gross negligence or with reckless, wanton, or intentional misconduct in failing to disclose the information.

(e) Upon the written permission of an adult pupil, or the parent or guardian of a minor pupil, the school shall make available to the person named in the permission the pupil's progress records or such portions of the pupil's behavioral records as determined by the person authorizing the release. Law enforcement officers' records obtained under s. 48.396 (1) or 938.396 (1) (b) 2. or (c) 3. may not be made available under this paragraph unless specifically identified by the adult pupil or by the parent or guardian of a minor pupil in the written permission.

(f) Pupil records shall be provided to a court in response to subpoena by parties to an action for in camera inspection, to be used only for purposes of impeachment of any witness who has testified in the action. The court may turn said records or parts thereof over to parties in the action or their attorneys if said records would be relevant and material to a witness's credibility or competency.

(g)

1. The school board may provide any public officer with any information required to be maintained under chs. 115 to 121.

2. Upon request by the department, the school board shall provide the department with any information contained in a pupil record that relates to an audit or evaluation of a federal or state-

supported program or that is required to determine compliance with requirements under chs. 115 to 121.

(h) Information from a pupil's immunization records shall be made available to the department of health services to carry out the purposes of s. 252.04.

(hm) Information from any pupil lead screening records shall be made available to state and local health officials to carry out the purposes of ss. 254.11 to 254.178.

(i) Upon request, the school district clerk or his or her designee shall provide the names of pupils who have withdrawn from the public school prior to graduation under s. 118.15 (1) (c) to the technical college district board in which the public school is located or, for verification of eligibility for public assistance under ch. 49, to the department of health services, the department of children and families, or a county department under s. 46.215, 46.22, or 46.23.

(j)

1. Except as provided under subds. 2. and 3., directory data may be disclosed to any person, if the school has notified the parent, legal guardian or guardian ad litem of the categories of information which it has designated as directory data with respect to each pupil, has informed the parent, legal guardian or guardian ad litem of that pupil that he or she has 14 days to inform the school that all or any part of the directory data may not be released without the prior consent of the parent, legal guardian or guardian ad litem and has allowed 14 days for the parent, legal guardian or guardian ad litem of that pupil to inform the school that all or any part of the directory data may not be released without the prior consent of the parent, legal guardian or guardian ad litem.

2. If a school has notified the parent, legal guardian or guardian ad litem that a pupil's name and address has been designated as directory data, has informed the parent, legal guardian or guardian ad litem of the pupil that he or she has 14 days to inform the school that the pupil's name and address may not be released without the prior consent of the parent, legal guardian or guardian ad litem, has allowed 14 days for the parent, legal guardian or guardian ad litem of the pupil to inform the school that the pupil's name and address may not be released without the prior consent of the parent, legal guardian or guardian ad litem and the parent, legal guardian or guardian ad litem has not so informed the school, the school district clerk or his or her designee, upon request, shall provide a technical college district board with the name and address of each such pupil who is expected to graduate from high school in the current school year.

3. If a school has notified the parent, legal guardian or guardian ad litem of the information that it has designated as directory data with respect to any pupil, has informed the parent, legal guardian or guardian ad litem of the pupil that he or she has 14 days to inform the school that such information may not be released without the prior consent of the parent, legal guardian or guardian ad litem, has allowed 14 days for the parent, legal guardian or guardian ad litem of the pupil to inform the school that such information may not be released without the prior consent of the parent, legal guardian or guardian ad litem and the parent, legal guardian or guardian ad litem has not so informed the school, the school district clerk or his or her designee, upon request, shall provide any representative of a law enforcement agency, district attorney, city attorney or corporation counsel, county department under s. 46.215, 46.22 or 46.23 or a court of record or municipal court with such information relating to any such pupil enrolled in the school district for the purpose of enforcing that pupil's school attendance, investigating alleged criminal or delinquent activity by the pupil or responding to a health or safety emergency.

(k) A school board may disclose personally identifiable information from the pupil records of an adult pupil to the parents or guardian of the adult pupil, without the written consent of the adult pupil, if the adult pupil is a dependent of his or her parents or guardian under 26 USC 152, unless the adult pupil has informed the school, in writing, that the information may not be disclosed.

(L) A school board shall disclose the pupil records of a pupil in compliance with a court order under s. 48.236 (4) (a), 48.345 (12) (b), 938.34 (7d) (b), 938.396 (1) (d), or 938.78 (2) (b) 2. after making a reasonable effort to notify the pupil's parent or legal guardian.

(m) A parent who has been denied periods of physical placement with a child under s. 767.41 (4) does not have the rights of a parent or guardian under pars. (a) to (j) with respect to that child's pupil records.

(n) For any purpose concerning the juvenile justice system and the system's ability to effectively serve a pupil, prior to adjudication:

1. A school board may disclose pupil records to a city attorney, corporation counsel, agency, as defined in s. 938.78 (1), intake worker under s. 48.067 or 938.067, court of record, municipal court, private school, or another school board if disclosure is pursuant to an interagency agreement and the person to whom the records are disclosed certifies in writing that the records will not be disclosed to any other person except as otherwise authorized by law. For the purpose of providing services to a pupil before adjudication, a school board may disclose pupil records to a tribal school if disclosure is pursuant to an agreement between the school board and the governing body of the tribal school and if the school board determines that enforceable protections are provided by a tribal school policy or tribal law that requires the tribal school official to whom the records are disclosed not to disclose the records to any other person except as permitted under this subsection.

2. A school board shall disclose pertinent pupil records to an investigating law enforcement agency or district attorney if the person to whom the records are disclosed certifies in writing that the records concern the juvenile justice system and the system's ability to effectively serve the pupil, relate to an ongoing investigation or pending delinquency petition, and will not be disclosed to any other person except as otherwise authorized by law.

(p) A school board may disclose pupil records to appropriate parties in connection with an emergency if knowledge of the information is necessary to protect the health or safety of any individual.

(2m) Confidentiality of pupil physical health records.

(a) Except as provided in par. (b), any pupil record that relates to a pupil's physical health and that is not a pupil physical health record shall be treated as a patient health care record under ss. 146.81 to 146.84.

(b) Any pupil record that concerns the results of an HIV test, as defined in s. 252.01 (2m), shall be treated as provided under s. 252.15.

(3) Maintenance of records. Each school board shall adopt rules in writing specifying the content of pupil records and the time during which pupil records shall be maintained. No behavioral records may be maintained for more than one year after the pupil ceases to be enrolled in the school, unless the pupil specifies in writing that his or her behavioral records may be maintained for a longer period. A pupil's progress records shall be maintained for at least 5 years after the pupil ceases to be enrolled in the school. A school board may maintain the records on microfilm, on an optical disk, or in electronic format if authorized under s. 19.21 (4) (c), or in such other form as the school board deems appropriate. A school board shall maintain law enforcement officers' records obtained under s. 48.396 (1) or 938.396 (1) (b) 2. or (c) 3. separately from a pupil's other pupil records. Rules adopted under this subsection shall be published by the school board as a class 1 notice under ch. 985.

(4) Transfer of records. Within 5 working days, a school district and a private school participating in the program under s. 118.60 or in the program under s. 119.23 shall transfer to another school, including a private or tribal school, or school district all pupil records relating to a specific pupil if the transferring school district or private school has received written notice from the pupil if he or she is an adult or his or her parent or guardian if the pupil is a minor that the pupil intends to enroll in the other school or school district or written notice from the other school or school district that the pupil has enrolled or from a court

that the pupil has been placed in a juvenile correctional facility, as defined in s. 938.02 (10p), or a secured residential care center for children and youth, as defined in s. 938.02 (15g). In this subsection, "school" and "school district" include any juvenile correctional facility, secured residential care center for children and youth, adult correctional institution, mental health institute, or center for the developmentally disabled that provides an educational program for its residents instead of or in addition to that which is provided by public, private, and tribal schools.

(5) Use for suspension or expulsion.

(a) Except as provided in par. (b), nothing in this section prohibits a school district from using a pupil's records in connection with the suspension or expulsion of the pupil or the use of such records by a multidisciplinary team under ch. 115.

(b) Law enforcement officers' records obtained under s. 48.396 (1) or 938.396 (1) (b) 2. or (c) 3. and records of the court assigned to exercise jurisdiction under chs. 48 and 938 or of a municipal court obtained under s. 938.396 (2g) (m) may not be used by a school district as the sole basis for expelling or suspending a pupil or as the sole basis for taking any other disciplinary action against a pupil, but may be used as the sole basis for taking action against a pupil under the school district's athletic code.

(6) Application to existing records. Any records existing on June 9, 1974 need not be revised for the purpose of deleting information from pupil records to comply with this section.

(7) Disclosure of law enforcement unit records. A school board shall treat law enforcement unit records of juveniles in the same manner as a law enforcement agency is required to treat law enforcement officers' records of juveniles under s. 938.396 (1) (a).

Data collection, review, and reporting of disciplinary policies and actions

STATUTES

118.162. Truancy committee and plan.

(1) At least once every 4 years, in each county, the school district administrator of the school district which contains the county seat designated under s. 59.05, or his or her designee, shall convene a committee to review and make recommendations to the school boards of all of the school districts in the county on revisions to the school districts' truancy plans under sub. (4m). The committee shall consist of the following members:

(2) The district attorney representative on the committee shall participate in reviewing and developing any recommendations regarding revisions to the portions of the school districts' plans under sub. (4) (e).

(3) The committee shall write a report to accompany the recommendations under sub. (1). The report shall include a description of the factors that contribute to truancy in the county and a description of any state statutes, municipal ordinances or school, social services, law enforcement, district attorney, court or other policies that contribute to or inhibit the response to truancy in the county. A copy of the report shall be submitted to each of the entities identified in sub. (1) (b) to (h) and any other entity designating members on the committee under sub. (1) (i).

(4) Not later than September 1, 1989, each school board shall adopt a truancy plan which shall include all of the following:

(e) The types of truancy cases to be referred to the district attorney for the filing of information under s. 938.24 or prosecution under s. 118.15 (5) and the time periods within which the district attorney will respond to and take action on the referrals.

(4m) At least once every 2 years, each school board shall review and, if appropriate, revise the truancy plan adopted by the school board under sub. (4).

School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers

Authority and power to implement school arrest

STATUTES

118.16. School attendance enforcement.

(1) In this section:

(b) "School attendance officer" means an employee designated by the school board to deal with matters relating to school attendance and truancy. "School attendance officer" does not include an individual designated under sub. (2m) (a) to take into custody a child who is absent from school without an acceptable excuse under s. 118.15 unless that individual has also been designated by the school board to deal with matters relating to school attendance and truancy.

(2m)

(a) A school district administrator may designate any of the following individuals to take a child who resides in the school district and who is absent from school without an acceptable excuse under s. 118.15 into custody under s. 938.19 (1m):

1. An employee of the school district who is directly involved in the provision of educational programs to the truant child.

2. An employee of the school district who is directly involved in the provision of a modified program or curriculum under s. 118.15 (1) (d), a program for children at risk under s. 118.153 or an alternative educational program under s. 119.82 or any other alternative educational program to children who attend the school attended by the truant child, if the school district administrator believes that the program or curriculum may be appropriate for the truant child.

3. A school social worker employed by the school district who provides services to children attending the school attended by the truant child, if the school district administrator believes that the services provided by the social worker may be appropriate for the truant child.

4. An employee of a social services agency who is directly involved in the provision of social services to the truant child or the child's family.

5. A school attendance officer, but only if the school attendance officer meets the criteria specified in subds. 1., 2. or 3.

(b) A designation under par. (a) shall be in writing and shall specifically identify the child whom the individual is authorized to take into custody.

(c) A school district administrator may not designate an individual under par. (a) unless the individual agrees to the designation in writing.

(d) A school district administrator who makes a designation under par. (a) shall provide each individual so designated with an identification card of a form determined by the school board. The designee shall carry the identification card on his or her person at all times while the designee is on official duty under s. 938.19 (1m) and shall exhibit the identification card to any person to whom the designee represents himself or herself as a person authorized to take a child into custody under s. 938.19 (1m).

(e) A school district administrator who makes a designation under par. (a) or the individual designated under par. (a) shall immediately attempt to notify, by personal contact or telephone call, the child's parent, guardian and legal custodian that the designation has been made and that the child may be

taken into custody under s. 938.19 (1m). The school district administrator, or the designee, is not required to notify a parent, guardian or legal custodian under this paragraph if the parent, guardian or legal custodian is the person who requested that the child be taken into custody under s. 938.19 (1m).

Certification or training

STATUTES

No relevant statutes found.

MOUs, authorization, and/or funding

STATUTES

118.15. Compulsory school attendance.

(3) This section does not apply to:

(a) Any child who is excused by the school board because the child is temporarily not in proper physical or mental condition to attend a school program but who can be expected to return to a school program upon termination or abatement of the illness or condition. The school attendance officer may request the parent or guardian of the child to obtain a written statement from a licensed physician, dentist, chiropractor, optometrist, psychologist, physician assistant, or nurse practitioner, as defined in s. 255.06 (1) (d), or certified advanced practice nurse prescriber or Christian Science practitioner living and residing in this state, who is listed in the Christian Science Journal, as sufficient proof of the physical or mental condition of the child. An excuse under this paragraph shall be in writing and shall state the time period for which it is valid, not to exceed 30 days.

118.16. School attendance enforcement.

(2) The school attendance officer:

(a) Shall determine daily which pupils enrolled in the school district are absent from school and whether that absence is excused under s. 118.15.

(c) Except as provided under pars. (cg) and (cr), shall notify the parent or guardian of a child who has been truant of the child's truancy and direct the parent or guardian to return the child to school no later than the next day on which school is in session or to provide an excuse under s. 118.15. The notice under this paragraph shall be given before the end of the 2nd school day after receiving a report of an unexcused absence. The notice may be made by personal contact, mail or telephone call of which a written record is kept, except that notice by personal contact or telephone call shall be attempted before notice by mail may be given.

(cg) Shall notify the parent or guardian of a child who is a habitual truant, by registered or certified mail, when the child initially becomes a habitual truant. The notice shall include all of the following:

1. A statement of the parent's or guardian's responsibility, under s. 118.15 (1) (a) and (am), to cause the child to attend school regularly.

2. A statement that the parent, guardian or child may request program or curriculum modifications for the child under s. 118.15 (1) (d) and that the child may be eligible for enrollment in a program for children at risk under s. 118.153 (3).

3. A request that the parent or guardian meet with appropriate school personnel to discuss the child's truancy. The notice shall include the name of the school personnel with whom the parent or guardian should meet, a date, time and place for the meeting and the name, address and telephone number of a person to contact to arrange a different date, time or place. The date for the meeting shall be within

5 school days after the date that the notice is sent, except that with the consent of the child's parent or guardian the date for the meeting may be extended for an additional 5 school days.

4. A statement of the penalties, under s. 118.15 (5), that may be imposed on the parent or guardian if he or she fails to cause the child to attend school regularly as required under s. 118.15 (1) (a) and (am).

(cr) After the notice required under par. (cg) has been given, shall notify the parent or guardian of a habitual truant of the habitual truant's unexcused absences as provided in the plan under s. 118.162 (4) (a). After the notice required under par. (cg) has been given, par. (c) does not apply.

(d) May visit any place of employment in the school district to ascertain whether any minors are employed there contrary to law. The officer shall require that school certificates and lists of minors who are employed there be produced for inspection, and shall report all cases of illegal employment to the proper school authorities and to the department of workforce development.

(e) Except as provided in par. (f), shall have access to information regarding the attendance of any child between the ages of 6 and 18 who is a resident of the school district or who claims or is claimed to be in attendance at a private school located in the school district.

(f) Shall request information regarding the attendance of any child between the ages of 6 and 18 who is a resident of the school district and who claims or is claimed to be in attendance at a tribal school, or who is not a resident of the school district and who claims or is claimed to be in attendance at a tribal school located in the school district.

(3) All private schools shall keep a record containing the information required under ss. 115.30 (2) and 120.18. The record shall be open to the inspection of school attendance officers at all reasonable times. When called upon by any school attendance officer, the school shall furnish, on forms supplied by the school attendance officer, the information required under ss. 115.30 (2) and 120.18 in regard to any child between the ages of 6 and 18 who is a resident of the school district or who claims or is claimed to be in attendance at the school.

(4)

(a) The school board shall establish a written attendance policy specifying the reasons for which pupils may be permitted to be absent from a public school under s. 118.15 and shall require the teachers employed in the school district to submit to the school attendance officer daily attendance reports on all pupils under their charge.

(5) Except as provided in sub. (5m), before any proceeding may be brought against a child under s. 938.13 (6) for habitual truancy or under s. 938.125 (2) or 938.17 (2) for a violation of an ordinance enacted under s. 118.163 (2) or against the child's parent or guardian under s. 118.15 for failure to cause the child to attend school regularly, the school attendance officer shall provide evidence that appropriate school personnel in the school or school district in which the child is enrolled have, within the school year during which the truancy occurred, done all of the following:

(a) Met with the child's parent or guardian to discuss the child's truancy or attempted to meet with the child's parent or guardian and received no response or were refused.

(b) Provided an opportunity for educational counseling to the child to determine whether a change in the child's curriculum would resolve the child's truancy and have considered curriculum modifications under s. 118.15 (1) (d).

(c) Evaluated the child to determine whether learning problems may be a cause of the child's truancy and, if so, have taken steps to overcome the learning problems, except that the child need not be evaluated if tests administered to the child within the previous year indicate that the child is performing at his or her grade level.

(d) Conducted an evaluation to determine whether social problems may be a cause of the child's truancy and, if so, have taken appropriate action or made appropriate referrals.

(5m) Subsection (5) (a) does not apply if a meeting under sub. (2) (cg) 3. is not held within 10 school days after the date that the notice under sub. (2) (cg) is sent. Subsection (5) (b), (c) and (d) does not apply if the school attendance officer provides evidence that appropriate school personnel were unable to carry out the activity due to the child's absences from school.

(6)

(a) If the school attendance officer receives evidence that activities under sub. (5) have been completed or were not required to be completed as provided in sub. (5m), the school attendance officer may do any of the following:

1. File information on any child who continues to be truant with the court assigned to exercise jurisdiction under chs. 48 and 938 in accordance with s. 938.24. Filing information on a child under this subdivision does not preclude concurrent prosecution of the child's parent or guardian under s. 118.15 (5).

2. Refer the child to a teen court program if all of the following conditions apply:

a. The chief judge of the judicial administrative district has approved a teen court program established in the child's county of residence and has authorized the school attendance officer to refer children to the teen court program and the school attendance officer determines that participation in the teen court program will likely benefit the child and the community.

b. The child and the child's parent, guardian and legal custodian consent to the child's participation in the teen court program.

c. The child has not successfully completed participation in a teen court program during the 2 years before the date on which the school attendance officer received evidence that activities under sub. (5) have been completed or were not completed due to the child's absence from school as provided in sub. (5m).

(b) If a child who is referred to a teen court program under par. (a) 2. is not eligible for participation in the teen court program or does not successfully complete participation in the teen court program, the person administering the teen court program shall file information on the child with the court assigned to exercise jurisdiction under chs. 48 and 938 in accordance with s. 938.24. Filing information on a child under this paragraph does not preclude concurrent prosecution of the child's parent or guardian under s. 118.15 (5).

119.55. Youth service centers, truancy abatement and burglary suppression.

(1)

(a) The board shall establish one or more youth service centers for the counseling of children who are taken into custody under s. 938.19 (1) (d) 10. for being absent from school without an acceptable excuse under s. 118.15. The board shall contract with the boys and girls clubs of Greater Milwaukee for the operation of the centers.

(b) The board shall establish 2 youth service centers under par. (a).

(2) The board shall pay the city a sum sufficient to pay the costs of salaries and fringe benefits of 4 law enforcement officers to work on truancy abatement and burglary suppression on a full-time basis.

State Education Agency Support

State model policies and implementation support

STATUTES

118.46 Policy on bullying.

(1) By March 1, 2010, the department shall do all of the following:

(a) Develop a model school policy on bullying by pupils. The policy shall include all of the following:

1. A definition of bullying.
2. A prohibition on bullying.
3. A procedure for reporting bullying that allows reports to be made confidentially.
4. A prohibition against a pupil retaliating against another pupil for reporting an incident of bullying.
5. A procedure for investigating reports of bullying. The procedure shall identify the school district employee in each school who is responsible for conducting the investigation and require that the parent or guardian of each pupil involved in a bullying incident be notified.
6. A requirement that school district officials and employees report incidents of bullying and identify the persons to whom the reports must be made.
7. A list of disciplinary alternatives for pupils that engage in bullying or who retaliate against a pupil who reports an incident of bullying.
8. An identification of the school-related events at which the policy applies.
9. An identification of the property owned, leased, or used by the school district on which the policy applies.
10. An identification of the vehicles used for pupil transportation on which the policy applies.

(b) Develop a model education and awareness program on bullying.

(c) Post the model policy under par. (a) and the model program under par. (b) on its Internet site.

Funding appropriations

STATUTES

115.36. Assistance to schools for alcohol and other drug abuse programs.

(1) The purpose of this section is to enable and encourage public, private, and tribal schools to develop comprehensive programs to prevent or ameliorate alcohol and other drug abuse among minors.

(2) The department shall:

(a) Develop and conduct training programs for the professional staff of public, private, and tribal schools in alcohol and other drug abuse prevention, intervention, and instruction programs.

(b) Provide consultation and technical assistance to public, private, and tribal schools for the development and implementation of alcohol and other drug abuse prevention, intervention, and instruction programs.

(c) Provide fellowship grants to support advanced training or education in comprehensive school health and alcohol and other drug abuse education.

(d) Provide access to informational resources for alcohol and other drug abuse education programs and services including, but not limited to:

1. The screening, revision and evaluation of available information resources.

2. The establishment of a central depository and loan program for high cost informational resources.

3. The systematic dissemination of information concerning available resources to appropriate public, private, and tribal school staff.

(e) Create a council under s. 15.04 (1) (c) to advise the department concerning the administration of this section.

(3)

(a) The department shall, from the appropriation under s. 20.255 (2) (kd), fund school district projects designed to assist minors experiencing problems resulting from the use of alcohol or other drugs or to prevent alcohol or other drug abuse by minors. The department shall:

1. Administer grant application and disbursement of funds.

2. Monitor program implementation.

3. Assist in and ensure evaluation of projects.

4. Report biennially in its report under s. 15.04 (1) (d) on program progress and project evaluation.

5. Promulgate necessary rules for the implementation of this subsection.

(b) Grants under this subsection may not be used to replace funding available from other sources.

(c) Grants under this subsection may be made only where there is a matching fund contribution from the local area in which a program is designed to operate of 20% of the amount of the grant obtained under this subsection. Private funds and in-kind contribution may be applied to meet the requirement of this paragraph.

(d) A school district applying for aid under this subsection shall submit a copy of the application to the county department under s. 51.42 for its advisory review. The county department under s. 51.42 may, and the council established under sub. (2) (e) shall, submit an advisory recommendation with respect to the application to the department prior to the approval or denial of the application.

118.153. Children at risk of not graduating from high school.

(5)

(c) A school board receiving funds under this section shall give preference in allocating those funds to programs for children at risk provided by alternative schools, charter schools, schools within schools and agencies identified under sub. (3) (c) 1.

20.255. Public instruction, department of.

There is appropriated to the department of public instruction for the following programs:

(1) Educational leadership.

(kd) Alcohol and other drug abuse program. The amounts in the schedule for the purpose of s. 115.36 (2) and the administration of s. 115.36 (3). All moneys transferred from the appropriation account under s. 20.455 (2) (i) 4. shall be credited to this appropriation account. Notwithstanding s. 20.001 (3) (a), the unencumbered balance on June 30 of each year shall be transferred to the appropriation account under s. 20.455 (2) (i).

(2) Aids for local educational programming.

(bc) Aid for children-at-risk programs. The amounts in the schedule for aid for children-at-risk programs under s. 118.153.

(kd) Aid for alcohol and other drug abuse programs. The amounts in the schedule for the purpose of s. 115.36 (3). All moneys transferred from the appropriation account under s. 20.455 (2) (i) 5. shall be credited to this appropriation account. Notwithstanding s. 20.001 (3) (a), the unencumbered balance on June 30 of each year shall be transferred to the appropriation account under s. 20.455 (2) (i).

Other/Uncategorized

Professional immunity or liability

STATUTES

118.125.Pupil records.

(d) Pupil records shall be made available to persons employed by the school district which the pupil attends who are required by the department under s. 115.28 (7) to hold a license, law enforcement officers who are individually designated by the school board and assigned to the school district, and other school district officials who have been determined by the school board to have legitimate educational interests, including safety interests, in the pupil records. Law enforcement officers' records obtained under s. 938.396 (1) (c) 3. shall be made available as provided in s. 118.127. A school board member or an employee of a school district may not be held personally liable for any damages caused by the nondisclosure of any information specified in this paragraph unless the member or employee acted with actual malice in failing to disclose the information. A school district may not be held liable for any damages caused by the nondisclosure of any information specified in this paragraph unless the school district or its agent acted with gross negligence or with reckless, wanton, or intentional misconduct in failing to disclose the information.

118.126. Privileged communications.

(1) A school psychologist, counselor, social worker and nurse, and any teacher or administrator designated by the school board who engages in alcohol or drug abuse program activities, shall keep confidential information received from a pupil that the pupil or another pupil is using or is experiencing problems resulting from the use of alcohol or other drugs unless:

(a) The pupil using or experiencing problems resulting from the use of alcohol or other drugs consents in writing to disclosure of the information;

(b) The school psychologist, counselor, social worker, nurse, teacher or administrator has reason to believe that there is serious and imminent danger to the health, safety or life of any person and that disclosure of the information to another person will alleviate the serious and imminent danger. No more information than is required to alleviate the serious and imminent danger may be disclosed; or

(2) A school psychologist, counselor, social worker or nurse, or any teacher or administrator designated by the school board who engages in alcohol or drug abuse program activities, who in good faith discloses or fails to disclose information under sub. (1) is immune from civil liability for such acts or omissions. This subsection does not apply to information required to be reported under s.

118.257. Liability for referral to police.

(1) In this section:

(a) "Controlled substance" has the meaning specified in s. 961.01 (4).

(am) "Controlled substance analog" has the meaning given in s. 961.01 (4m).

(at) "Delivery" has the meaning given in s. 961.01 (6).

(b) "Distribute" has the meaning specified in s. 961.01 (9).

(c) "Pupil services professional" means a school counselor, school social worker, school psychologist or school nurse.

(d) "School" means a public, parochial, private, or tribal school which provides an educational program for one or more grades between grades 1 and 12 and which is commonly known as an elementary school, middle school, junior high school, senior high school, or high school.

(2) A school administrator, principal, pupil services professional or teacher employed by a school board is not liable for referring a pupil enrolled in the school district to law enforcement authorities, or for removing a pupil from the school premises or from participation in a school-sponsored activity, for suspicion of possession, distribution, delivery or consumption of an alcohol beverage or a controlled substance or controlled substance analog.

118.31 Corporal punishment.

(1) In this section, "corporal punishment" means the intentional infliction of physical pain which is used as a means of discipline. "Corporal punishment" includes, but is not limited to, paddling, slapping or prolonged maintenance of physically painful positions, when used as a means of discipline. "Corporal punishment" does not include actions consistent with an individualized education program developed under s. 115.787 or reasonable physical activities associated with athletic training.

(2) Except as provided in sub. (3), no official, employee or agent of a school board may subject a pupil enrolled in the school district to corporal punishment.

(4) Each school board shall adopt a policy that allows any official, employee or agent of the school board to use reasonable and necessary force for the purposes of sub. (3) (a) to (h). In determining whether or not a person was acting within the exceptions in sub. (3), deference shall be given to reasonable, good faith judgments made by an official, employee or agent of a school board.

(5) Except as provided in s. 939.61 (1), this section does not create a separate basis for civil liability of a school board or their officials, employees or agents for damages arising out of claims involving allegations of improper or unnecessary use of force by school employees against students.

(6) Nothing in this section shall prohibit, permit or otherwise affect any action taken by an official, employee or agent of a school board with regard to a person who is not a pupil enrolled in the school district.

(7) Nothing in this section abrogates or restricts any statutory or common law defense to prosecution for any crime.

Community input or involvement

STATUTES

118.153. Children at risk of not graduating from high school.

(3)

(c)

1. Each school board shall identify appropriate private, nonprofit, nonsectarian agencies located in the school district or within 5 miles of the boundaries of the school district to meet the requirements under pars. (a) and (b) for the children at risk enrolled in the school district.

2. The school board may contract with the agencies identified under subd. 1. for the children at risk enrolled in the school district if the school board determines that the agencies can adequately serve such children.

3. The school board shall pay each contracting agency, for each full-time equivalent pupil served by the agency, an amount equal to at least 80% of the average per pupil cost for the school district.

118.162. Truancy committee and plan.

(4) Not later than September 1, 1989, each school board shall adopt a truancy plan which shall include all of the following:

(b) Plans and procedures for identifying truant children of all ages and returning them to school, including the identity of school personnel to whom a truant child shall be returned.

(c) Methods to increase and maintain public awareness of and involvement in responding to truancy within the school district.

(f) Plans and procedures to coordinate the responses to the problems of habitual truants, as defined under s. 118.16 (1) (a), with public and private social services agencies.

119.55. Youth service centers, truancy abatement and burglary suppression.

(1)

(a) The board shall establish one or more youth service centers for the counseling of children who are taken into custody under s. 938.19 (1) (d) 10. for being absent from school without an acceptable excuse under s. 118.15. The board shall contract with the boys and girls clubs of Greater Milwaukee for the operation of the centers.

(b) The board shall establish 2 youth service centers under par. (a).

(2) The board shall pay the city a sum sufficient to pay the costs of salaries and fringe benefits of 4 law enforcement officers to work on truancy abatement and burglary suppression on a full-time basis.

120.13. School board powers.

The school board of a common or union high school district may do all things reasonable to promote the cause of education, including establishing, providing and improving school district programs, functions and activities for the benefit of pupils, and including all of the following:

(1) School government rules; suspension; expulsion.

(a) Make rules for the organization, gradation and government of the schools of the school district, including rules pertaining to conduct and dress of pupils in order to maintain good decorum and a favorable academic atmosphere, which shall take effect when approved by a majority of the school board and filed with the school district clerk. Subject to 20 USC 1415 (k), the school board shall adopt a code to govern pupils' classroom conduct beginning in the 1999-2000 school year. The code shall be developed in consultation with a committee of school district residents that consists of parents, pupils, members of the school board, school administrators, teachers, pupil services professionals and other residents of the school district who are appointed to the committee by the school board. The code of classroom conduct may provide different standards of conduct for different schools and may provide additional placement options under s. 118.164 (3)…

Other/Uncategorized

STATUTES

No relevant statutes found.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by Wisconsin provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
Website		
Wisconsin Department of Public Instruction, Resources for Safe and Respectful Schools	The Resources for Safe and Respectful Schools web-page offers a range of school safety, crisis planning, and bullying prevention resources, including the Safe Schools Webcast Series, which provides web-based presentations on best practices in school safety and youth violence prevention.	http://sspw.dpi.wi.gov/sspw_safeschool
Wisconsin Department of Public Instruction Student Services, Health, and Safety Resources	The Student Services, Health, and Safety Resources web-page includes links to Answers to Frequently Asked Question Documents addressing Compulsory School Attendance and School Discipline.	http://sspw.dpi.wi.gov/sspw_tadocs
Documents		
Wisconsin DPI Answers to Frequently Asked School Discipline Questions	This document outlines rights and responsibilities related to school discipline in Wisconsin public schools.	http://sspw.dpi.wi.gov/files/sspw/pdf/schldscplnqa.pdf
Other Resources		
Wisconsin PBIS Network	The Wisconsin PBIS Network is a collaborative project between the Wisconsin Department of Public Instruction (DPI) and the 12 CESAs to provide PBIS professional development and technical assistance regionally through Wisconsin.	http://www.wisconsinpbisnetwork.org/

Title	Description	Website address (if applicable)
Wisconsin Response to Intervention (Rti) Center	The Rti Center provides technical assistance and training to help Wisconsin schools implement and sustain Response to Intervention (RtI) systems to support the behavioral and academic needs of all students.	http://www.wisconsinrticenter.org/topnav/about-us.html

Wyoming Compilation of School Discipline Laws and Regulations

Prepared: August 12, 2013

Introduction

This compilation presents school discipline-related state statutes, school discipline-related regulations, and, where available, links to state-sponsored websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSLE). For example, one major category encompasses all state laws or regulations mandating specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of state legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in each state.

Discipline categories were not mutually exclusive. Statutes and regulations often appeared across multiple categories. For states with more extensive statutes covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. State laws, ordered by chapter and section number, appear first within each category followed by state regulations. All statutes and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists statutes by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to state-sponsored websites or resources are provided at the end of this document.

Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of May 2013, with the exception of the state laws related to seclusion and restraint, which are complete and current as of December 2012. Readers should also note that the information in this document was compiled from individual state sources that are created by each state and which are maintained and updated with varying frequencies. Readers should consult the source information provided for each state directly in order to check for updates to this state's laws and regulations or conduct further research.

For further information, including definitions of the different policy categories, please refer to the Discipline Laws and Regulations Compendium posted on the Center's website.

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Safe Supportive Learning
Engagement | Safety | Environment

Table of Contents

Wyoming State Codes Cited **1**

General Provisions **3**

Authority to develop and establish rules of conduct 3
Scope 3
Communication of Policy 3

In-School Discipline **4**

Use of multi-tiered discipline approaches 4
Teacher authority to remove students from classrooms 4
Alternatives to suspension 4
Use of corporal punishment 4
Use of student and locker searches 4
Other in-school disciplinary approaches 4

Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements **5**

Grounds for possible suspension or expulsion 5
Grounds for mandatory suspension or expulsion 5
Limitations, conditions, or exclusions for use of suspension and expulsion 5
Administrative procedures related to suspensions and expulsion 6
In-school suspension 7
Return to school following removal 7
Use of restraint and seclusion 7
Alternative Placements 13

Disciplinary Approaches Addressing Specific Infractions and Conditions **14**

Firearms (as required by the Guns-Free Schools Act) 14
Other weapons 14
Students with chronic disciplinary issues 15
Attendance and truancy 15
Substance use 16
Bullying, harassment, or hazing 16
Other special infractions or conditions 17

Prevention and Behavioral Interventions (Non-Punitive) **18**

Prevention 18
Behavioral interventions and student support services 18
Professional development 18

Monitoring and Accountability **20**

Formal incident reporting of conduct violations 20
Parental notification 21
Reporting and referrals between schools and law enforcement 22
Disclosure of school records 22
Data collection, review, and reporting of disciplinary policies and actions 22

School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers 24
Authority and power to implement school arrest 24
Certification or training 24
MOUs, authorization and/or funding 24
State Education Agency Support 25
State model policies and implementation support 25
Funding appropriations 28
Other/Uncategorized 29
Professional immunity or liability 29
Community input or involvement 29
Other/uncategorized 29
State-Sponsored, Publicly Available Websites or Other Resources on School Discipline 30

Wyoming State Codes Cited

Wyoming Revised Statutes

Title 14. Children

Chapter 3. Protection

Article 2. Child Protective Services

14-3-201. Purpose

Title 21. Education

Chapter 2. The Administration of the State System of Education at the State Level

Article 2. Superintendent of Public Instruction

21-2-201. General supervision of public schools entrusted to state superintendent
21-2-202. Duties of the state superintendent

Chapter 3. School Districts in General

Article 1. In general

21-3-128. Protection or insurance of board members, teachers and other personnel against personal liability
21-3-110. Duties of boards of trustees

Chapter 4. Pupils

Article 1. Compulsory Attendance

21-4-101. Definitions
21-4-102. When attendance required; exemptions; withdrawal
21-4-103. Enforcement of article; appointment and compensation of attendance officers
21-4-104. Duties of attendance officers
21-4-105. Penalty for failure of parent, guardian or custodian to comply with article
21-4-106. List of children of school age to be furnished; notice of unexcused absences
21-4-107. Notice to district attorney of habitual truancy; duty of district attorney

Article 3. Right to Attend School

21-4-305. Suspension or expulsion; authority; procedure
21-4-306. Suspension or expulsion; grounds
21-4-308. Punishment and disciplinary measures; denial of diploma or credit
21-4-311. Safe school climate act; short title
21-4-312. Definitions
21-4-313. Prohibition against harassment, intimidation or bullying; reporting to school officials
21-4-314. School district implementation; state policies, training and technical assistance
21-4-315. Applicability; no civil liability created; immunity

Chapter 13. School Finance

Article 1.	Local financial support
Article 2.	County financial support
Article 3.	State financial support
Article 4.	Federal aid
Article 5.	Building fund and reserve fund
Article 6.	Funds for emergency school construction
Article 7.	Bond issues
Article 8.	Wyoming school bond reserve act

Anti Bullying Model Policy I

Anti Bullying Model Policy II

Wyoming Administrative Code

Chapter 042. Seclusion and restraint in schools

Section 1.	Authority
Section 2.	Scope
Section 3.	Purpose
Section 4.	Applicability; No civil liability created; Immunity
Section 5.	Promulgation, amendment, or repeal of rules
Section 6.	Definitions
Section 7.	Policy requirements
Section 8.	Enforcement of policy
Section 9.	Publication of policy
Section 10.	Data collection requirements

General Provisions

Authority to develop and establish rules of conduct

STATUTES

§ 21-4-308. Punishment and disciplinary measures; denial of diploma or credit.

(a) Each board of trustees in each school district within the state may adopt rules for reasonable forms of punishment and disciplinary measures. Subject to such rules, teachers, principals, and superintendents in such district may impose reasonable forms of punishment and disciplinary measures for insubordination, disobedience, and other misconduct.

§ 21-4-314. School district implementation; state policies, training and technical assistance.

(a) Not later than December 31, 2009, each school district shall adopt a policy prohibiting harassment, intimidation or bullying at school. The school district shall involve parents and guardians, school employees, volunteers, students, administrators and community representatives in the process of creating the policy. Policies created under this section shall be continuously reviewed and may be revised as necessary.

Scope

No relevant statutes found.

Communication of Policy

STATUTES

§ 21-4-314. School district implementation; state policies, training and technical assistance.

(a) Not later than December 31, 2009, each school district shall adopt a policy prohibiting harassment, intimidation or bullying at school. The school district shall involve parents and guardians, school employees, volunteers, students, administrators and community representatives in the process of creating the policy. Policies created under this section shall be continuously reviewed and may be revised as necessary.

(d) Each local school board shall include the policy adopted by a school district pursuant to this section in a publication of the comprehensive rules, procedures and standards of conduct for schools of a school district and in each school's student's handbook.

(e) Information regarding the school district's policy against harassment, intimidation or bullying shall be incorporated into each district's professional development programs and shall be provided to volunteers and other noncertified employees of the district who have significant contact with students.

In-School Discipline

Use of multi-tiered discipline approaches

No relevant statutes found.

Teacher authority to remove students from classrooms

No relevant statutes found.

Alternatives to suspension

No relevant statutes found.

Use of corporal punishment

STATUTES

§ 14-3-202. Definitions.

(a) As used in W.S. 14-3-201 through 14-3-216:

(ii) "Abuse" means inflicting or causing physical or mental injury, harm or imminent danger to the physical or mental health or welfare of a child other than by accidental means, including […]excessive or unreasonable corporal punishment […]

(B) "Physical injury" means any harm to a child including but not limited to disfigurement, impairment of any bodily organ, skin bruising if greater in magnitude than minor bruising associated with reasonable corporal punishment, bleeding, burns, fracture of any bone, subdural hematoma or substantial malnutrition;

§ 21-4-308. Punishment and disciplinary measures; denial of diploma or credit.

(b) Teachers, principals and superintendents in each district shall be immune from civil and criminal liability in the exercise of reasonable corporal discipline of a student as authorized by board policy.

Use of student and locker searches

No relevant statutes found.

Other in-school disciplinary approaches

No relevant statutes found.

Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements

Grounds for possible suspension or expulsion

No relevant statutes found.

Grounds for mandatory suspension or expulsion

STATUTES

§ 21-4-305. Suspension or expulsion; authority; procedure.

(a) […] In addition, the board of trustees shall, subject to the case-by-case modification permitted by this subsection, require the district superintendent to expel from school for a period of one (1) year any student determined to possess, use, transfer, carry or sell a deadly weapon as defined under W.S. 6-1-104(a)(iv) within any school bus as defined by W.S. 31-7-102(a)(xl) or within the boundaries of real property used by the district primarily for the education of students in grades kindergarten through twelve (12)[…]

§ 21-4-306. Suspension or expulsion; grounds.

(a) The following shall be grounds for suspension or expulsion of a child from a public school during the school year:

(i) Continued willful disobedience or open defiance of the authority of school personnel;

(ii) Willful destruction or defacing of school property during the school year or any recess or vacation;

(iii) Any behavior which in the judgment of the local board of trustees is clearly detrimental to the education, welfare, safety or morals of other pupils, including the use of foul, profane or abusive language or habitually disruptive behavior as defined by subsection (b) of this section;

(iv) Torturing, tormenting, or abusing a pupil or in any way maltreating a pupil or a teacher with physical violence;

(v) Possession, use, transfer, carrying or selling a deadly weapon as defined under W.S. 6-1-104(a)(iv) within any school bus as defined by W.S. 31-7-102(a)(xl) or within the boundaries of real property used by the district primarily for the education of students in grades kindergarten through twelve (12).

(b) As used in paragraph (a)(iii) of this section, "habitually disruptive behavior" means overt behavior willfully initiated by a student causing disruption in the classroom, on school grounds, on school vehicles or at school activities or events, which requires the attention of a teacher or other school personnel.

Limitations, conditions, or exclusions for use of suspension and expulsion

STATUTES

§ 21-4-305. Suspension or expulsion; authority; procedure.

(d) The board of trustees of any school district or the superintendent if designated, may suspend a student for a period exceeding ten (10) school days or may expel a student for a period not to exceed one (1) year, provided the student is afforded an opportunity for a hearing in accordance with the procedures of the Wyoming Administrative Procedure Act.

(e) Suspension or expulsion shall not be imposed as an additional punishment for offenses punishable under the laws of the state, except for expulsion by a district superintendent under subsection (a) of this section, or where the offense was committed at a school function, against the property of the school, or is of such nature that continuation of the child in school would clearly be detrimental to the education, welfare, safety or morals of other pupils. No suspension or expulsion shall be for longer than one (1) year.

Administrative procedures related to suspensions and expulsion

STATUTES

§ 21-4-305. Suspension or expulsion; authority; procedure.

(a) The board of trustees of any school district may delegate authority to disciplinarians chosen from the administrative and supervisory staff to suspend any student from school for a period not to exceed ten (10) school days. In addition, the board of trustees shall, subject to the case-by-case modification permitted by this subsection, require the district superintendent to expel from school for a period of one (1) year any student determined to possess, use, transfer, carry or sell a deadly weapon as defined under W.S. 6-1-104(a)(iv) within any school bus as defined by W.S. 31-7-102(a)(xl) or within the boundaries of real property used by the district primarily for the education of students in grades kindergarten through twelve (12). The superintendent with the approval of the board of trustees may modify the period of expulsion on a case-by-case basis based upon the circumstances of the violation. Upon a violation of this subsection and following notice and hearing requirements of this section, the superintendent shall notify the district attorney of the violation together with the specific act in violation of this subsection and the name of the student violating this subsection. Nothing in this subsection prohibits a district from providing educational services to the expelled student in an alternative setting.

(b) The disciplinarian shall give the student to be suspended oral or written notice of the charges against him and an explanation of the evidence the authorities have. The disciplinarian shall give the student to be suspended an opportunity to be heard and to present his version of the charges against him. No student shall be removed from school without such notice and opportunity to be heard, except as provided by subsection (c) of this section.

(c) The disciplinarian shall give the student to be suspended the opportunity to be heard as soon as practicable after the misconduct, unless the student's presence endangers persons or property, or threatens disruption of the academic process, in which case his immediate removal from school may be justified, but the opportunity to be heard shall follow as soon as practicable, and not later than seventy-two (72) hours after his removal, not counting Saturdays and Sundays. Written notice of suspension shall be sent to the student's parents, guardians or custodians within twenty-four (24) hours of the decision to conduct them.

(d) The board of trustees of any school district or the superintendent if designated, may suspend a student for a period exceeding ten (10) school days or may expel a student for a period not to exceed one (1) year, provided the student is afforded an opportunity for a hearing in accordance with the procedures of the Wyoming Administrative Procedure Act.

(e) Suspension or expulsion shall not be imposed as an additional punishment for offenses punishable under the laws of the state, except for expulsion by a district superintendent under subsection (a) of this section, or where the offense was committed at a school function, against the property of the school, or is of such nature that continuation of the child in school would clearly be detrimental to the education, welfare, safety or morals of other pupils. No suspension or expulsion shall be for longer than one (1) year.

(f) Any decision of the board, or of a designated superintendent, shall be considered a final decision which may be appealed to the district court of the county in which the school district is located, pursuant to provisions of the Wyoming Administrative Procedure Act. The court may, on application or on its own

motion, stay the decision of the board or superintendent pending appeal, considering both the best interests of the child and the need to maintain an orderly environment conducive to learning for other children.

In-school suspension

STATUTES

21-3-110. Duties of boards of trustees.

(B) "Seclusion" means removing a student from a classroom or other school activity and isolating the student in a separate supervised area. "Seclusion" does not include a student requested break or in-school suspension, detention or other appropriate disciplinary measure.

ADMINISTRATIVE CODE

Chapter 042 Seclusion and restraint in schools

(n) "Seclusion" means removing a student from a classroom or other school activity and isolating the student in a separate area. Seclusion occurs when a student is placed in a room or location by school personnel, purposefully separated from peers, and prevented from leaving that location. Separation in an area where the student is prevented from leaving is always considered seclusion. There are two distinct categories: i) Seclusion from the Learning Environment, and ii) Isolation Room. The term does not include a student requested break or in-school-suspension, detention or other appropriate disciplinary measure.

Return to school following removal

No relevant statutes found.

Use of restraint and seclusion

STATUTES

21-2-202. Duties of the state superintendent.

(a) In addition to any other duties assigned by law, the state superintendent shall:

(xxxii) By rule and regulation adopted not later than July 1, 2011 establish requirements for school district policies regarding the use of seclusion and restraint in schools as required under W.S. 21-3-110(a)(xxx). The state superintendent shall review the policy of each district for compliance with the requirements of W.S. 21-3-110(a)(xxx) and rules and regulations promulgated pursuant to this paragraph. If the state superintendent determines that the policy is not in compliance under this paragraph the superintendent shall direct the board of trustees to revise the policy and shall, upon request, assist the board in the adoption of the policy.

21-3-110. Duties of boards of trustees.

(a) The board of trustees in each school district shall:

(xxx) Not later than December 31, 2011, adopt a policy regarding the use of seclusion and restraint in schools. In addition to any requirements provided by rule and regulation of the state superintendent pursuant to W.S. 21-2-202(a)(xxxii), the policy shall require that the parent or legal guardian of the student shall be notified each time that seclusion or restraint is utilized for the student. The policy shall not be limited to any specified group of students and shall apply any time that seclusion or restraint is used for any student. The district shall submit a copy of the policy to the state superintendent for review

as provided in W.S. 21-2-202(a)(xxxii) after the initial adoption of the policy and any time thereafter that the policy is substantially revised. As used in this paragraph:

(A) "Restraint" means the use of physical force, with or without the use of any physical device or material, to restrict the free movement of all or a portion of a student's body. "Restraint" does not include comforting or calming a student, holding the hand or arm of a student to escort the student if the student is complying, intervening in a fight or using a device prescribed by an appropriate professional and consistent with the student's individualized education program;

(B) "Seclusion" means removing a student from a classroom or other school activity and isolating the student in a separate supervised area. "Seclusion" does not include a student requested break or in-school suspension, detention or other appropriate disciplinary measure.

ADMINISTRATIVE CODE

Chapter 042 Seclusion and restraint in schools

Section 1. Authority.

The Wyoming rules are authorized by W.S. § 21-2-202(a)(xxxii) and W.S. § 21-3-110(a)(xxxi). These rules govern and regulate the use of seclusion and restraint with students in public school districts providing education to children ages five (5) through the completion of the school year in which the child turns twenty-one (21) pursuant to Wyoming law.

Section 2. Scope.

(a) All provisions W.S. § 21-2-202(a)(xxxii) and W.S. § 21-3-110(a)(xxxi), including any subsequent amendments or revisions of the law and/or rules, apply to every school district as defined in W.S. §§ 21-3-102 through 21-3-104.

(b) Wyoming statute requires the State Superintendent of Public Instruction to ensure the requirements of law, regulation, rule, and educational standards are met in all education programs administered, approved, and/or accredited by the state. Pursuant to W.S. § 21-2-202(a), the State Superintendent shall review the policy of each school district for compliance with the state statute governing Seclusion and Restraint in Schools, and approve those policies only after a determination that compliance has been achieved.

(c) To the extent that these rules governing Seclusion and Restraint in Schools overlap with other state or federal rules or regulations, compliance with the regulation or rule offering greater student protection shall be deemed compliance with this rule. To the extent that these rules governing Seclusion and Restraint in Schools exceed the requirements of other state or federal rules or regulations, school districts must comply with the requirements of this rule. In the event of conflict with another state agency's rules or federal rules or regulations, school districts must ensure compliance with this rule.

Section 3. Purpose.

Schools should ensure that students are treated with respect and dignity in an environment that provides for the physical safety and security of students and staff. Each student has a right to be free from seclusion or restraint used as a means of coercion, punishment, convenience, or retaliation. Seclusion and restraint are not instructional tools for the development of prosocial behavior. Proactive and preventative behavioral interventions should be initiated and ongoing to diffuse disruptive and volatile situations.

Section 4. Applicability; No Civil Liability Created; Immunity.

(a) This rule shall not be interpreted to prevent a party from seeking redress pursuant to any other applicable civil or criminal law. This rule does not create or alter any civil cause of action for monetary damages against any person or school district nor shall it constitute grounds for any claim or motion

raised by either the state or defendant in any proceedings, except that the defense of immunity shall be retained and may be asserted in any action arising under this rule.

Section 5. Promulgation, Amendment, or Repeal of Rules.

Any amendments to these rules shall become effective as provided by the Wyoming Administrative Procedure Act (W.S. §§ 16-3-101 through 16-3-115).

Section 6. Definitions.

(a) "Appropriate Disciplinary Measures" includes classroom, school-wide, and/or district-wide plans for student conduct adopted pursuant to a school policy promulgated under the authority of W.S. § 21-4-308 or other appropriate authority.

(b) "Appropriately Trained Professional" or "Professional Team" includes individuals who are appropriately licensed, trained, and knowledgeable regarding the acceptable use of assistive or protective devices consistent with recognized professional standards and manufacturers' instructions.

(c) "Assistive or Protective Device" means any item, piece of equipment, or product system, whether acquired commercially, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of a child or protect a child from harm.

(d) "Behavior Intervention" is a systematic implementation of procedures developed in conjunction with the parent intended to result in lasting positive changes in a student's behavior. Interventions may include positive strategies, program or curricular modifications, and aids and supports required to address the disruptive behaviors.

(e) "Emergency" means a situation constituting an imminent risk to health or safety.

(f) "Escort" includes guiding a student by touching his/her back, arm, or hand, or holding the student's arm or hand to escort the student safely from one area to another as long as the student is not refusing to comply with the escort. The term does not include the use of coercion or force to move a student from one location to another.

(g) "Evidence-Based Training Program" includes programs that are externally developed and have a record of successful implementation in a variety of settings, that at a minimum, emphasize training in de-escalation procedures, the specific techniques used in safe restraint ranging from the least to most restrictive, and the specific techniques to encourage the safe reentry of the student back in to the educational environment.

(h) "Imminent Risk" means an immediate and impending threat of a person causing substantial physical injury to self or others.

(i) "Isolating" means visually, auditorally, or physically separating a student from the learning environment, school activity, or peers.

(j) "Prohibited Practices" means that certain activities or objects are prohibited from being utilized with students under any circumstances. Prohibited elements include:

(i) "Aversives" means an intervention that is intended to induce pain or discomfort to a student for the purpose of eliminating or reducing maladaptive behaviors.

(ii) "Locked Seclusion" means a seclusion room with a locking device that is engaged by leverage of an inanimate object, key, or other mechanism to keep the door closed without constant human contact. The term does not include a securing mechanism requiring constant human contact, which upon release immediately permits the door to be opened from the inside.

(iii) "Mechanical Restraints" include devices or equipment designed or utilized to restrict the free movement of all or a portion of a student's body. The term does not include assistive or protective devices or equipment prescribed by an appropriately trained professional or professional team that are

used for the specific and approved purposes for which such devices or equipment were designed and prescribed.

(iv) "Prone Restraints" include holding a student in a face down position or in any position that will:

(A) Obstruct a student's airway or otherwise impair the ability to breathe;

(B) Obstruct a staff member's view of a student's face;

(C) Restrict a student's ability to communicate distress;

(D) Place pressure on a student's head, neck, or torso; or

(E) Straddle a student's torso.

(k) "Restraint" means the use of physical force, with or without the use of any device or material, to restrict the free movement of all or a portion of a student's body. Restraint does not include comforting or calming a student, holding the hand or arm of a student to escort the student if the student is complying, intervening in a fight or using an assistive or protective device prescribed by an appropriately trained professional or professional team. The term does not encompass any of the prohibited practices described in this rule.

(l) "School" includes a school district as defined in W.S. §§ 21-3-102 through 21-3-104.

(m) "School Activity" means any activity taking place at school, on school premises, or to or at a school function under the jurisdiction of the state or school district.

(n) "Seclusion" means removing a student from a classroom or other school activity and isolating the student in a separate area. Seclusion occurs when a student is placed in a room or location by school personnel, purposefully separated from peers, and prevented from leaving that location. Separation in an area where the student is prevented from leaving is always considered seclusion. There are two distinct categories: i) Seclusion from the Learning Environment, and ii) Isolation Room. The term does not include a student requested break or in-school-suspension, detention or other appropriate disciplinary measure.

(i) "Seclusion from the Learning Environment" means visually or auditorally isolating the student from the classroom or other school activity, away from peers in an area that obstructs the student's ability to participate in regular classroom or school activities. The student is prevented from rejoining the learning environment or school activity until directed by staff.

(ii) "Isolation Room" means purposefully placing the student in an enclosed room built in compliance with all relevant health and safety codes. The student is not released from the Isolation Room and permitted to rejoin the learning environment or school activity until directed by staff. An Isolation Room is not the same as locked seclusion, which is a prohibited practice.

(o) "Time-out" means providing the student with a brief opportunity to regain self-control in a setting that does not physically remove the student from peers or the learning environment, and the student is not physically prevented from leaving the time-out area. The use of time-out without seclusion is not regulated by these rules.

Section 7. Policy Requirements.

(a) Staff Training and Professional Development. School district policies must, at a minimum, include the following staff training and professional development components:

(i) All staff shall receive training in evidence-based techniques shown to be effective in the prevention of physical restraint and seclusion, including evidence-based skills training related to positive behavior supports, safe physical escort, conflict prevention, de-escalation, and conflict management.

(A) The minimum amount of training required for all staff shall be the number of hours recommended by the evidence-based training program selected by the school.

(B) Ongoing training for all staff shall be provided as recommended by the evidence-based training program selected by the school.

(ii) A ratio of classified and nonclassified staff, as determined by the school considering school size and the location of specialized programs, shall receive training in evidence-based techniques in the safe use of physical restraint.

(A) The minimum amount of training for the ratio of staff shall be the number of hours necessary to obtain certification by the evidence-based training program selected by the school.

(B) Certification shall be maintained as prescribed by the evidence-based training program selected by the school.

(iii) Information regarding the school district's policy on the safe use of seclusion and restraint shall be incorporated into each school's annual professional development programming.

(b) Procedures. School policies must, at a minimum, include the following procedural components:

(i) Restraint:

(A) Only trained, certified staff consistent with Section 7(a)(ii) above shall be permitted to utilize restraint as part of a planned behavior intervention unless a bona fide emergency situation constituting an imminent risk to health or safety exists.

(B) Schools shall not utilize aversive interventions, mechanical restraints, or prone restraints at any time.

(C) Restraint shall be utilized for the minimum amount of time necessary to permit the student to regain control and for staff to restore safety.

(D) Schools must develop restraint duration guidelines including a release strategy based on the student's ability to regain control and staff's ability to reestablish safety.

(E) Restraints exceeding the durational limits set forth in the school's guidelines shall require immediate administrative review to determine if and under what conditions the restraint may continue.

(F) Schools shall develop an incident review strategy or debriefing strategy. The incident review or debriefing process shall address what, if any, subsequent actions need to be taken.

(G) Schools must document each restraint consistent with the Mandatory Documentation requirements specified in paragraph (c) below.

(ii) Seclusion: There are two distinct seclusion categories: Seclusion from the Learning Environment and Isolation Room.

(A) School staff must be able to see and hear the student in seclusion at all times.

(B) Students placed in seclusion must be permitted access to normal meals and personal hygiene opportunities. Meals and bathroom breaks may be separate and supervised if needed to ensure safety.

(C) Schools must document each occurrence of seclusion consistent with the Mandatory Documentation requirements specified in paragraph (c) below.

(D) The use of timeout without seclusion is not regulated by these rules.

(E) Seclusion from the Learning Environment:

(1.) Seclusion from the Learning Environment may be used as a planned behavior intervention strategy.

(2.) Schools must develop Seclusion from the Learning Environment duration guidelines.

(3.) Completion of an incident report is not required for use of Seclusion from the Learning Environment.

(F) Isolation Room:

(1.) An Isolation Room may be used in a bona fide emergency.

(2.) Schools must develop Isolation Room duration guidelines, including a reentry strategy based on the student's ability to regain control and staff's ability to reestablish safety.

(3.) Isolation Room seclusion exceeding the durational limits set forth in the school's guidelines shall require immediate administrative review to determine if and under what conditions the Isolation Room seclusion may continue.

(4.) Schools shall develop an incident review strategy or debriefing strategy. The incident review or debriefing process shall address what, if any, subsequent actions need to be taken.

(5.) Physical Space Requirements for Isolation Rooms:

a. The room must provide a means of continuous visual and auditory monitoring of the student.

b. The room must be adequately lighted, with switches to control lighting located outside the room.

c. The room must be adequately ventilated, with switches to control fans or other ventilation devices located outside the room.

d. The room must maintain a temperature within the normal comfort range and consistent with the rest of the building, with temperature controls located outside of the room.

e. The room must be clean and free of objects and fixtures that could be potentially dangerous to a student and must meet all fire and safety codes.

f. The room must be constructed of materials safe for the intended use, including wall and floor coverings designed to prevent injury to the student.

g. The room must be able to be opened from the inside immediately upon the release of the security mechanism held in place by constant human contact.

h. The dimensions of the room must be of adequate width, length and height to allow the student to move about and recline comfortably.

(c) Mandatory Documentation. Schools must complete the mandatory documentation for all use of Restraint and Isolation Room seclusion.

(i) Incident Report: At a minimum, the incident report must include:

(A) Antecedents, interventions, and other relevant factors;

(B) Description of the regulated intervention utilized;

(C) Time and duration;

(D) Student's response;

(E) Administrative review, if necessary;

(F) Status assessment;

(G) Release or reentry factors;

(H) Injuries, if any;

(I) Debriefing

(ii) The parent shall receive copies of all mandatory documentation according to the parent notification procedure developed by the school.

(d) Parent Notification. The school shall develop a parent notification procedure to include, at a minimum, written notification within 24 hours of the use of a regulated procedure, or other timeframe as agreed upon by the school and parent. Written notification shall be complete upon mailing, personal delivery, or electronic transmission of the written notice.

Section 8. Enforcement of Policy.

Schools shall specify a procedure for the lodging and investigation of complaints regarding misuse of the school district's policy on seclusion and restraint.

Section 9. Publication of Policy.

Schools shall provide for the manner in which the policy is to be publicized within the school community.

Section 10. Data Collection Requirements.

Schools shall collect and report annually to the Wyoming Department of Education the WISER ID for each student involved in the use of a regulated intervention, the number of incidents of seclusion and restraint for each student, and the type of regulated intervention utilized for each student.

Alternative Placements

STATUTES

§ 21-4-305. Suspension or expulsion; authority; procedure.

(a) […] Nothing in this subsection prohibits a district from providing educational services to the expelled student in an alternative setting.

Disciplinary Approaches Addressing Specific Infractions and Conditions

Firearms (as required by the Guns-Free Schools Act)

STATUTES

§ 21-4-305. Suspension or expulsion; authority; procedure.

(a) The board of trustees of any school district may delegate authority to disciplinarians chosen from the administrative and supervisory staff to suspend any student from school for a period not to exceed ten (10) school days. In addition, the board of trustees shall, subject to the case-by-case modification permitted by this subsection, require the district superintendent to expel from school for a period of one (1) year any student determined to possess, use, transfer, carry or sell a deadly weapon as defined under W.S. 6-1-104(a)(iv) within any school bus as defined by W.S. 31-7-102(a)(xl) or within the boundaries of real property used by the district primarily for the education of students in grades kindergarten through twelve (12). The superintendent with the approval of the board of trustees may modify the period of expulsion on a case-by-case basis based upon the circumstances of the violation.

Other weapons

STATUTES

§ 21-4-305. Suspension or expulsion; authority; procedure.

(a) The board of trustees of any school district may delegate authority to disciplinarians chosen from the administrative and supervisory staff to suspend any student from school for a period not to exceed ten (10) school days. In addition, the board of trustees shall, subject to the case-by-case modification permitted by this subsection, require the district superintendent to expel from school for a period of one (1) year any student determined to possess, use, transfer, carry or sell a deadly weapon as defined under W.S. 6-1-104(a)(iv) within any school bus as defined by W.S. 31-7-102(a)(xl) or within the boundaries of real property used by the district primarily for the education of students in grades kindergarten through twelve (12). The superintendent with the approval of the board of trustees may modify the period of expulsion on a case-by-case basis based upon the circumstances of the violation.

§ 21-4-306. Suspension or expulsion; grounds.

(a) The following shall be grounds for suspension or expulsion of a child from a public school during the school year:

v) Possession, use, transfer, carrying or selling a deadly weapon as defined under W.S. 6-1-104(a)(iv) within any school bus as defined by W.S. 31-7-102(a)(xl) or within the boundaries of real property used by the district primarily for the education of students in grades kindergarten through twelve (12).

Students with chronic disciplinary issues

STATUTES

§ 21-4-306. Suspension or expulsion; grounds.

(a) The following shall be grounds for suspension or expulsion of a child from a public school during the school year:

(b) As used in paragraph (a)(iii) of this section, "habitually disruptive behavior" means overt behavior willfully initiated by a student causing disruption in the classroom, on school grounds, on school vehicles or at school activities or events, which requires the attention of a teacher or other school personnel.

(iii) Any behavior which in the judgment of the local board of trustees is clearly detrimental to the education, welfare, safety or morals of other pupils, including the use of foul, profane or abusive language or habitually disruptive behavior as defined by subsection (b) of this section;

Attendance and truancy

STATUTES

§ 21-4-102. When attendance required; exemptions; withdrawal.

(a) Every parent, guardian or other person having control or charge of any child who is a resident of this state and whose seventh birthday falls on or before September 15 of any year and who has not yet attained his sixteenth birthday or completed the tenth grade shall be required to send such child to, and such child shall be required to attend, a public or private school each year, during the entire time that the public schools shall be in session in the district in which the pupil resides; provided, that the board of trustees of each school district may exempt any child from the operation of this article when:

(i) The board believes that compulsory attendance in school would be detrimental to the mental or physical health of such child or the other children in the school; provided, the board may designate at the expense of the district a medical doctor of its choice to guide it and support it in its decision;

(ii) The board feels that compulsory school attendance might work undue hardship. The board may conduct a hearing on issues pursuant to this paragraph by executive session; or

(iii) The child has been legally excluded from the regular schools pursuant to the provisions of W.S. 21-4-306.

(b) A home-based educational program shall meet the requirements of a basic academic educational program pursuant to W.S. 21-4-101(a)(vi). It shall be the responsibility of every person administering a home-based educational program to submit a curriculum to the local board of trustees each year showing that the program complies with the requirements of this subsection. Failure to submit a curriculum showing compliance is prima facie evidence that the home-based educational program does not meet the requirements of this article.

(c) In addition to subsection (a) of this section, the parent, guardian or other person having control or charge of any child under the age of eighteen (18), who has not otherwise notified the district of enrolling that child in a different school district or in a private school or home-based educational program, shall meet in person with a school district counselor or administrator to provide the school district with written consent to the withdrawal of that child from school attendance.

21-4-105. Penalty for failure of parent, guardian or custodian to comply with article.

Any parent, guardian or custodian of any child to whom this article applies who willfully fails, neglects, or refuses to comply with the provisions of this article shall be guilty of a misdemeanor and shall be

punished by a fine of not less than five dollars ($5.00) nor more than twenty-five dollars ($25.00) or by imprisonment in the county jail not more than ten (10) days or by both such fine and imprisonment.

Substance use

No relevant statutes found.

Bullying, harassment, or hazing

STATUTES

§ 21-4-311. Safe school climate act; short title.

This act shall be known and may be cited as the "Safe School Climate Act".

§ 21-4-312. Definitions.

(a) As used in this act:

(i) "Harassment, intimidation or bullying" means any intentional gesture, any intentional electronic communication or any intentional written, verbal or physical act initiated, occurring or received at school that a reasonable person under the circumstances should know will have the effect of:

(A) Harming a student physically or emotionally, damaging a student's property or placing a student in reasonable fear of personal harm or property damage;

(B) Insulting or demeaning a student or group of students causing substantial disruption in, or substantial interference with, the orderly operation of the school; or

(C) Creating an intimidating, threatening or abusive educational environment for a student or group of students through sufficiently severe, persistent or pervasive behavior.

(ii) "School" includes a classroom or other location on school premises, a school bus or other school-related vehicle, a school bus stop, an activity or event sponsored by a school, whether or not it is held on school premises, and any other program or function where the school is responsible for the child;

(iii) "This act" means W.S. 21-4-311 through 21-4-315.

§ 21-4-313. Prohibition against harassment, intimidation or bullying; reporting to school officials.

(a) No person shall engage in:

(i) Harassment, intimidation or bullying; or

(ii) Reprisal or retaliation against a victim, witness or person who reports information about an act of harassment, intimidation or bullying.

§ 21-4-314. School district implementation; state policies, training and technical assistance.

(a) Not later than December 31, 2009, each school district shall adopt a policy prohibiting harassment, intimidation or bullying at school. The school district shall involve parents and guardians, school employees, volunteers, students, administrators and community representatives in the process of creating the policy. Policies created under this section shall be continuously reviewed and may be revised as necessary.

(b) The policy prohibiting harassment, intimidation or bullying shall include, without limitation:

(i) A statement prohibiting harassment, intimidation or bullying of a student;

(ii) A definition of "harassment, intimidation or bullying" which includes at minimum the definition as provided in W.S. 21-4-312(a)(i);

(iii) Consequences and appropriate remedial actions for persons committing acts of harassment, intimidation or bullying or engaging in reprisal or retaliation;

(iv) Procedures for reporting and documenting acts of harassment, intimidation or bullying, including a provision for reporting anonymously. However, formal disciplinary action shall not be taken solely on the basis of an anonymous report. The procedures shall identify the appropriate school personnel responsible for receiving a report and investigating a complaint;

(v) Procedures for prompt investigation of reports or complaints of serious violations;

(vi) A statement that prohibits reprisal or retaliation against a person who reports or makes a complaint of harassment, intimidation or bullying;

(vii) A strategy for protecting a victim from additional harassment, intimidation or bullying, and from retaliation following a report;

(viii) Consequences and appropriate remedial action for a person who is found to have made a false accusation, report or complaint;

(ix) A process for discussing the district's harassment, intimidation or bullying policy with students; and

(x) A statement of how the policy is to be publicized, including notice that the policy applies to participation in functions sponsored by the school.

(c) To assist local school districts in developing a policy under subsection (b) of this section, the department of education shall not later than September 1, 2009, develop model policies applicable to grades kindergarten through twelve (12) and teacher preparation program standards on the identification and prevention of bullying. In addition, the department shall provide necessary training programs and technical assistance to districts in carrying out this act.

(d) Each local school board shall include the policy adopted by a school district pursuant to this section in a publication of the comprehensive rules, procedures and standards of conduct for schools of a school district and in each school's student's handbook.

(e) Information regarding the school district's policy against harassment, intimidation or bullying shall be incorporated into each district's professional development programs and shall be provided to volunteers and other noncertified employees of the district who have significant contact with students.

(f) School districts may establish bullying prevention programs or other initiatives and may involve school staff, students, administrators, volunteers, parents, law enforcement and community members.

§ 21-4-315. Applicability; no civil liability created; immunity.

This article shall not be interpreted to prevent a victim from seeking redress pursuant to any other applicable civil or criminal law. This article does not create or alter any civil cause of action for monetary damages against any person or school district nor shall it constitute grounds for any claim or motion raised by either the state or defendant in any proceedings, except that the defense of immunity shall be retained and may be asserted in any action arising under this act.

Other special infractions or conditions

No relevant statutes found.

Prevention and Behavioral Interventions (Non-Punitive)

Prevention

ADMINISTRATIVE CODE

Chapter 042 Seclusion and restraint in schools

Section 3. Purpose.

Schools should ensure that students are treated with respect and dignity in an environment that provides for the physical safety and security of students and staff. Each student has a right to be free from seclusion or restraint used as a means of coercion, punishment, convenience, or retaliation. Seclusion and restraint are not instructional tools for the development of prosocial behavior. Proactive and preventative behavioral interventions should be initiated and ongoing to diffuse disruptive and volatile situations.

Behavioral interventions and student support services

ADMINISTRATIVE CODE

Chapter 042 Seclusion and restraint in schools

Section 3. Purpose.

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Section 6. Definitions.

(d) "Behavior Intervention" is a systematic implementation of procedures developed in conjunction with the parent intended to result in lasting positive changes in a student's behavior. Interventions may include positive strategies, program or curricular modifications, and aids and supports required to address the disruptive behaviors.

Professional development

ADMINISTRATIVE CODE

Chapter 042 Seclusion and restraint in schools

Section 6. Definitions.

(g) "Evidence-Based Training Program" includes programs that are externally developed and have a record of successful implementation in a variety of settings, that at a minimum, emphasize training in de-escalation procedures, the specific techniques used in safe restraint ranging from the least to most restrictive, and the specific techniques to encourage the safe reentry of the student back in to the educational environment.

Section 7. Policy Requirements.

(a) Staff Training and Professional Development. School district policies must, at a minimum, include the following staff training and professional development components:

(i) All staff shall receive training in evidence-based techniques shown to be effective in the prevention of physical restraint and seclusion, including evidence-based skills training related to positive behavior supports, safe physical escort, conflict prevention, de-escalation, and conflict management.

(A) The minimum amount of training required for all staff shall be the number of hours recommended by the evidence-based training program selected by the school.

(B) Ongoing training for all staff shall be provided as recommended by the evidence-based training program selected by the school.

(ii) A ratio of classified and nonclassified staff, as determined by the school considering school size and the location of specialized programs, shall receive training in evidence-based techniques in the safe use of physical restraint.

(A) The minimum amount of training for the ratio of staff shall be the number of hours necessary to obtain certification by the evidence-based training program selected by the school.

(B) Certification shall be maintained as prescribed by the evidence-based training program selected by the school.

(iii) Information regarding the school district's policy on the safe use of seclusion and restraint shall be incorporated into each school's annual professional development programming.

Monitoring and Accountability

Formal incident reporting of conduct violations

STATUTES

§ 21-4-314. School district implementation; state policies, training and technical assistance.

(a) Not later than December 31, 2009, each school district shall adopt a policy prohibiting harassment, intimidation or bullying at school. The school district shall involve parents and guardians, school employees, volunteers, students, administrators and community representatives in the process of creating the policy. Policies created under this section shall be continuously reviewed and may be revised as necessary.

(b) The policy prohibiting harassment, intimidation or bullying shall include, without limitation:

(iv) Procedures for reporting and documenting acts of harassment, intimidation or bullying, including a provision for reporting anonymously. However, formal disciplinary action shall not be taken solely on the basis of an anonymous report. The procedures shall identify the appropriate school personnel responsible for receiving a report and investigating a complaint;

(vi) A statement that prohibits reprisal or retaliation against a person who reports or makes a complaint of harassment, intimidation or bullying;

(vii) A strategy for protecting a victim from additional harassment, intimidation or bullying, and from retaliation following a report;

(viii) Consequences and appropriate remedial action for a person who is found to have made a false accusation, report or complaint;

ADMINISTRATIVE CODE

Chapter 042 Seclusion and restraint in schools

Section 7. Policy Requirements.

(c) Mandatory Documentation. Schools must complete the mandatory documentation for all use of Restraint and Isolation Room seclusion.

(i) Incident Report: At a minimum, the incident report must include:

(A) Antecedents, interventions, and other relevant factors;

(B) Description of the regulated intervention utilized;

(C) Time and duration;

(D) Student's response;

(E) Administrative review, if necessary;

(F) Status assessment;

(G) Release or reentry factors;

(H) Injuries, if any;

(I) Debriefing

Section 10. Data Collection Requirements.

Schools shall collect and report annually to the Wyoming Department of Education the WISER ID for each student involved in the use of a regulated intervention, the number of incidents of seclusion and restraint for each student, and the type of regulated intervention utilized for each student.

Parental notification

STATUTES

21-3-110. Duties of boards of trustees.

(a) The board of trustees in each school district shall:

(xxx) Not later than December 31, 2011, adopt a policy regarding the use of seclusion and restraint in schools. In addition to any requirements provided by rule and regulation of the state superintendent pursuant to W.S. 21-2-202(a)(xxxii), the policy shall require that the parent or legal guardian of the student shall be notified each time that seclusion or restraint is utilized for the student. The policy shall not be limited to any specified group of students and shall apply any time that seclusion or restraint is used for any student. The district shall submit a copy of the policy to the state superintendent for review as provided in W.S. 21-2-202(a)(xxxii) after the initial adoption of the policy and any time thereafter that the policy is substantially revised…

§ 21-4-305. Suspension or expulsion; authority; procedure.

(c) The disciplinarian shall give the student to be suspended the opportunity to be heard as soon as practicable after the misconduct, unless the student's presence endangers persons or property, or threatens disruption of the academic process, in which case his immediate removal from school may be justified, but the opportunity to be heard shall follow as soon as practicable, and not later than seventy-two (72) hours after his removal, not counting Saturdays and Sundays. Written notice of suspension shall be sent to the student's parents, guardians or custodians within twenty-four (24) hours of the decision to conduct them.

ADMINISTRATIVE CODE

Chapter 042 Seclusion and restraint in schools

Section 7. Policy Requirements.

(c) Mandatory Documentation. Schools must complete the mandatory documentation for all use of Restraint and Isolation Room seclusion.

(ii) The parent shall receive copies of all mandatory documentation according to the parent notification procedure developed by the school.

(d) Parent Notification. The school shall develop a parent notification procedure to include, at a minimum, written notification within 24 hours of the use of a regulated procedure, or other timeframe as agreed upon by the school and parent. Written notification shall be complete upon mailing, personal delivery, or electronic transmission of the written notice.

Reporting and referrals between schools and law enforcement

STATUTES

21-4-107. Notice to district attorney of habitual truancy; duty of district attorney.

When the board of trustees of any school district shall determine that a child is an habitual truant as defined by this article the board or its attendance officer shall notify the district attorney who shall then initiate proceedings in the interest of the child under the Juvenile Court Act.

§ 21-4-305. Suspension or expulsion; authority; procedure.

(a) The board of trustees of any school district may delegate authority to disciplinarians chosen from the administrative and supervisory staff to suspend any student from school for a period not to exceed ten (10) school days[…]Upon a violation of this subsection and following notice and hearing requirements of this section, the superintendent shall notify the district attorney of the violation together with the specific act in violation of this subsection and the name of the student violating this subsection […]

Disclosure of school records

No relevant statutes found.

Data collection, review, and reporting of disciplinary policies and actions

STATUTES

§ 21-2-202. Duties of the state superintendent.

(xxxii) By rule and regulation adopted not later than July 1, 2011 establish requirements for school district policies and training regarding the use of seclusion and restraint in schools as required under W.S. 21-3-110(a)(xxx). The state superintendent shall review the policy of each district for compliance with the requirements of W.S. 21-3-110(a)(xxx) and rules and regulations promulgated pursuant to this paragraph. If the state superintendent determines that the policy is not in compliance under this paragraph the superintendent shall direct the board of trustees to revise the policy and shall, upon request, assist the board in the adoption of the policy...

21-3-110. Duties of boards of trustees.

(a) The board of trustees in each school district shall:

> (xxx) Not later than December 31, 2011, adopt a policy regarding the use of seclusion and restraint in schools. […] The district shall submit a copy of the policy to the state superintendent for review as provided in W.S. 21-2-202(a)(xxxii) after the initial adoption of the policy and any time thereafter that the policy is substantially revised…

ADMINISTRATIVE CODE

Chapter 042 Seclusion and restraint in schools

Section 2. Scope.

(b) Wyoming statute requires the State Superintendent of Public Instruction to ensure the requirements of law, regulation, rule, and educational standards are met in all education programs administered, approved, and/or accredited by the state. Pursuant to W.S. § 21-2-202(a), the State Superintendent shall review the policy of each school district for compliance with the state statute governing Seclusion and

Restraint in Schools, and approve those policies only after a determination that compliance has been achieved.

Section 7. Policy Requirements.

(F) Schools shall develop an incident review strategy or debriefing strategy. The incident review or debriefing process shall address what, if any, subsequent actions need to be taken.

School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers

Authority and power to implement school arrest

STATUTES

21-4-103. Enforcement of article; appointment and compensation of attendance officers.

The primary responsibility for the enforcement of this article shall be upon the board of trustees of the school district, which shall appoint an attendance officer or officers to carry out the provisions of this article. Said officer shall be paid out of the district treasury such sum as may be provided in the order of appointment.

21-4-104. Duties of attendance officers.

(a) Subject to the policy of the board of trustees, it shall be the duty of each attendance officer to:

(i) Counsel with students, parents, guardians or custodians and teachers; and to investigate the causes of unexcused absences;

(ii) Give written notice to the parent, guardian, or custodian of any child having an unexcused absence that the attendance of such child at school is required by law. If after such notice has been given, the child has a second unexcused absence, which the attendance officer reasonably believes was due to the willful neglect or failure of the parent, guardian, or custodian of the child, then he shall make and file a complaint against such parent, guardian, or custodian of such child before the district court for the violation of W.S. 21-4-102.

21-4-106. List of children of school age to be furnished; notice of unexcused absences.

At the beginning of each school year, the board of trustees shall furnish each district attendance officer a list of the names of the children of compulsory school age within the district who are enumerated on the regular enumeration lists. The person in charge of each school within the district shall notify each district attendance officer promptly in writing of all cases of unexcused absence so that the attendance officer may proceed according to the provisions of this article.

21-4-107. Notice to district attorney of habitual truancy; duty of district attorney.

When the board of trustees of any school district shall determine that a child is an habitual truant as defined by this article the board or its attendance officer shall notify the district attorney who shall then initiate proceedings in the interest of the child under the Juvenile Court Act.

Certification or training

No relevant statutes found.

MOUs, authorization and/or funding

No relevant statutes found.

State Education Agency Support

State model policies and implementation support

STATUTES

§ 21-4-314. School district implementation; state policies, training and technical assistance.

(a) Not later than December 31, 2009, each school district shall adopt a policy prohibiting harassment, intimidation or bullying at school. The school district shall involve parents and guardians, school employees, volunteers, students, administrators and community representatives in the process of creating the policy. Policies created under this section shall be continuously reviewed and may be revised as necessary.

(c) To assist local school districts in developing a policy under subsection (b) of this section, the department of education shall not later than September 1, 2009, develop model policies applicable to grades kindergarten through twelve (12) and teacher preparation program standards on the identification and prevention of bullying. In addition, the department shall provide necessary training programs and technical assistance to districts in carrying out this act.

Anti Bullying Model Policy I

This model policy is adapted from select existing Wyoming district policies. It recognizes district expertise. Changes from this basic template, however, are expected to ensure that the collective product is suited to the unique circumstances of each school district and is brought into compliance with all expectations of the Safe School Climate Act (W.S. 21-4-311 through 21-4-315).

Bullying Prevention and Education

___School District No. __ supports a secure school climate, conducive to teaching and learning that is free from threat, harassment, and any type of bullying behavior. The purpose of this policy is to promote consistency of approach and to help create a climate in which all types of bullying are regarded as unacceptable.

Bullying is defined as any written or verbal expression, physical act or gesture, or any pattern thereof - that is intended to cause distress upon one or more students in the school environment. For purposes of this policy, the school environment includes school buildings, grounds, vehicles, bus stops, and all school-sponsored activities and events.

A student who engages in any act of bullying is subject to appropriate disciplinary action including suspension, expulsion, and/or referral to law enforcement authorities. The severity and pattern, if any, of the bullying behavior shall be taken into consideration when disciplinary decisions are made.

The Superintendent of Schools shall develop and use a comprehensive program to address bullying at all school levels. Parents, teachers, students, and school administrations shall be involved in the development and ongoing review of this program. The program shall be aimed toward accomplishing the following goals:

- To send a clear message to students, staff, parents, and community members that bullying will not be tolerated.
- To train staff and students in taking proactive steps to prevent bullying from occurring.
- To implement procedures for immediate intervention, investigation, and confrontation of students engaged in bullying behavior.

To initiate efforts to change the behavior of students engaged in bullying behaviors through re-education on acceptable behavior, discussions, counseling, and appropriate negative consequences.

To foster a productive partnership with parents and community members in order to help maintain a bully-free environment.

To support victims of bullying by means of individual and peer counseling.

To help develop peer support networks, social skills, and confidence for all students.

To recognize and praise positive supportive behaviors of students toward one another on a regular basis.

Definitions for Discrimination, Harassment, Intimidation, Bullying, and Retaliation

School board policy prohibits discrimination, harassment, intimidation, or bullying, as defined by this policy, against students on or immediately adjacent to school grounds, at any school-sponsored activity, including athletic activities, and on school-provided transportation. The district expects that staff, volunteers, and students will provide equal treatment and access to educational programs, services, and aid to students without regard to their disability, race, color, gender, national origin, ethnicity, age, religion, marital status, socioeconomic status, cultural background, family status, or physical characteristic of a national origin group.

1. “Discrimination” means any act that has the purpose or effectof unreasonably differentiating in treatment, based on disability, race, color, gender, national origin, ethnicity, sexual orientation, age, characteristics, or linguistic characteristics of a national origin group.

2. “Harassment” means unwanted behavior of a non-verbal, verbal, written, graphic, sexual or physical nature that is directed at an individual or group of students or staff on the basis of disability, race, color, gender, national origin, ethnicity, sexual orientation, age, religion, marital status, socioeconomic status, cultural background, familial status, physical characteristic, or linguistic characteristics of a national origin group.

3. “Intimidation or bullying” means any act that substantially interferes with a student’s educational benefits, opportunities, or performance, and that has the effect of:

   a. Physically harming a student or endangering a student’s property.

   b. Knowingly placing a student in reasonable fear of physical harm to the student or damage to the student’s property

   c. Creating a hostile educational environment.

   d. Verbal bullying.

4. “Retaliation” means any verbal or physical action taken against any person who reports, files a complaint, or participates in an investigation. Retaliation is prohibited and is considered a serious violation of board policy, independent of whether a complaint is substantiated. False charges shall also be regarded as a serious offense and will result in disciplinary action.

Actions Resulting from Discrimination, Harassment, Intimidation, Bullying, and Retaliation

Deliberate malevolent actions that destroy educational opportunities for students shall not be tolerated.

1. A student or his or her parent/legal guardian who believes that the student is the recipient of discrimination, harassment, intimidation, or bullying from another student, staff member, or volunteer is encouraged to report the incident to the staff member on duty at the time or to the student’s teacher or to the administrator. Information may be presented anonymously. Teachers and other staff who observe students engaging in discriminatory, harassing, intimidating, or bullying behaviors are responsible for taking action to deal with the behavior and reporting the incident to the administrator.

2. There will be an attempt to assist students and/or parents in resolving concerns and issues prior to the use of the formal disciplinary or complaint procedures. This may include counseling, education, mediation, and/or other opportunities for problem solving between all parties.

3. However, the severity of a specific incident may require immediate disciplinary action. A student and his or her parent/legal guardian, are encouraged to resolve concerns through discussions with school staff. However, if they are unable to resolve the complaint and believe the student is the recipient of discrimination, harassment, intimidation, or bullying, they are encouraged to follow the procedure outlined in the Student Handbook and the district's discrimination, harassment, intimidation, or bullying complaint process.

Anti Bullying Model Policy II

This model policy is adapted from the "Bully Police USA Model Policy Reference" www.bullypolice.com. It may be added to or edited as the district sees fit and is not expected to be utilized word for word. However, the requirements of the Safe School Climate Act (W.S. 21-4-311 through 21-4-315) must be carried out in all cases.

Prohibition of Harassment, Intimidation, and Bullying

The ___School District is committed to a safe and civil educational environment for all students, employees, volunteers, and patrons. It is also committed to stay free from harassment, intimidation, or bullying. "Harassment, intimidation, or bullying" means any intentional written, verbal, or physical act that:

- Physically harms a student or damages the student's property; or
- Has the effect of substantially interfering with a student's education; or
- Is severe, persistent, or pervasive enough that it creates an intimidating or threatening educational environment; or
- Has the effect of substantially disrupting the orderly operation of the school.
- Conforms to the definitions found in W.S. 21-4-312.

Harassment, intimidation, or bullying can take many forms including: slurs, rumors, jokes, innuendos, demeaning comments, drawing cartoons, pranks, gestures, physical attacks, threats, or other written, spoken or physical actions. "Intentional acts" refers to the individual's choice to engage in that act.

This policy is not intended to prohibit expression of religious, philosophical, or political views, provided that the expression does not substantially disrupt the education environment. Many behaviors that do not rise to the level of harassment, intimidation, or bullying may still be prohibited by other district policies or building, classroom, or program rules.

Counseling, corrective discipline, referral to law enforcement, proven best practice, and/or other administrative insight may be used to positively influence (or change if possible) the behavior of the perpetrator and remediate the impact on the victim. This may include, but is not limited to, appropriate intervention(s), restoration of a positive climate, student-based programs, anti-bullying programs, mentor based initiatives, code-of-conduct initiatives, and support for victims and others impacted by the violation. False reports or retaliation for harassment, intimidation, or bullying also constitute violations of this policy.

The superintendent, or the disciplinarian he or she so delegates, is authorized to direct the development and implementation of specific procedures addressing the elements of this policy, consistent with W.S. 21-4-311 through W.S. 21-4-315, 21-4-305, and 21-4-306.

Informal Complaint Process

Anyone may use informal procedures to report and resolve complaints of harassment, intimidation, or bullying. Such complaints must be appropriately investigated and handled consistent with due process requirements. Informal reports may be made to any staff member. Staff shall also inform the designated

disciplinarian when they receive complaints of harassment, intimidation, or bullying, especially when the complaint is beyond their training to resolve or alleges serious misconduct.

Informal remedies can include an opportunity for the complainant(s) to explain to the alleged perpetrator that the conduct is unwelcome, disruptive, or inappropriate either in writing or face-to-face. They can also include a statement from a staff member to the alleged perpetrator that the alleged conduct is not appropriate and could lead to discipline if proven or repeated. Informal remedies can include a general public statement from an administrator in a building reviewing the district's harassment, intimidation, or bullying policy without identifying the complainant, parent, or guardian.

Formal Complaint Process

Students should be made aware by the school administration that a formal complaint process exists for bullying.

Anyone may initiate a formal complaint of harassment, intimidation, or bullying, even if the informal complaint process is being utilized. Complainants should not be promised confidentiality at the onset of an investigation. Note: In those cases where students need anonymity to report danger or problems, they may call the state's school safety tip line at _____. Otherwise, it cannot be predicted what will be discovered or what kind of hearing may result. Efforts should be made to increase the confidence and trust of the person making the complaint.

The district strictly forbids retaliation against complainants and witnesses. Student complainants and witnesses may have a parent or trusted adult with them, if requested, during any district initiated investigatory activity.

Process Pointers

A. Formal complaints record specific acts, conditions, or circumstances alleged to have occurred that may constitute harassment, intimidation, or bullying.

B. Information in the SRO's or officer's possession may be cause for a formal complaint to be filed.

C. All formal, written complaints of harassment, intimidation, or bullying shall be investigated.

D. The district shall provide a written response of the complaint and the result of the investigation to the complainant.

E. The disciplinarian shall respond in writing to the complainant and the accused as soon as practicable, but within ____ days, stating:

1. That the district intends to take corrective action; or
2. That the investigation is incomplete to date and will be continuing; or
3. That the district does not have adequate evidence to conclude that bullying, harassment, or intimidation occurred.

F. Corrective measures deemed necessary will be instituted as soon as practicable, but in no event more than ____ days after the superintendent's written response (unless the accused is appealing the imposition of discipline and the district is holding to due process considerations or a lawful order from imposing the discipline until the appeal process is concluded.)

Students will be provided with age-appropriate information on the recognition and prevention of harassment, intimidation, or bullying, and their responsibilities under this and policy. Parents shall be provided with copies of this policy and its associated procedures.

To access a complaint form, see: http://www.bullypolice.org/KennForm01.pdf

Funding appropriations

For general information on educational funding, see Chapter 13 School Finance.

Other/Uncategorized

Professional immunity or liability

STATUTES

§ 21-3-128. Protection or insurance of board members, teachers and other personnel against personal liability.

The board of trustees of each school district within the state may save harmless and protect all board members, teachers, and other personnel from financial loss arising out of any claim, demand, suit, or judgment by reason of alleged negligence or other act resulting in accidental bodily injury or death to any person within or without the school building; provided, such board member, teacher, or other personnel at the time of the accident was acting in the discharge of his duties within the scope of his employment. Each board of trustees may procure appropriate policies of insurance to maintain this protection, or it may elect in its discretion to act as a self-insurer. This section shall not be construed as creating or tending to create a liability of the school district so protecting or insuring board members, teachers, or other personnel, nor shall the failure to procure such insurance as is authorized by this section be construed as creating any liability of the school district.

§ 21-4-308. Punishment and disciplinary measures; denial of diploma or credit.

(b) Teachers, principals and superintendents in each district shall be immune from civil and criminal liability in the exercise of reasonable corporal discipline of a student as authorized by board policy.

§ 21-4-315. Applicability; no civil liability created; immunity.

This article shall not be interpreted to prevent a victim from seeking redress pursuant to any other applicable civil or criminal law. This article does not create or alter any civil cause of action for monetary damages against any person or school district nor shall it constitute grounds for any claim or motion raised by either the state or defendant in any proceedings, except that the defense of immunity shall be retained and may be asserted in any action arising under this act.

Community input or involvement

STATUTES

§ 21-4-314. School district implementation; state policies, training and technical assistance.

(a) Not later than December 31, 2009, each school district shall adopt a policy prohibiting harassment, intimidation or bullying at school. The school district shall involve parents and guardians, school employees, volunteers, students, administrators and community representatives in the process of creating the policy. Policies created under this section shall be continuously reviewed and may be revised as necessary.

(f) School districts may establish bullying prevention programs or other initiatives and may involve school staff, students, administrators, volunteers, parents, law enforcement and community members.

Other/uncategorized

No relevant statutes found.

State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by Wyoming provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
Website		
Wyoming Department of Education - Student and Facility Safety	Office responsible for providing technical assistance and resources regarding school safety	http://edu.wyoming.gov/Programs/safety/student_and_facilities_safety.aspx
Documents		
No relevant resources found		
Other Resources		
No relevant resources found		